



**Home Office**

BUILDING A SAFE, JUST  
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# Corruption

## Draft Legislation



# CORRUPTION

## Draft Legislation

*Presented to Parliament by the  
Secretary of State for the Home Department  
by Command of Her Majesty  
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**CORRUPTION**  
**Publication of Draft Clauses**

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## FOREWORD BY LORD FALCONER

Corruption is potentially devastating. If it is not kept in check, it has the potential to cause serious damage to government and business – indeed to every aspect of economic and social life. We need to be constantly on our guard against corruption – it is a complex crime, by its very nature insidious and its effects stretch across international borders. Corruption world-wide weakens democracy, harms economies, impedes sustainable development and can undermine respect for human rights by supporting corrupt governments, with widespread destabilising consequences. We are duty-bound to promote high standards of fairness and propriety and to ensure that UK citizens do not contribute to corruption either at home or abroad.

The Corruption Bill should be seen in the context of a multi-faceted strategy to tackle corruption both at home and internationally. In the last few years, a number of important changes to the law have been made. These include:

- The Anti-terrorism, Crime and Security Act 2001, which extends UK jurisdiction to corruption offences committed abroad by UK nationals and incorporated bodies.
- The Proceeds of Crime Act 2002, which strengthens the law on money laundering and sets up an Assets Recovery Agency to investigate and recover assets and wealth obtained as a result of unlawful activity.

In the international sphere, the UK is at the forefront of efforts to tackle corruption. We are active members of the Organisation for Economic Co-operation and Development (OECD)'s Working Group on Bribery and of GRECO – the Council of Europe anti-corruption body. We support the development of EU wide minimum standards on corruption, and are currently negotiating along with our UN partners a UN Convention against Corruption. We intend to ratify the Council of Europe Criminal Law Convention on Corruption in the near future. Finally, the UK leads a number of initiatives internationally, including the development of the Extractive Industries Transparency Initiative, which seeks to encourage transparency over payments and revenues arising from the exploitation of natural resources and, through the UK development assistance programme and EU Phare programme, is helping a wide range of developing and transition countries tackle corruption.

So what does the Bill do and how will it contribute to combating corruption? Existing corruption law, drawn from a range of sources from as far back as 1889, is outdated. In its 1998 report, the Law Commission describes it as “obscure, complex, inconsistent and insufficiently comprehensive”. It can be difficult for our law enforcement authorities to use and the inconsistency, lack of definition and various lacunae might lead to corrupt individuals’ being acquitted. It shies away from the most important question – it does not have a definition of what acting corruptly actually means.

The Bill is drafted on the basis of a Law Commission report. It modernises the law by bringing together all offences of corruption in a single statute and addressing existing lacunae. It defines what is meant by “acting corruptly” and ensures that the law on corruption applies equally to all. Following the recommendation of the Joint Committee on Parliamentary Privilege of June 1999, in the event of a corruption prosecution, MPs and Peers will no longer be subject to the protection of parliamentary privilege – under which evidence of proceedings in Parliament is not admissible in court. In addition, the Bill amends civil law to enable ratification of the Council of Europe Civil Law Convention on Corruption, which aims to ensure that those who have suffered damage as a result of acts of corruption are able to defend their rights and interests.

Corruption law is a complex, intricate and sensitive field and the reform proposed is far reaching. I would therefore invite all those with expertise or interest in this area to offer their views on our legislative proposal. We will consider your comments before introducing the Bill to Parliament.

**Charles Falconer**

# CORRUPTION BILL

## EXPLANATORY NOTES

### INTRODUCTION

1. These explanatory notes relate to the Corruption Bill as published in draft on 24 March 2003. They have been prepared by the Home Office and the Lord Chancellor's Department in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
2. These notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause does not seem to require any explanation, none is given.
3. Parts 1 and 2 of the Bill extend only to England, Wales and Northern Ireland. *Clauses 29 and 30* extend only to Scotland.

### TERRITORIAL APPLICATION: WALES

4. The Bill applies to Wales as it does to the rest of the jurisdiction. It does not change the position as regards the National Assembly of Wales.

### BACKGROUND

#### *Reform of Criminal Law*

5. The Government's policy on the reform of the criminal law of corruption was set out in the White Paper, *Raising Standards and Upholding Integrity: the Prevention of Corruption (Cm 4759, June 2000)*. It takes fully into account the Law Commission report *Legislating the Criminal Code: Corruption (Law Com No 248, 1998)*. The Corruption Bill modernises and simplifies the law, replacing the overlapping and at times inconsistent provisions on corruption with a single, clear statute. It removes a possible incompatibility with ECHR (the presumption of corruption as concerns employees of the Crown, public bodies etc). It also acts on a recommendation from the Joint Committee on Parliamentary Privilege as regards evidence in corruption cases (*HL Paper 43 and HC 214, March 1999, paragraph 167*).

#### *Amendments to Civil Law*

6. The Bill amends civil law to enable ratification of the Council of Europe Civil Law Convention on Corruption (*ETS No 174*). The aim of the Convention is to require parties to the Convention to provide in their internal law for effective remedies for persons who have suffered damage as a result of corruption, in order to enable them to defend their rights and interests, including the possibility of obtaining compensation for damage.

### SUMMARY

7. The Bill is in three parts.
  - *Part 1*: establishes the offences of corruption, including what is meant by the term "corruptly". It explains what is meant by the terms 'agent' and 'principal'. The scheme is based on the Law Commission report referred to above. Part 1 also includes provision (*clause 12*) setting aside Parliamentary



Privilege in cases involving offences under the Bill and provision conferring extra-territorial jurisdiction as regards corrupt acts committed abroad by UK nationals and incorporated bodies. The new offences apply in England and Wales and Northern Ireland.

- *Part 2*: makes changes to the law in England, Wales and Northern Ireland governing the limitation periods for civil actions relating to corrupt conduct. It clarifies that the provisions of section 32 of the Limitation Act 1980 and Article 71 of the Limitation (Northern Ireland) Order 1989 regarding actions based on the fraud of the defendant also extend to corrupt conduct. It provides for a limitation period for actions based on the corrupt conduct of the defendant, including actions relating to trust property, of ten years from the date the corrupt conduct occurred. It defines a corrupt conduct for these purposes as conduct which constitutes an offence under Part 1 of the Bill.
- *Part 3*: makes provision for Scotland on proceedings in the UK Parliament equivalent to *clause 12* and also contains general provisions.

## COMMENTARY ON CLAUSES

### *Part 1: Offences*

#### **Clause 1: Corruptly conferring an advantage**

8. *Clause 1* makes it an offence to confer an advantage corruptly – this is equivalent to the offence of “active bribery” in international law. The meaning of ‘conferring an advantage’ is explained in *clause 4*. The term ‘corruptly’ is explained in *clauses 5, 6 and 7*.

9. An offence is committed under this clause even if the advantage is not in fact conferred but is only offered or if there is only an agreement to confer an advantage.

#### **Clause 2: Corruptly obtaining an advantage**

10. *Clause 2* makes it an offence to obtain an advantage corruptly – this is equivalent to the offence of “passive bribery” in international law. The meaning of ‘obtaining an advantage’ is explained in *clause 8*, and the meaning of ‘corruptly’ in *clause 9*. The offence is committed even if the advantage is not in fact obtained, but is only solicited or there is only an agreement to obtain it.

#### **Clause 3: Performing functions corruptly**

11. *Clause 3* makes it an offence to perform functions as an agent corruptly. In many instances, an agent who performs functions corruptly, for example, by awarding a contract to a person in return for a bribe, will commit an offence under *clause 2*. However, this will not always be the case and this clause ensures that he commits an offence even if, for example, he awards the contract only in the hope of a later reward (which he does not, in the event, receive). The term ‘agent’ is defined in *clause 11*, and includes persons in both the public and private sectors. The meaning of ‘corruptly’ in this context is set out in *clause 10*.

#### **Clause 4: Meaning of conferring an advantage**

12. *Clause 4* establishes the meaning of conferring an advantage. The first limb of the test is set out in *subsection (1)(a)*. It covers any act – for example, a person providing another with a free holiday. It also covers omissions to act, but only where the person omitting to act has a right to do so (for example, he omits to enforce a debt owing to

him) or a duty to do so (for example, he omits to enforce a debt owing to his employer that he has a duty to enforce by virtue of his employment). The second limb of the test is set out in *subsection (1)(b)*. The act or omission must be done or made in consequence of another's request whether the request is express or implied (for example, an employee requests that a supplier give him tickets to a football match or hints that he would like such tickets) or the effect of the act or omission must be that another benefits directly or indirectly (for example, where the omission is a failure to enforce a debt, the person who owed that debt will benefit from it).

13. *Subsection (2)* ensures that the definition of conferring an advantage is wide enough to cover the situation where the nature or timing of the act or omission is not known at the time of the request, for example, where an employee requests a supplier to look favourably on the job application that his son may make in the next few months (in return for which he will grant the supplier a contract). If the supplier acted as requested, he would be conferring an advantage on the employee since he would be acting in consequence of the employee's request. This would be the case even though, at the time he made the request, the employee was not altogether specific about what was wanted.

#### **Clause 5: Conferring an advantage: meaning of corruptly**

14. *Clause 5* is a key provision since it establishes what it means to confer an advantage corruptly.

15. *Subsection (1)* concerns the conferring of an advantage (or agreement or offer to confer an advantage) in return for influencing the future functions of an agent. For example, company C, which supplies components, may pay money to a purchasing agent to show favour to it in awarding a contract. The payment is corrupt if:

- company C intends the purchasing agent to perform his purchasing functions for his employer company, B, by awarding company C the contract (*paragraph (a)*);
- company C believes that if the purchasing agent awards it the contract it will be primarily in return for the money. It makes no difference who actually obtains the money – for example, it might be paid to the agent's partner (*paragraph (b)*);
- the exception provided in *clause 6* does not apply as company C is not acting on behalf of the purchasing agent's principal – i.e. his company, B (*paragraph (c)*);
- the exception provided in *clause 7* does not apply as company B does not consent (*paragraph (d)*).

16. *Subsection (2)* concerns the conferring of an advantage (or offer or agreement to confer an advantage) as a reward for functions carried out by the agent in the past. For example, a person (C) pays money to a planning officer (A) who has helped ensure that he obtained planning permission for a bungalow. The money is conferred corruptly if:

- C knows or believes that A has helped ensure that C receives planning permission while acting in the course of his duties as a public agent (*paragraph (a)*);
- C knows or believes that A has done this primarily in order that money (or another advantage) is paid to someone (not necessarily to A) (*paragraph (b)*);
- C intends A to regard the money as having been given in return for the award of planning permission (*paragraph (c)*);

- The exception provided in *clause 6* does not apply as C is not acting on behalf of the public (*paragraph (d)*);
- The exception provided in *clause 7* does not apply (*sub-paragraph (e)*) since *clause 7* can never apply to functions which are performed for the public (*clause 7(1)(a)*).

17. As noted above, it results from *subsections (1)(b) and (2)(b)* that the person obtaining the advantage need not necessarily be the agent whose conduct it is sought to influence or reward. This approach ensures that behaviour where an agent has an interest in a third party (such as the agent's spouse) receiving a benefit will be covered. It is not necessary for the advantage to be of direct benefit to the person upon whom it is conferred.

18. *Subsection (3)* ensures that the exact nature of the act or omission which is to be carried out in return for the advantage does not need to be known at the time the advantage is conferred. It is sufficient if the briber's intention is to influence the agent's conduct at some indeterminate future time, even if he cannot yet foresee the exact circumstances in which the agent's conduct may be influenced. For example an NGO might bestow a gift on a member of the board of a charitable trust that distributes grants to NGOs, intending that, if in the future there is a relevant grant, the member of the board would look more favourably upon the application from the NGO primarily because of the gift.

19. There is no specific provision made for intermediaries. Under the general principles of our law, an intermediary may be charged with aiding and abetting or, depending on the circumstances, as a principal offender.

#### **Clause 6: Acting on behalf of principal or public: no corruption**

20. *Clause 6* is the first of the exemption clauses. It is needed because if a corrupt intention could consist *solely* of an intention to induce an agent to perform his or her functions as an agent in return for the conferring of an advantage, a person who paid a salary to an employee on behalf of his employer would be committing a corruption offence.

21. *Clause 6* is divided according to whether the functions concerned are performed for a principal, for the public or for both. The functions concerned may be performed both for a principal and the public (*subsection (4)*), for example, where an employee works for a privatised utilities company. The functions concerned are the functions referred to in *clause 5(1)(a) and (2)(a)* – i.e. they are the functions which the person conferring the advantage intends to influence or reward.

#### **Clause 7: Principal's consent: no corruption**

22. *Clause 7* is the second of the exemption clauses. Its effect is to exclude from the offences any case where the agent's principal knows of all the material circumstances surrounding the conferring of the advantage and gives his consent. For example, if the owners of a business charge unusually large "commissions" or "special payments" to guarantee prompt or otherwise superior service, this would not be corruption but, in effect, an open and extra charge on customers who are free to pay it or take their business elsewhere.

23. *Subsection (1)(a)* makes clear that this exception can never apply if the functions are performed for the public, even if the agent also acts for a principal in performing those functions. For example, a barrister has a professional duty as an officer of the court and is therefore performing a public function as well as acting for his client. The

client's consent for him to receive an advantage to act in breach of his duty to the court would be immaterial. *Subsection (1)(b)* stipulates that *each* of the principals (if there are more than one) should be aware of the material circumstances and consent to the conferring of the advantage. This excludes the possibility of an agent being bribed by one principal to act against the interests of another.

24. *Subsection (2)* extends the exemption in *subsection (1)* to take account of the fact that the defendant may have a mistaken but genuine belief about the principal's consent. *Subsection (2)(a)* covers the case where the defendant believes that the relevant principal knows all the material circumstances and consents to what is done. *Subsection (2)(b)* covers the case where the defendant believes that the principal would consent if he were aware of the circumstances.

25. It may not always be convenient for the principal himself to give consent, so *subsection (3)* provides that this may be done by an agent of the principal. For example, a company (the principal) may give an employee (an agent) power to decide whether gifts offered to other employees should be accepted or not. But this does not apply where the person with authority to give consent performs his functions as an agent corruptly, thereby committing an offence under *clause 10* – i.e. he gives the consent primarily in return for or in anticipation of a corrupt advantage.

#### **Clause 8: Meaning of obtaining an advantage**

26. *Clause 8* explains the meaning of obtaining an advantage. It is almost the exact reverse of *clause 4* which sets out the definition of conferring an advantage and everything said in the note on that clause applies here too. It is to be noted that, by virtue of *subsection (1)(b)*, a person may obtain an advantage without even indirectly benefiting from it. For example, if a person requests another to make a payment to charity, he obtains an advantage because the other person has done something (made a payment) in consequence of his request. Further, there is nothing in *clause 8* which requires the person who obtains the advantage to be the agent whose functions are being influenced or rewarded.

#### **Clause 9: Obtaining an advantage: meaning of corruptly**

27. *Clause 9(1)* establishes what it means to obtain an advantage corruptly. The definition depends on the definition of conferring an advantage corruptly which is set out in *clauses 5, 6 and 7*. There are two limbs of the test in *clause 9(1)*. Firstly, the person obtaining the advantage must know or believe that the person conferring the advantage is doing so corruptly – i.e. is committing an offence under *clause 5*. So if an agent who obtains an advantage does not believe that the person conferring the advantage is doing so for the purpose of influencing him, he does not obtain the advantage corruptly. Secondly, the person obtaining the advantage must give his express or implied consent to obtaining it. So if another person transfers a large sum to an agent's bank account when the agent expressly requested him not to, the agent does not commit an offence even though he knows that the person transferring the money is doing so for the purpose of influencing his functions as an agent.

28. *Subsections (2) and (3)* make similar provision in respect of what it means to agree to obtain an advantage corruptly and what it means to solicit an advantage corruptly.

#### **Clause 10: Performing functions: meaning of corruptly**

29. *Clause 10* establishes what it means to perform functions as an agent corruptly. *Subsection (1)* broadly covers the situation where an agent acts in the hope of future

corrupt advantage. *Subsection (2)* broadly covers the situation where an agent acts to reward an advantage that has already been corruptly conferred. As with *clause 9*, this clause depends on the definition of conferring an advantage corruptly which is set out in *clauses 5, 6 and 7*. An example of the situation covered by subsection (1) would be where an agent grants a contract primarily in order to secure that the supplier to whom he grants it will fly him to Rome for the weekend and he believes that if the supplier did so, he would meet the criteria of *clause 5(2)* (essentially, that the supplier would intend the agent to regard the trip to Rome as conferred primarily in return for the contract). The same example can be used to illustrate subsection (2). If an agent grants a contract to a supplier when he knows or believes the trip to Rome last month paid for by the supplier was intended to lead to the granting of the contract and he regards the contract as granted primarily in return for the trip to Rome, then he is performing his functions corruptly.

### **Clause 11: Meaning of agent and principal**

30. *Clause 11* establishes the meaning of the terms ‘agent’ and ‘principal’. The definition at *subsection (1)(a)* is broad and covers many different situations, for example, a director’s agreement to perform functions for a company, an employee’s agreement to perform functions for his employer, an accountant’s agreement to perform functions for his client etc. It does not, however, include a person who unilaterally performs functions for another without the other’s agreement, as corruption is understood in terms of the potential breach of a relationship of trust, which is unlikely to exist in a relationship which is not based on any kind of mutual understanding. *Subsections (1)(b) and (1)(c)* add relationships which do not fall within subsection (1)(a), but nonetheless should be covered since there is a relationship of trust.

31. *Subsection (2)(a) and (b)*, and *subsection (4)* make it clear that it is immaterial if the agent (including an agent performing functions for the public) or principal have no connection with the United Kingdom. So a UK national (see *clause 13*) who bribes a Saudi Arabian employee of a Saudi Arabian company in Saudi Arabia will commit an offence under this Bill.

32. *Subsection (3)* provides a definition of an agent performing functions for the public. It reflects the approach also used in section 6(3) of the Human Rights Act 1998 in which “public authority” is not exhaustively defined and is said to include “..any person certain of whose functions are functions of a public nature”. The definition is based on the nature of the functions as opposed to the body concerned, thus ensuring a wide coverage reflecting better the current situation in which the boundaries between the public and private sector are increasingly fluid.

### **Clause 12: Proceedings in Parliament**

33. This clause implements a recommendation made by the Joint Committee on Parliamentary Privilege (*HL Paper 43 and HC 214, March 1999, paragraph 167*). Its effect is to make evidence admissible in proceedings for a corruption offence (as defined in *subsection (2)*) notwithstanding Article 9 of the Bill of Rights 1689 which prevents proceedings in Parliament being impeached or questioned in a court.

### **Clause 13: Corruption committed outside the UK**

34. This clause creates extra-territorial offences in respect of acts and omissions done abroad by UK nationals (as defined in *subsection (4)*) and bodies incorporated in any part of the UK which would be corruption offences (as defined in *subsection (3)*) if

done in England and Wales or Northern Ireland. It also enables such offences to be prosecuted in England and Wales or Northern Ireland, even though they take place outside the UK.

35. As regards legal persons, the clause applies to any body incorporated under the law of any part of the UK (*subsection (1)(a)*). It thus applies not only to companies but also, for example, to limited liability partnerships.

#### **Clause 14: Jurisdiction**

36. *Subsection (1)* provides that the new corruption offences will be Group A offences for the purposes of Part I of the Criminal Justice Act 1993. Part I of the 1993 Act provides that a person may be guilty of a Group A offence where any “relevant event” occurred in England and Wales. A “relevant event” is defined as “any act or omission or any other event (including any result of one or more acts or omissions) proof of which is required for prosecution of the offence”. In the case of corruption a ‘relevant event’ might be for example the offer, the agreement to accept, or the acceptance of a bribe, or even simply the supply of information corruptly. So the effect of *clause 14* is that where, for example, A who is abroad telephones B in England and offers him a bribe, A would be committing an offence under *clause 1(b)*.

37. *Subsection (2)* makes parallel provision for Northern Ireland by amending the Criminal Justice (Northern Ireland) Order 1996.

#### **Clause 15: Authorisations for intelligence agencies; Clause 16: Authorisations: supplementary**

38. The effect of these two clauses is that acts carried out by persons on behalf of the security and intelligence agencies (the Security Service, the Secret Intelligence Service and GCHQ) will not constitute offences of corruption if they are authorised by the Secretary of State. This new authorisation system is closely based on section 7 of the Intelligence Services Act 1994.

39. *Subsections (4) to (6) of clause 15* set out the conditions for the issue of authorisations: most importantly, the Secretary of State must be satisfied that any act he authorises will be necessary for the discharge of the relevant agency’s functions and that the nature and likely consequences of the act will be reasonable, having regard to the purposes for which it is done. *Subsection (7) of clause 15* gives the Secretary of State power to grant different types of authorisations, including class authorisations.

40. *Clause 16* makes supplementary provision regarding the authorisations. *Subsection (11)* amends the Regulation of Investigatory Powers Act 2000 to ensure that the exercise of this new system will be kept under review by the Intelligence Services Commissioner

#### **Clause 17: Consent to prosecution**

41. *Subsection (1)* provides that no proceedings for a corruption offence (as defined in *subsection (4)*) may be started in England and Wales without the consent of the Attorney General. (Under the Law Officers Act 1997, any function of the Attorney General may be exercised by the Solicitor-General).

42. *Subsections (2), (3) and (5)* address the position in Northern Ireland, which is complicated by the fact that the Justice (Northern Ireland) Act 2002 is soon to come into force. Once section 22 of that Act is commenced the intention is that consent to the prosecution of offences which do not fall in the excepted field should rest with the Director of Public Prosecutions for Northern Ireland.

### **Clause 18: Penalties**

43. This clause provides that the maximum penalty for an offence under the Bill on conviction on indictment will be 7 years' imprisonment and/or an unlimited fine. The maximum penalty on summary conviction will be 6 months' imprisonment and/or a fine not exceeding the statutory maximum (currently £5000). (The effect of the current Criminal Justice and Sentencing Bill will be to raise the 6 month threshold for indictable offences to 51 weeks.)

### **Clause 19: Abolition of existing offences etc**

44. This clause contains repeals:

- *Subsection (1)* abolishes the common law of bribery, which is superseded by the offences in the Bill.
- *Subsection (2)* repeals the Public Bodies Corrupt Practices Act 1889 for the same reason.
- *Subsection (3)* repeals most of the Prevention of Corruption Act 1906 for the same reason. However it leaves in place the third offence in section 1 of the 1906 Act, as this is an offence of fraud, rather than corruption.
- *Subsection (4)* repeals the Prevention of Corruption Act 1916 except for those provisions which are related to the third offence in section 1 of the 1906 Act.
- *Subsection (5)* repeals section 178(c) of the Licensing Act 1964. This provision outlaws the bribery of constables by holders of a justice's licence. It equates to the offence in this Bill of corruptly conferring an advantage. Section 178(c) also covers attempts to bribe. The Bill covers offers and agreements (*clause 1(a)*); if an attempt is anything other than an offer or agreement, then it would be covered by section 1 of the Criminal Attempts Act 1981.
- *Subsection (6)* repeals paragraph 3 of Schedule 11 to the Local Government and Housing Act 1989. This provision amends the 1916 Act but has never been brought into force. As the amendment is directed at ensuring certain housing companies run by local authorities are public bodies for the purposes of the 1889 and 1916 Acts it will be redundant when these Acts are repealed.

### **Clause 21: Commencement: Part 1**

45. *Subsection (1)* provides that this Part shall have effect only in relation to acts or omissions after the implementation date.

46. *Subsection (2)* makes transitional provision, for dealing with cases which straddle the implementation date. It provides that the date which determines which law shall apply shall be the last date on which an act or omission is alleged to have been done.

47. *Subsection (3)* gives the Secretary of State power to make an order setting the implementation date for this Part.

### **Part 2: Limitation**

#### **Clause 22: Postponement of limitation periods**

48. *Subsections (1) to (6)* amend section 32 of the Limitation Act 1980. Section 32 provides that, where an action is based on the fraud of the defendant, or any fact relevant to the right of action has been concealed by the defendant, the limitation period begins on the date when the claimant discovered, or could reasonably have

discovered, the fraud or concealment. Subsections (1) to (6) clarify that these provisions also extend to corrupt conduct on the part of the defendant.

49. *Subsection (7)* amends section 32 of the 1980 Act to provide that an action based on the corrupt conduct of the defendant shall not be brought after the expiration of ten years from the date the corrupt conduct occurred. The Council of Europe Convention requires that civil proceedings relating to corruption must not be commenced after the end of a limitation period of not less than 10 years from the date of corruption. The 1980 Act does not currently specify a longstop period after which an action cannot be taken. The period of ten years reflects the longstop period proposed generally for civil actions by the Law Commission in its report *Limitation of Actions (Law Com No 270)*.

#### **Clause 23: Actions in respect of trust property**

50. *Clause 23* applies the ten year longstop period introduced by *subsection (7)* of *Clause 22* to actions in respect of trust property which are based on corrupt conduct. This is because a case involving corruption may also involve a fraudulent breach of trust. The provisions on actions in respect of trust property in section 21 of the 1980 Act currently contain no longstop period.

#### **Clause 24: Meaning of corrupt conduct**

51. *Clause 24* defines corrupt conduct for the purposes of the 1980 Act as conduct which constitutes an offence under Part 1 of the Bill. This comprises corruptly conferring an advantage, corruptly obtaining an advantage, and performing functions corruptly.

#### **Clause 25: Postponement of time limits; Clause 26: Actions in respect of trust property; Clause 27: Meaning of corrupt conduct**

52. *Clauses 25 to 27* insert equivalent provisions to those contained in *Clauses 22 to 24* in the Limitation (Northern Ireland) Order 1989.

#### **Clause 28: Commencement: Part 2**

53. *Clause 28(1)* provides for *Clauses 22 to 27* to apply to actions in relation to which the cause of action or right of action accrues on or after the commencement day. *Clause 28(2)* provides that the commencement day is the last day of the period of two months starting with the day on which the Act is passed.

### ***Part 3: Miscellaneous and General***

#### **Clause 29: Proceedings in Parliament: Scottish Offences**

54. This clause makes equivalent provision in respect of the Scottish offences of bribery and corruption as *clause 12* makes in respect of offences of corruption under the Bill. This particular change in the law relates to the Parliament of the United Kingdom and therefore to aspects of the constitution, reserved by paragraph 1(c) of Part I of Schedule 5 to the Scotland Act 1998. It is therefore not within the legislative competence of the Scottish Parliament to make, for Scotland, provision comparable to that for England and Wales in *clause 12* and hence there is no need to invoke the Sewel convention.

55. *Subsection (1)* is similar to *clause 12 (1)* but makes reference to proceedings for a crime or offence specified in *subsection (2)*.

56. *Subsection (2)* specifies the offences of bribery and corruption under Scots law. It is not necessary to make reference to attempts as under Scots law a reference to the



crime includes a reference to an attempt to commit the crime. Furthermore, section 293 of the Criminal Procedure (Scotland) Act 1995 provides that aiding, abetting, counselling, procuring and inciting the commission of a statutory offence is itself an offence. In relation to the common law element of the crime of bribery and corruption all parties involved in the commission of a crime are, at common law, equally guilty whatever part they may have played in the commission of the crime.

57. *Subsection (3)* ensures that the clause applies to the Scots offences whether or not they are constituted by section 69 (2) (a) of the Criminal Justice (Scotland) Act 2003. This section relates to bribery and corruption and is analogous to *clause 13*.

58. *Subsections (4) – (6)* repeat the effect of *clause 21* in respect of this clause.

### **Clause 30: Authorisation for intelligence agencies: Scotland**

59. This clause extends the new authorisation system under *clauses 15 and 16* to cover corruption offences under Scots law. The intelligence agencies are concerned with national security, which is a reserved matter under the Scotland Act (Schedule 5, Part 2, Section B8).

### **Clause 32: The Crown**

60. This clause ensures that the offences in Part 1 apply to persons in the public service of the Crown, for example, civil servants.

## **SCHEDULE**

61. The schedule provides for repeals and revocations. The most important of these have been explained under *clause 19*. The reasons for the other repeals are:

#### **Representation of the People Act 1948**

Section 52 (7) of this Act amended the 1889 Act and will be redundant following the repeal of the 1889 Act.

#### **Electoral Law Act (Northern Ireland) 1962**

Section 112 (3) of this Act amended paragraphs (c) and (d) of section 2 of the 1889 Act and will be redundant following the repeal of the 1889 Act.

#### **Local Government Act (Northern Ireland) 1972**

Schedule 8 paragraph 1 of this Act amended section 7 of the 1889 Act and will be redundant following the repeal of the 1889 Act.

#### **Criminal Justice Act 1988**

Section 47 (1) of this Act amended the 1889 Act and will be redundant following the repeal of the 1889 Act.

#### **Criminal Justice (Evidence etc) (Northern Ireland) Order 1988**

Article 14(1) of this Order amended paragraph (a) of section 2 of the 1889 Act and will be redundant following the repeal of the 1889 Act.

#### **Anti-terrorism, Crime and Security Act 2001**

Part 12 of this Act has been replaced by provisions in Part 1 of this Bill – in particular *clause 11 (2) and (4) and clause 13*. The repeal of section 128(1)(b) is consequential on the repeal of Part 12.

## **FINANCIAL EFFECTS OF THE BILL**

62. The Bill's provisions have negligible expenditure provisions for Government Departments.

## **PUBLIC SERVICE MANPOWER EFFECTS OF THE BILL**

63. The Bill has a negligible impact on public sector manpower.

## **SUMMARY OF THE REGULATORY APPRAISAL**

64. No RIA is necessary, as the regulatory impact is likely to be negligible.

## **EUROPEAN CONVENTION ON HUMAN RIGHTS**

65. Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the provision of the Bill with the Convention (as defined by section 1 of that Act). The statement has to be made before second reading.

66. We do not think that there is anything in the draft Bill that conflicts with the Convention. Indeed, it repeals a provision of existing legislation (section 2 of the Prevention of Corruption Act 1916), which risks being deemed as incompatible.

## **COMMENCEMENT**

67. Part 1 of the Bill and *clause 29* will be brought into force by commencement order. Part 2 of the Bill will commence two months after Royal Assent, in accordance with *clause 28*.

## **COMMENTS**

68. The Bill will now be subject to pre-legislative scrutiny by a Joint Committee of both Houses of Parliament. Any enquiries or comments relating to the scrutiny procedure should be addressed to:

Richard Dawson  
Committee Office Scrutiny Unit  
House of Commons  
London SW1P 3JA

Or by e-mail to: [scrutiny@parliament.uk](mailto:scrutiny@parliament.uk)  
Tel: 020 7 219 8363  
Fax: 020 7 219 8361

You may also care to address comments and any other enquiries to:

Corruption Bill Team  
Room 321  
Home Office  
50 Queen Anne's Gate  
London SW1H 9AT

Or by e-mail to: [Anna.Hodgson@homeoffice.gsi.gov.uk](mailto:Anna.Hodgson@homeoffice.gsi.gov.uk)  
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# Corruption Bill

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A  
**B I L L**

TO

Make provision about corruption.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**PART 1**

OFFENCES

*Corruption offences*

- 1 Corruptly conferring an advantage** 5
- A person commits an offence if—
- (a) he corruptly confers an advantage, or
  - (b) he corruptly offers or agrees to confer an advantage.

- 2 Corruptly obtaining an advantage** 10
- A person commits an offence if—
- (a) he corruptly obtains an advantage, or
  - (b) he corruptly solicits or agrees to obtain an advantage.

- 3 Performing functions corruptly**
- A person commits an offence if he performs his functions as an agent corruptly.

*Conferring an advantage*

- 4 Meaning of conferring an advantage** 15
- (1) A person confers an advantage if—

- 
- (a) he does something (for example, makes a payment) or he omits to do something which he has a right or duty to do;
- (b) the act or omission is done or made in consequence of another’s request (express or implied) or with the result (direct or indirect) that another benefits. 5
- (2) An act or omission may be done or made in consequence of a person’s request even if the nature of the act or omission, and the time it is intended to be done or made, are not known at the time of the request.
- 5 Conferring an advantage: meaning of corruptly**
- (1) A person (C) who confers an advantage, or offers or agrees to confer an advantage, does so corruptly if— 10
- (a) he intends a person (A) to do an act or make an omission in performing functions as an agent of another person (B) or as an agent for the public;
- (b) he believes that if A did the act or made the omission it would be primarily in return for the conferring of the advantage (or the advantage when conferred), whoever obtains it; 15
- (c) the exception provided by section 6 does not apply;
- (d) the exception provided by section 7 does not apply.
- (2) A person (C) who confers an advantage, or offers or agrees to confer an advantage, does so corruptly if— 20
- (a) he knows or believes that a person (A) has done an act or made an omission in performing functions as an agent of another person (B) or as an agent for the public;
- (b) he knows or believes that A has done the act or made the omission primarily in order to secure that a person confers an advantage (whoever obtains it); 25
- (c) he intends A to regard the advantage (or the advantage when conferred) as conferred primarily in return for the act or omission;
- (d) the exception provided by section 6 does not apply;
- (e) the exception provided by section 7 does not apply. 30
- (3) For the purposes of subsection (1) the nature of the intended act or omission, and the time it is intended to be done or made, need not be known when the advantage is conferred or the offer or agreement is made.
- 6 Acting on behalf of principal or public: no corruption**
- (1) The exception provided by this section applies if any of the following three conditions is satisfied. 35
- (2) The first condition is that—
- (a) the functions concerned are performed only for a principal (B) and not for the public;
- (b) C is acting on behalf of B. 40
- (3) The second condition is that—
- (a) the functions concerned are performed only for the public and not for a principal;
- (b) C is acting on behalf of the public.

- 
- (4) The third condition is that—
- (a) some of the functions concerned are performed for a principal (B) and others are performed for the public, or a given function is performed for a principal (B) and the public;
  - (b) each element of the advantage is conferred (or to be conferred) by C acting on behalf of B or of the public (or of both). 5
- (5) The functions concerned are the functions referred to in section 5(1)(a) or (2)(a).
- (6) References to the public are not confined to the public of the United Kingdom or of any part of it.
- 7 Principal’s consent: no corruption 10**
- (1) The exception provided by this section applies if—
- (a) the functions concerned are performed only for a principal and not for the public;
  - (b) the principal, or each of them if more than one, is aware of all the material circumstances and consents to the conferring of the advantage or the making of the offer or agreement. 15
- (2) A person is to be treated as if he were aware of all the material circumstances, and consented to the conferring of the advantage or the making of the offer or agreement, if the defendant believes that—
- (a) he is aware of those circumstances and so consents, or 20
  - (b) he would so consent if aware of those circumstances.
- (3) For the purposes of subsections (1) and (2) consent may be given on a principal’s behalf by any agent of the principal, but it does not count if in giving it the agent performs his functions as an agent corruptly.
- (4) The functions concerned are the functions referred to in section 5(1)(a) or (2)(a). 25

*Obtaining an advantage*

- 8 Meaning of obtaining an advantage**
- (1) A person obtains an advantage if—
- (a) another does something (for example, makes a payment) or he omits to do something which he has a right or duty to do; 30
  - (b) the act or omission is done or made in consequence of the first person’s request (express or implied) or with the result (direct or indirect) that the first person benefits.
- (2) An act or omission may be done or made in consequence of a person’s request even if the nature of the act or omission, and the time it is intended to be done or made, are not known at the time of the request. 35
- 9 Obtaining an advantage: meaning of corruptly**
- (1) A person who obtains an advantage obtains it corruptly if—
- (a) he knows or believes that the person conferring it confers it corruptly, and 40

- (b) he gives his express or implied consent to obtaining it (in a case where he does not request it).
- (2) A person who agrees to obtain an advantage agrees to obtain it corruptly if he knows or believes that the person agreeing to confer it agrees corruptly.
- (3) A person who solicits an advantage solicits it corruptly if— 5
  - (a) he intends a person to confer it or agree to confer it, and
  - (b) he believes that if the person did so he would do so corruptly.

*Performing functions*

**10 Performing functions: meaning of corruptly**

- (1) A person who performs his functions as an agent performs them corruptly if— 10
  - (a) he does an act or makes an omission primarily in order to secure that a person confers an advantage (whoever obtains it);
  - (b) he believes that if the person did so he would do so corruptly.
- (2) A person who performs his functions as an agent performs them corruptly if— 15
  - (a) he does an act or makes an omission when he knows or believes that a person has corruptly conferred an advantage (whoever obtained it);
  - (b) he regards the act or omission as done or made primarily in return for the conferring of the advantage.

*Agents and principals*

**11 Meaning of agent and principal**

- (1) A person is an agent, and another is his principal for whom he performs functions, if— 20
  - (a) there is an agreement or understanding between them (express or implied) that the first is to perform the functions for the second;
  - (b) the first is a trustee and the second is a beneficiary under the same trust; 25
  - (c) the first and the second are partners in the same partnership.
- (2) It is immaterial if-
  - (a) the functions of the first person have no connection with the United Kingdom;
  - (b) the affairs or business of the second person (or the functions of the second partner) have no connection with the United Kingdom. 30
- (3) A person is an agent performing functions for the public if the functions he performs are of a public nature.
- (4) Subsection (3) has effect even if the person has no connection with the United Kingdom, and “public” is not confined to the public of the United Kingdom or of any part of it. 35
- (5) A person may be an agent performing some functions for a principal and others for the public.
- (6) As regards a given function, a person may be an agent performing it for a principal and the public. 40



*Miscellaneous*

**12 Proceedings in Parliament**

- (1) No enactment or rule of law preventing proceedings in Parliament being impeached or questioned in any court or place out of Parliament is to prevent any evidence being admissible in proceedings for a corruption offence. 5
- (2) These offences are corruption offences –
  - (a) an offence under this Part;
  - (b) an attempt, conspiracy or incitement to commit an offence under this Part;
  - (c) aiding, abetting, counselling or procuring the commission of an offence under this Part. 10

**13 Corruption committed outside the UK**

- (1) This section applies if –
  - (a) a national of the United Kingdom or a body incorporated under the law of any part of the United Kingdom does or omits to do anything in a country or territory outside the United Kingdom; 15
  - (b) the act or omission would, if done or made in England and Wales or Northern Ireland, constitute a corruption offence.
- (2) In such a case –
  - (a) the act or omission constitutes the offence concerned; 20
  - (b) proceedings for the offence may be taken in England and Wales or Northern Ireland;
  - (c) the offence may be treated for incidental purposes as having been committed at a place in England and Wales or Northern Ireland.
- (3) These offences are corruption offences – 25
  - (a) an offence under this Part;
  - (b) an attempt, conspiracy or incitement to commit an offence under this Part;
  - (c) aiding, abetting, counselling or procuring the commission of an offence under this Part. 30
- (4) A national of the United Kingdom is an individual who is any of these –
  - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
  - (b) a person who under the British Nationality Act 1981 (c. 61) is a British subject; 35
  - (c) a British protected person within the meaning of that Act.

**14 Jurisdiction**

- (1) In section 1(2) of the Criminal Justice Act 1993 (c. 36) (group A offences for purposes of provisions about jurisdiction) the following paragraph is inserted after paragraph (c) – 40

“(cc) an offence under Part 1 of the Corruption Act 2003;”.
- (2) In Article 38(2) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (group A offences for purposes of provisions about

jurisdiction) the following sub-paragraph is inserted after sub-paragraph (c) –  
“(cc) an offence under Part 1 of the Corruption Act 2003;”.

## 15 Authorisations for intelligence agencies

- (1) Subsection (2) applies if, apart from that subsection, a person would commit a corruption offence in doing an act or making an omission. 5
- (2) The person does not commit a corruption offence if the act or omission done or made is authorised to be done or made by virtue of an authorisation given by the Secretary of State.
- (3) The Secretary of State may give an authorisation under subsection (2) only if he is satisfied that the conditions in subsections (4) to (6) are met. 10
- (4) The first condition is that –
  - (a) any acts or omissions which may be done or made in reliance on the authorisation will be necessary for the proper discharge of a function of the Security Service, the Secret Intelligence Service or GCHQ, or
  - (b) the operation in the course of which any such acts or omissions may be done or made will be necessary for the proper discharge of such a function. 15
- (5) The second condition is that there are satisfactory arrangements in force to secure –
  - (a) that no act or omission will be done or made in reliance on the authorisation beyond what is necessary for the proper discharge of a function of the Security Service, the Secret Intelligence Service or GCHQ, and 20
  - (b) that, in so far as any acts or omissions may be done or made in reliance on the authorisation, their nature and likely consequences will be reasonable, having regard to the purposes for which they are done or made. 25
- (6) The third condition is that –
  - (a) there are satisfactory arrangements in force under section 2(2)(a) of the Security Service Act 1989 (c. 5) and sections 2(2)(a) and 4(2)(a) of the Intelligence Services Act 1994 (c. 13) with respect to the disclosure of information obtained by virtue of this section, and 30
  - (b) any information obtained by virtue of an act or omission done or made in reliance on the authorisation will be subject to those arrangements.
- (7) An authorisation under subsection (2) may in particular – 35
  - (a) relate to one or more specified acts or omissions, to acts or omissions of a specified description or to acts or omissions done or made in the course of a specified operation;
  - (b) be limited to one or more specified persons or to persons of a specified description; 40
  - (c) be subject to specified conditions.
- (8) “Specified” means specified in the authorisation.
- (9) These offences are corruption offences –
  - (a) an offence under this Part;
  - (b) an attempt, conspiracy or incitement to commit an offence under this Part; 45

- (c) aiding, abetting, counselling or procuring the commission of an offence under this Part.
- (10) “GCHQ” has the meaning given by section 3(3) of the Intelligence Services Act 1994 (c. 13).

**16 Authorisations: supplementary**

5

- (1) This section applies to an authorisation under section 15(2).
- (2) An authorisation may be given only under the hand of—
  - (a) the Secretary of State, or
  - (b) a senior official.
- (3) But an authorisation may be given under the hand of a senior official only if—
  - (a) the case is urgent;
  - (b) the Secretary of State has expressly authorised the giving of the authorisation;
  - (c) a statement of that fact is endorsed on the authorisation. 10
- (4) An authorisation ceases to have effect—
  - (a) at the end of the period of 6 months starting with the day on which it was given, if it was given under the hand of the Secretary of State;
  - (b) at the end of the second working day after the day on which it was given, if it was given under the hand of a senior official. 15
- (5) Subsection (4) does not apply if the authorisation is renewed under subsection (6) before the day on which it would otherwise cease to have effect. 20
- (6) The Secretary of State may renew an authorisation for a period of 6 months starting on the day on which it would otherwise cease to have effect, if at any time before that day he considers it necessary for the authorisation to continue to have effect for the purpose for which it was given. 25
- (7) Subsection (6) may apply more than once.
- (8) A renewal under subsection (6) must be made under the hand of the Secretary of State.
- (9) The Secretary of State must cancel an authorisation if he is satisfied that an act or omission authorised by virtue of it is no longer necessary. 30
- (10) In this section—
  - “senior official” has the meaning given by section 81 of the Regulation of Investigatory Powers Act 2000 (c. 23);
  - “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in any part of the United Kingdom. 35
- (11) In section 59(2) of the Regulation of Investigatory Powers Act 2000 (matters to be kept under review by Intelligence Services Commissioner) after paragraph (a) insert—
  - “(aa) the exercise by the Secretary of State of his powers under sections 15 and 16 of the Corruption Act 2003;” 40

**17 Consent to prosecution**

- (1) No proceedings for a corruption offence may be started in England and Wales except with the consent of the Attorney General.
- (2) No proceedings for a corruption offence may be started in Northern Ireland before the relevant date except with the consent of the Attorney General. 5
- (3) No proceedings for a corruption offence may be started in Northern Ireland on or after the relevant date except with the consent of the Director of Public Prosecutions for Northern Ireland.
- (4) These offences are corruption offences – 10
- (a) an offence under this Part;
  - (b) an attempt, conspiracy or incitement to commit an offence under this Part;
  - (c) aiding, abetting, counselling or procuring the commission of an offence under this Part.
- (5) The relevant date is the date on which section 22(1) of the Justice (Northern Ireland) Act 2002 (c. 26) comes into force (Attorney General for England and Wales no longer Attorney General for Northern Ireland). 15

**18 Penalties**

A person guilty of an offence under this Part is liable –

- (a) on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine or both; 20
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both.

**19 Abolition of existing offences etc.**

- (1) The common law offence of bribery is abolished. 25
- (2) The Public Bodies Corrupt Practices Act 1889 (c. 69) shall cease to have effect.
- (3) In section 1 of the Prevention of Corruption Act 1906 (c. 34) (offences relating to corrupt transactions with agents) – 30
- (a) in subsection (1) the words from “If any agent” to “business; or” (in the second place where the latter words occur) are omitted;
  - (b) subsection (4) is omitted.
- (4) In the Prevention of Corruption Act 1916 (c. 64) – 35
- (a) section 2 (presumption of corruption for certain offences) is omitted;
  - (b) in section 4(2) (meaning of “public body”) the words “(including authorities existing in a country or territory outside the United Kingdom)” are omitted.
- (5) In section 178 of the Licensing Act 1964 (c. 26) paragraph (c) and the word “or” immediately preceding it (bribery) are omitted.
- (6) Paragraph 3 of Schedule 11 to the Local Government and Housing Act 1989 (c. 42) (amendment of 1916 Act) is omitted. 40

*General*

**20 Repeals and revocations**

The Schedule contains repeals and revocations.

**21 Commencement: Part 1**

- (1) Sections 1 to 20 and the Schedule apply in relation to acts or omissions done or made on or after the appointed day. 5
- (2) If an act or omission is alleged to have been done or made over a period of two or more days, or at some time in a period of two or more days, it must be taken for the purposes of this section to have been done or made on the last of those days. 10
- (3) The appointed day is such day as the Secretary of State appoints by order made by statutory instrument.

**PART 2**

LIMITATION

*England and Wales*

15

**22 Postponement of limitation periods**

- (1) Section 32 of the Limitation Act 1980 (c. 58) (postponement of limitation period in case of fraud etc.) is amended as follows.
- (2) In the sidenote after “fraud,” insert “corrupt conduct,”.
- (3) In subsection (1) after paragraph (a) insert— 20  
“(aa) the action is based on the corrupt conduct of the defendant; or”.
- (4) In subsection (1) after “discovered the fraud,” insert “corrupt conduct,”.
- (5) In subsection (3) after “fraud” insert “, corrupt conduct”.
- (6) In subsection (4)(a)— 25
  - (a) after “case of fraud” insert “, corrupt conduct”;
  - (b) after “party to the fraud” insert “or corrupt conduct”;
  - (c) after “believe that the fraud” insert “, corrupt conduct”.
- (7) After subsection (5) insert—
  - “(6) An action based on the corrupt conduct of the defendant shall not be brought by virtue of subsection (1) above after the expiration of ten years from the date on which the corrupt conduct occurred.” 30

**23 Actions in respect of trust property**

In section 21 of the Limitation Act 1980 (time limit for actions in respect of trust property) after subsection (1) insert—

- “(1A) Subsection (1) above does not apply if the action is based on the corrupt conduct of the trustee.” 35

**24 Meaning of corrupt conduct**

In section 38(1) of the Limitation Act 1980 (c. 58) (interpretation) after the definition of “action” insert—

““corrupt conduct” means conduct which constitutes an offence under Part 1 of the Corruption Act 2003;”

5

*Northern Ireland*

**25 Postponement of time limits**

(1) Article 71 of the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)) (postponement of time limit in case of fraud etc.) is amended as follows.

(2) In the heading after “fraud,” insert “corrupt conduct,”.

10

(3) In paragraph (1) after sub-paragraph (a) insert—

“(aa) the action is based on the corrupt conduct of the defendant; or”.

(4) In paragraph (1) after “discovered the fraud,” insert “corrupt conduct,”.

(5) In paragraph (3) after “fraud” insert “, corrupt conduct”.

(6) In paragraph (4)(a)—

15

(a) after “case of fraud” insert “, corrupt conduct”;

(b) after “party to the fraud” insert “or corrupt conduct”;

(c) after “believe that the fraud” insert “, corrupt conduct”.

(7) After paragraph (5) insert—

“(5A) An action based on the corrupt conduct of the defendant may not be brought by virtue of paragraph (1) after the expiration of ten years from the date on which the corrupt conduct occurred.”

20

**26 Actions in respect of trust property**

In Article 43 of the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)) (time limit for actions in respect of trust property) after paragraph (1) insert—

25

“(1A) Paragraph (1) does not apply if the action is based on the corrupt conduct of the trustee.”

**27 Meaning of corrupt conduct**

In Article 2(2) of the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)) (interpretation) after the definition of “conventional rent” insert—

30

““corrupt conduct” means conduct which constitutes an offence under Part 1 of the Corruption Act 2003;”

*Commencement*

**28 Commencement: Part 2**

- (1) Sections 22 to 27 apply to actions in relation to which the cause of action or right of action accrues on or after the commencement day.
- (2) The commencement day is the last day of the period of two months starting with the day on which this Act is passed. 5

**PART 3**

MISCELLANEOUS AND GENERAL

*Miscellaneous*

**29 Proceedings in Parliament: Scottish offences 10**

- (1) No enactment or rule of law preventing proceedings in Parliament being impeached or questioned in any court or place out of Parliament is to prevent any evidence being admissible in proceedings for a crime or offence mentioned in subsection (2).
- (2) The crimes and offences are – 15
  - (a) as a crime at common law, bribery or accepting a bribe;
  - (b) the offences under section 1 of the Public Bodies Corrupt Practices Act 1889 (c. 69) (corruption in office);
  - (c) the first two offences under section 1 of the Prevention of Corruption Act 1906 (c. 34) (bribes obtained by or given to agents). 20
- (3) Subsection (1) applies whether or not the crime or offence is constituted by virtue of section 69(2)(a) of the Criminal Justice (Scotland) Act 2003 (asp 00) (bribery and corruption committed outwith United Kingdom).
- (4) This section applies in relation to acts or omissions done or made on or after the appointed day. 25
- (5) If an act or omission is alleged to have been done or made over a period of two or more days, or at some time in a period of two or more days, it must be taken for the purposes of subsection (4) to have been done or made on the last of those days.
- (6) The appointed day is such day as the Secretary of State appoints by order made by statutory instrument. 30

**30 Authorisations for intelligence agencies: Scotland**

Sections 15 and 16 apply in relation to a crime or offence mentioned in section 29(2) as they apply in relation to a corruption offence (as defined by subsection (9) of section 15). 35

*General***31 Extent**

- (1) Parts 1 and 2 do not extend to Scotland, except as applied by section 30.
- (2) Sections 29 and 30 extend to Scotland only.

**32 The Crown**

5

- (1) Part 1 binds the Crown, subject to subsections (2) to (6).
- (2) No contravention by the Crown of a provision of Part 1 makes the Crown criminally liable.
- (3) But the High Court may, on the application of a person appearing to the court to have an interest, declare unlawful an act or omission of the Crown which constitutes a contravention of a provision of Part 1. 10
- (4) Despite subsection (2), the provisions of Part 1 apply to persons in the public service of the Crown as they apply to other persons.
- (5) Subsections (1) to (4) do not affect Her Majesty in her private capacity.
- (6) The reference in subsection (5) to Her Majesty in her private capacity includes a reference to Her Majesty in right of her Duchy of Lancaster and to the Duke of Cornwall. 15

**33 Citation**

This Act may be cited as the Corruption Act 2003.



SCHEDULE

Section 20.

REPEALS AND REVOCATIONS

<i>Short title and chapter</i>	<i>Extent of repeal or revocation</i>	
Public Bodies Corrupt Practices Act 1889 (c. 69)	The whole Act.	5
Prevention of Corruption Act 1906 (c. 34)	In section 1(1) the words from “If any agent” to “business; or” (in the second place where the latter words occur). In section 1(2) the words “expression “consideration” includes valuable consideration of any kind; the”.	10
Prevention of Corruption Act 1916 (c. 64)	Section 2. In section 4(2) the words “(including authorities existing in a country or territory outside the United Kingdom)”.	15
Representation of the People Act 1948 (c. 65)	In section 4(3) the words from “and the” to the end.	20
Electoral Law Act (Northern Ireland) 1962 (c. 14)	Section 52(7).	
Licensing Act 1964 (c. 26)	Section 112(3).	
Local Government Act (Northern Ireland) 1972 (c. 9).	In section 178, paragraph (c) and the word “or” immediately preceding it.	25
Criminal Justice Act 1988 (c. 33)	In Schedule 8, paragraph 1.	
Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17))	Section 47(1). Article 14(1).	30
Local Government and Housing Act 1989 (c. 42)	In Schedule 11, paragraph 3.	
Anti-terrorism, Crime and Security Act 2001 (c. 24)	Part 12. Section 128(1)(b).	



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