

ELIZABETH II c. 23

# Bribery Act 2010

## 2010 CHAPTER 23

An Act to make provision about offences relating to bribery; and for connected purposes. [8th April 2010]

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:

御名御璽

## 2010 年贈収賄禁止法

2010 年法律 23 号

賄賂に関する犯罪について、接続する諸目的を併せ、規定する法律 (2010 年 4 月 8 日)

今次国会に於ける貴族、衆両議院の助言と同意をもって女王これを以下の通り発行（公布）せしむ。

*General bribery offences*

賄賂犯罪一般

### 1 Offences of bribing another person

(1) A person ("P") is guilty of an offence if either of the following cases applies.

(2) Case 1 is where

(a) P offers, promises or gives a financial or other advantage to another person, and

(b) P intends the advantage

(i) to induce a person to perform improperly a relevant function or activity, or

(ii) to reward a person for the improper performance of such a function or activity.

(3) Case 2 is where

(a) P offers, promises or gives a financial or other advantage to another person, and

(b) P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

(4) In case 1 it does not matter whether the person to whom the advantage is offered, promised or given is the same person as the person who is to perform, or has performed, the function or activity concerned.

(5) In cases 1 and 2 it does not matter whether the advantage is offered, promised or given by P directly or through a third party.

## 第1条 他人への贈賄罪

(1) 下記の何れかの構成要件に該当するとき、人(贈賄側)は本条をもって有罪である。

(2) 構成要件(犯罪類型) 1

(a) 他人に経済的又はその他の優遇を申出、約束又は贈与し、

(b) その優遇が以下に効あることを期する -

(i) 相手自らの職務権能を擁する不適切な行動を誘引すること

(ii) 相手自らの職務権能を擁する不適切な行動への対価を提供すること

(3) 構成要件 2

(a) 他人に経済的又はその他の優遇を申出、約束又は贈与し、

(b) 単に、斯かる優遇の「收受」自体が、持てる職務権能の不適切な行使(の要件)を構成すると、知って又は信じている

(4) 要件 1(2)では 贈賄される(収賄)側が職務権能行使者と同一人であろうが別人であろうが(贈賄の罪状に)関係ない。

(5) 要件 1, 2(2)(3)とも、優遇の提供が収賄側に直接か、第三者経由で行われるかは関係ない。

## 2 Offences relating to being bribed

(1) A person ("R") is guilty of an offence if any of the following cases applies.

(2) Case 3 is where R requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by R or another person).

(3) Case 4 is where

(a) R requests, agrees to receive or accepts a financial or other advantage, and

(b) the request, agreement or acceptance itself constitutes the improper performance by R of a relevant function or activity.

(4) Case 5 is where R requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by R or another person) of a relevant function or activity.

(5) Case 6 is where, in anticipation of or in consequence of R requesting, agreeing

to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly

(a) by R, or

(b) by another person at R's request or with R's assent or acquiescence.

(6) In cases 3 to 6 it does not matter

(a) whether R requests, agrees to receive or accepts (or is to request, agree to receive or accept) the advantage directly or through a third party,

(b) whether the advantage is (or is to be) for the benefit of R or another person.

(7) In cases 4 to 6 it does not matter whether R knows or believes that the performance of the function or activity is improper.

(8) In case 6, where a person other than R is performing the function or activity, it also does not matter whether that person knows or believes that the performance of the function or activity is improper.

## 第2条 収賄罪

(1) 下記の何れかの構成要件に該当するとき、人(収賄側)は本条をもって有罪である。

(2) 構成要件(犯罪類型)3

自らの職務権能を自ら或いは第三者経由にて不適切に行使することを企図しつつ、経済的又はその他の優遇を要求、收受に同意又は実際收受する。

(3) 構成要件4

(a) 経済的又はその他の優遇を要求、收受に同意又は実際收受し、且つ

(b) 優遇要求、收受同意又は收受そのものが職務権能の不適切行使を構成する。

(4) 構成要件5

自らの職務権能の不適切な行使の対価として、経済的又はその他の優遇を要求、收受に同意又は実際に收受する。

(5) 構成要件6

経済的又はその他の優遇を要求、收受に同意又は実際に收受することを期して或いはそれらの何れかの結果、以下にて自らの職務権能を不適切に行使

(a) 自ら又は

(b) 自らの依頼、同意又は黙認をもって他人により

(6) 要件3～6においては下記(a),(b)とも何れかは、(権能者の要件該当性に)関係ない。

(a) 職務権能の主又は別人を通じて優遇が提供されるか、

(b) 上記の何れが優遇の受益者であるか

(7) 要件4～6において権能の主がその行使が不適切と知るか否かは(要件該当性に)関係ない。

- ( 8 ) 要件 6 において別人が権能を行使するときその別人がその行使が不適切と知るか否かは ( 要件該当性に ) 関係ない。

### 3 Function or activity to which bribe relates

(1) For the purposes of this Act a function or activity is a relevant function or activity if

- (a) it falls within subsection (2), and
- (b) meets one or more of conditions A to C.

(2) The following functions and activities fall within this subsection

- (a) any function of a public nature,
- (b) any activity connected with a business,
- (c) any activity performed in the course of a person's employment,
- (d) any activity performed by or on behalf of a body of persons (whether corporate or unincorporate).

(3) Condition A is that a person performing the function or activity is expected to perform it in good faith.

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(4) Condition B is that a person performing the function or activity is expected to perform it impartially.

(5) Condition C is that a person performing the function or activity is in a position of trust by virtue of performing it.

(6) A function or activity is a relevant function or activity even if it

- (a) has no connection with the United Kingdom, and
- (b) is performed in a country or territory outside the United Kingdom.

(7) In this section "business" includes trade or profession.

### 第 3 条 賄賂に関連する権能 ( 職務権限又は能力 )

( 1 ) 本法の目的に照らし、権能とは以下を指す

- (a) 下記 ( 2 ) に該当し、且つ
- (b) 下記条件 ( A ) から ( C ) の 1 以上に沿う

( 2 ) 下記に該当する権限や能力

- (a) 公共的な権限
- (b) 事業に直結する能力
- (c) 雇用に関わる権能
- (d) 人的集団又は組織のために行使される能力

( 3 ) 条件 A

(日頃)その権能を誠実に行使することが期待されている

(4) 条件 B

その権能を公平に行使することが期待されている

(5) 条件 C

その権能行使そのものが信用されている

(6) 職務権能は以下であっても適用される—

(a) 英国絡みでなく且つ

(b) 英国外で行使されても

(7) 本条において事業(Business)には貿易や知識専門職能も含まれる。

#### 4 Improper performance to which bribe relates

(1) For the purposes of this Act a relevant function or activity

(a) is performed improperly if it is performed in breach of a relevant expectation, and

(b) is to be treated as being performed improperly if there is a failure to perform the function or activity and that failure is itself a breach of a relevant expectation.

(2) In subsection (1) “relevant expectation”

(a) in relation to a function or activity which meets condition A or B, means the expectation mentioned in the condition concerned, and

(b) in relation to a function or activity which meets condition C, means any expectation as to the manner in which, or the reasons for which, the function or activity will be performed that arises from the position of trust mentioned in that condition.

(3) Anything that a person does (or omits to do) arising from or in connection with that person’s past performance of a relevant function or activity is to be treated for the purposes of this Act as being done (or omitted) by that person in the performance of that function or activity.

#### 第4条 賄賂に関連する不適切な行為

(1) 本法の目的に照らし、関連する権能は

(a) その権能への期待に反して行使されるとき不適切であり、

(b) 権能本来の行使の失敗があり、その失敗自体がその権能への期待に反するとき不適切であるとされる。

(2) 上記(1)における“その権能への期待”は

(a) 条件 A,B に沿う権能とは夫々の条件として記載された状態の

- 権能行使への期待であり、
- (b) 条件 C に沿う権能とはそこに記載された信用状況を齎すべき  
権能行使が期待される
- (3) 本人の過去の当該権能の行使状況全てと同人の現在の作為不作為  
全てが本法の目的に照らして問われる。

## 5 Expectation test

- (1) For the purposes of sections 3 and 4, the test of what is expected is a test of what a reasonable person in the United Kingdom would expect in relation to the performance of the type of function or activity concerned.
- (2) In deciding what such a person would expect in relation to the performance of a function or activity where the performance is not subject to the law of any part of the United Kingdom, any local custom or practice is to be disregarded unless it is permitted or required by the written law applicable to the country or territory concerned.
- (3) In subsection (2) “written law” means law contained in
- (a) any written constitution, or provision made by or under legislation, applicable to the country or territory concerned, or
- (b) any judicial decision which is so applicable and is evidenced in published written sources

## 第 5 条 期待の基準

- (1) 第 3 条、4 条での「期待」の水準は英国の通常の成人が件の職務権能の行使として期待する程度を標準とする。
- (2) 権能の行使が英国の何れの法令の適用地域でもない場所における職務権能行使の期待水準はその国/地域の成文法で許容されているか義務付けられているかであり、単なる地域の慣習/慣行は無視すること。
- (3) 上記(2)において“成文法”とは以下の法が含まれる
- (a) その国・地域の司法管轄者による又は法令として所轄される成文の規則、条例
- (b) 司法効力ありと証されている、開示成文の確定判例。

## *Bribery of foreign public officials*

### 外国公務員贈賄

## 6 Bribery of foreign public officials

- (1) A person (“P”) who bribes a foreign public official (“F”) is guilty of an offence

if P's intention is to influence F in F's capacity as a foreign public official.

(2) P must also intend to obtain or retain

(a) business, or

(b) an advantage in the conduct of business.

(3) P bribes F if, and only if

(a) directly or through a third party, P offers, promises or gives any financial or other advantage

(i) to F, or

(ii) to another person at F's request or with F's assent or acquiescence, and

(b) F is neither permitted nor required by the written law applicable to F to be influenced in F's capacity as a foreign public official by the offer, promise or gift.

(4) References in this section to influencing F in F's capacity as a foreign public official mean influencing F in the performance of F's functions as such an official, which includes

(a) any omission to exercise those functions, and

(b) any use of F's position as such an official, even if not within F's authority.

(5) "Foreign public official" means an individual who

(a) holds a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (or any subdivision of such a country or territory),

(b) exercises a public function

(i) for or on behalf of a country or territory outside the United Kingdom (or any subdivision of such a country or territory), or

(ii) for any public agency or public enterprise of that country or territory (or subdivision), or

(c) is an official or agent of a public international organisation.

(6) "Public international organisation" means an organisation whose members are any of the following

(a) countries or territories,

(b) governments of countries or territories,

(c) other public international organisations,

(d) a mixture of any of the above.

(7) For the purposes of subsection (3)(b), the written law applicable to F is

(a) where the performance of the functions of F which P intends to influence would be subject to the law of any part of the United Kingdom, the law of that part of the United Kingdom,

(b) where paragraph (a) does not apply and F is an official or agent of a public international organisation, the applicable written rules of that organisation,

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(c) where paragraphs (a) and (b) do not apply, the law of the country or territory in relation to which F is a foreign public official so far as that law is contained in

(i) any written constitution, or provision made by or under legislation, applicable to the country or territory concerned, or

(ii) any judicial decision which is so applicable and is evidenced in published written sources.

(8) For the purposes of this section, a trade or profession is a business.

## 第6条 外国公務員贈賄罪

(1) 人(贈賄側)は外国公務員(収賄側)に、その職務権限の行使において影響する企図にて贈賄するとき、本条の構成要件に該当し有罪である。

(2) 人(の有罪に)は又以下(a)事業参入、又は(b)事業に於ける優遇を獲得或いは保持する企図を要す

(3) 人の贈賄構成要件は最小限以下の通り

(a) 直接或いは第三者を擁して、経済的その他の優遇を、下記の状況下申し出、約束、あるいは実提供する一

(i)他人(収賄者)又は

(ii)収賄者の依頼、同意、又は黙認をもって別人に

且つ

(b)収賄者がある成文の管轄法上斯かる申し出、約束或いは贈与を許可も義務付けもされていない

(4) 本条にて収賄者たる外国公務員の“職務権限行使に於いて影響する”とは以下の影響をいう一

(a) 職務権限行使の懈怠

(b) 実際の権限があるなしに関わらず、収賄者の斯かる執行者としての地位の利用

(5) “外国公務員”の定義は以下の通り一

(a) 発令による、選任によるを問わず、英国以外の国/地域の各種立法、行政、司法官に就位する者、又は



- (b) 以下の公共職務を執行する者
  - (i) 斯かる英国外の国、地域のために
  - (ii) 斯かる外国・地域の代理組織、公共事業体
 又は
  - (c) 国際公機関の執行者または代理人
- (6) “国際公機関” の定義としては、その会員が以下である一
  - (a) 国、地域
  - (b) 国、地域の政府
  - (c) その他の公的国際機関
  - (d) 上記の混合体
- (7) 上記(3)(b)の目的に照らし、その外国公務員(収賄者)に適用される成文法は
  - (a) 贈賄者が影響しようとする権能に関わる英国法か、然らずんば、
  - (b) 贈賄被疑者が国際公機関の所属員或いは代理人である場合はその公機関の成文規則、さもなくば、
  - (c) その収賄者の属する国の法令扱いされる(i)規則、条例、(ii)成文の保証ある確定判決
- (8) 本条の目的に照らし、貿易や知識/専門職能は事業に含まれる。

*Failure of commercial organisations to prevent bribery*  
 商業組織の贈賄防止不十分

## 7 Failure of commercial organisations to prevent bribery

- (1) A relevant commercial organisation (“C”) is guilty of an offence under this section if a person (“A”) associated with C bribes another person intending
  - (a) to obtain or retain business for C, or
  - (b) to obtain or retain an advantage in the conduct of business for C.
- (2) But it is a defence for C to prove that C had in place adequate procedures designed to prevent persons associated with C from undertaking such conduct.
- (3) For the purposes of this section, A bribes another person if, and only if, A
  - (a) is, or would be, guilty of an offence under section 1 or 6 (whether or not A has been prosecuted for such an offence), or
  - (b) would be guilty of such an offence if section 12(2)(c) and (4) were omitted.
- (4) See section 8 for the meaning of a person associated with C and see section 9

for a duty on the Secretary of State to publish guidance.

(5) In this section

“partnership” means

(a) a partnership within the Partnership Act 1890, or

(b) a limited partnership registered under the Limited Partnerships Act 1907,

or a firm or entity of a similar character formed under the law of a country or territory outside the United Kingdom,

“relevant commercial organisation” means

(a) a body which is incorporated under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere),

(b) any other body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the United Kingdom,

(c) a partnership which is formed under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere), or

(d) any other partnership (wherever formed) which carries on a business, or part of a business, in any part of the United Kingdom,

and, for the purposes of this section, a trade or profession is a business.

## 第7条 商業組織における贈賄防止不十分の罪

注：同条の域外適用についての他条項との関連：

7条(3)(a)：関係者が1条(5条から外国行為地で合法たる成文法なし)6条((3)

(b)により1条に同じ)の有罪なら7条(1)で有罪

(b)：仮に12条(域外適用関係)(2)(c)及び(4)(その補足)がない

想定 即ち12条(2)(a)(b)行為地が英国外であるとき12条(3)へ

12条(3)：英国内での作為不作為の予備/未遂として関係者が7条の予備・未遂事態

にあるものとして、関係商業組織は7条(1)で有罪

(1) 関係者が他人(収賄側)に以下の企図をもって贈賄した場合その関係する商業組織は本条をもって有罪である

(a) 受注を獲得又は維持する為、或いは

- (b) 取引上の優位を獲得又は維持する為
- (2) 但しその組織が、関係者に贈賄防止を徹底させる趣旨で十分な手続措置を敷いたことを挙証すれば、抗弁を得る。
- (3) 本条の目的に照らし、関係者は以下の場合だけで他人に贈賄するものとする—
  - (a) 訴追されようがされまいが、A は 1 条若しくは 6 条に違反する
  - (b) 仮に 12 条(2)(c)及び同条(4)がなかったとすれば、本条に懸かる贈賄をしたであろうと見られる
- (4) 関係者の定義については第 8 条に、国務相の手引(ガイダンス)公布義務については第 9 条に定める。
- (5) その他本条に於いて
  - “partnership”とは以下を意味する
    - (a) 「1890 年 Partnership 法」準拠の Partnership、或いは
    - (b) 「1907 年有限 Partnership 法」準拠の有限 Partnership、
 又は英国外の類似形態の組織/法人(辞書の解説では「組合」類似)
    - “relevant commercial organization”(対象となる商業組織)とは以下を意味する
      - (a) 英国籍で、英国内外を問わず事業を行う事業体
      - (b) 英国以外の籍で(外国籍)、英国で事業の全部又は一部を行う事業体
      - (c) 英国で組織され、英国内外を問わず事業を行う partnership(組合類似)
      - (d) 英国以外で組織された、英国で事業の全部又は一部を行う partnership

そして、本条の目的に照らし、貿易や知識/専門職能も事業に含まれる。

## 8 Meaning of associated person

- (1) For the purposes of section 7, a person (“A”) is associated with C if (disregarding any bribe under consideration) A is a person who performs services for or on behalf of C.
- (2) The capacity in which A performs services for or on behalf of C does not matter.
- (3) Accordingly A may (for example) be C’s employee, agent or subsidiary.
- (4) Whether or not A is a person who performs services for or on behalf of C is to be determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship between A and C.
- (5) But if A is an employee of C, it is to be presumed unless the contrary is shown that A is a person who performs services for or on behalf of C.

## 第 8 条 「関係者」の定義

- ( 1 ) 第 7 条の目的に照らし、賄賂はさておき、7 条 ( 5 ) にいう対象商業組織に対し奉仕する者をいう
- ( 2 ) その奉仕者の能力 ( の多寡・高低 ) は関係ない
- ( 3 ) よって、例えば対象商業組織の従業員、代理店、子会社は関係者たり得る。
- ( 4 ) 関係者性は全関係状況の総合的参照によって判断されるもので、単なる両者の組織関係で判断されるべきではない。
- ( 5 ) さりながら、使用人は、反証が示されない限り、その組織に奉仕することが推量される。

### 9 Guidance about commercial organisations preventing bribery

- (1) The Secretary of State must publish guidance about procedures that relevant commercial organisations can put in place to prevent persons associated with them from bribing as mentioned in section 7(1).
- (2) The Secretary of State may, from time to time, publish revisions to guidance under this section or revised guidance.
- (3) The Secretary of State must consult the Scottish Ministers before publishing anything under this section.
- (4) Publication under this section is to be in such manner as the Secretary of State considers appropriate.
- (5) Expressions used in this section have the same meaning as in section 7.

### 第 9 条 商業組織の賄賂防止についての手引

- ( 1 ) 国務相は商業組織が関係者の 7 条 ( 1 ) 贈賄の実行防止の為に導入できる手続の手引を公布しなければならない。
- ( 2 ) 国務相は ( 1 ) の手引を随時改訂公布すべし。
- ( 3 ) 斯かる公布は Scotland 相に事前協議しなければならない。
- ( 4 ) 本条にいう公布は国務相の適切と判断する方法でおこなうこと。
- ( 5 ) 本条の表現は第 7 条と同定義による。

### *Prosecution and penalties*

#### *訴追と罰則*

### 10 Consent to prosecution

- (1) No proceedings for an offence under this Act may be instituted in England and Wales except by or with the consent of
  - (a) the Director of Public Prosecutions,

- (b) the Director of the Serious Fraud Office, or
  - (c) the Director of Revenue and Customs Prosecutions.
- (2) No proceedings for an offence under this Act may be instituted in Northern Ireland except by or with the consent of
- (a) the Director of Public Prosecutions for Northern Ireland, or
  - (b) the Director of the Serious Fraud Office.
- (3) No proceedings for an offence under this Act may be instituted in England and Wales or Northern Ireland by a person
- (a) who is acting
    - (i) under the direction or instruction of the Director of Public Prosecutions, the Director of the Serious Fraud Office or the Director of Revenue and Customs Prosecutions, or
    - (ii) on behalf of such a Director, or
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- (b) to whom such a function has been assigned by such a Director, except with the consent of the Director concerned to the institution of the proceedings.
- (4) The Director of Public Prosecutions, the Director of the Serious Fraud Office and the Director of Revenue and Customs Prosecutions must exercise personally any function under subsection (1), (2) or (3) of giving consent.
- (5) The only exception is if
- (a) the Director concerned is unavailable, and
  - (b) there is another person who is designated in writing by the Director acting personally as the person who is authorised to exercise any such function when the Director is unavailable.
- (6) In that case, the other person may exercise the function but must do so personally.
- (7) Subsections (4) to (6) apply instead of any other provisions which would otherwise have enabled any function of the Director of Public Prosecutions, the Director of the Serious Fraud Office or the Director of Revenue and Customs Prosecutions under subsection (1), (2) or (3) of giving consent to be exercised by a person other than the Director concerned.
- (8) No proceedings for an offence under this Act may be instituted in Northern Ireland by virtue of section 36 of the Justice (Northern Ireland) Act 2002 (delegation of the functions of the Director of Public Prosecutions for Northern Ireland to persons other than the Deputy Director) except with the consent of

the Director of Public Prosecutions for Northern Ireland to the institution of the proceedings.

(9) The Director of Public Prosecutions for Northern Ireland must exercise personally any function under subsection (2) or (8) of giving consent unless the function is exercised personally by the Deputy Director of Public Prosecutions for Northern Ireland by virtue of section 30(4) or (7) of the Act of 2002 (powers of Deputy Director to exercise functions of Director).

(10) Subsection (9) applies instead of section 36 of the Act of 2002 in relation to the functions of the Director of Public Prosecutions for Northern Ireland and the Deputy Director of Public Prosecutions for Northern Ireland under, or (as the case may be) by virtue of, subsections (2) and (8) above of giving consent.

#### **第 10 条 訴追同意決裁**

( 1 ) 本法による起訴には、イングランドでは以下の同意を要す

(a) 検事長

(b)重要汚職局長

(c)歳入租税検事長

~ ( 10 )( 略 )

#### **11 Penalties**

(1) An individual guilty of an offence under section 1, 2 or 6 is liable

(a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both,

(b) on conviction on indictment, to imprisonment for a term not exceeding 10 years, or to a fine, or to both.

(2) Any other person guilty of an offence under section 1, 2 or 6 is liable

(a) on summary conviction, to a fine not exceeding the statutory maximum,

(b) on conviction on indictment, to a fine.

(3) A person guilty of an offence under section 7 is liable on conviction on indictment to a fine.

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(4) The reference in subsection (1)(a) to 12 months is to be read

(a) in its application to England and Wales in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, and

(b) in its application to Northern Ireland,  
as a reference to 6 months.

## 第 11 条 罰則

### ( 1 ) 1,2,6 条有罪の個人

(a) **Summary Conviction ( Magistrate Court-簡裁で裁かれる軽微事件 )** のとき;  
禁固 12 月以内及び/又は罰金 **Statutory Max** 以内

(b) **Indictment Conviction ( Crown Court-地裁以上で裁かれる本格事件 )** のとき、禁固 10 年以内及び/又は罰金 ( 無制限 )

### ( 2 ) 個人以外の人 ( 法人等 )

(a) **Summary Conviction** のとき、**Statutory Max** 以内の罰金

(b) **On Indictment Conviction** のとき、罰金 ( 無制限 )

### ( 3 ) 7 条有罪の人 ( 法人等 )

**On Indictment Conviction** のとき、罰金 ( 無制限 )

### ( 4 ) 上記 ( 1 ) (a)における **Summary Conviction** のとき禁固 12 月以内とは一

(a) **England** 及び **Wales** に適用される **刑訴法 2003 ( CJA ) 154 条 ( 1 )** が施行される  
までは、

(b) **北 Ireland** においては同上 **刑訴法 2003** は適用されないので、  
共に禁固 6 月以内とする。

注 現在のところ、**刑訴法 2003 154 条 ( 1 )** が施行される見通しはなく、**Summary Conviction** の禁固刑は 6 月のままとされている。

## *Other provisions about offences*

### *その他の構成要件規定*

## **12 Offences under this Act: territorial application**

(1) An offence is committed under section 1, 2 or 6 in England and Wales, Scotland or Northern Ireland if any act or omission which forms part of the offence takes place in that part of the United Kingdom.

(2) Subsection (3) applies if

(a) no act or omission which forms part of an offence under section 1, 2 or 6 takes place in the United Kingdom,

(b) a person's acts or omissions done or made outside the United Kingdom would form part of such an offence if done or made in the United Kingdom, and

- (c) that person has a close connection with the United Kingdom.
- (3) In such a case
- (a) the acts or omissions form part of the offence referred to in subsection (2)(a), and
- (b) proceedings for the offence may be taken at any place in the United Kingdom.
- (4) For the purposes of subsection (2)(c) a person has a close connection with the United Kingdom if, and only if, the person was one of the following at the time the acts or omissions concerned were done or made
- (a) a British citizen,
- (b) a British overseas territories citizen,
- (c) a British National (Overseas),
- (d) a British Overseas citizen,
- (e) a person who under the British Nationality Act 1981 was a British subject,
- (f) a British protected person within the meaning of that Act,
- (g) an individual ordinarily resident in the United Kingdom,
- (h) a body incorporated under the law of any part of the United Kingdom,
- (i) a Scottish partnership.
- (5) An offence is committed under section 7 irrespective of whether the acts or omissions which form part of the offence take place in the United Kingdom or elsewhere.
- (6) Where no act or omission which forms part of an offence under section 7 takes place in the United Kingdom, proceedings for the offence may be taken at any place in the United Kingdom.
- (7) Subsection (8) applies if, by virtue of this section, proceedings for an offence are to be taken in Scotland against a person.
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- (8) Such proceedings may be taken
- (a) in any sheriff court district in which the person is apprehended or in custody, or
- (b) in such sheriff court district as the Lord Advocate may determine.
- (9) In subsection (8) “sheriff court district” is to be read in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995.

**第 12 条 本法犯罪の適用地域（域外適用関連）**



( 1 ) 1,2,6 条該当の犯罪の構成要件の一部でも英国で実行されていれば、それらの各条の犯罪がイングランド、ウエールズ、スコットランド又は北アイルランドにおいて実行されたことになる。

( 2 ) 次項 ( 3 ) は以下において適用される

(a) 1,2,6 条構成要件該当の一部でも英国内で実行されていない、

(b) 英国外での行為が仮に英国が行為地なら構成要件に該当したであろう、且つ

(c) その者が英国に密接な繋がりを有する。

( 3 ) ( 2 ) の場合

(a) その行為は ( 2 ) ( a ) の構成要件に該当し、

(b) 英国の何処かで本法の罪状で起訴できる。

( 4 ) 上記 ( 2 ) ( a ) における英国との密接な繋がりがあるのは行為時に以下の何れかであった場合

(a) 英国人 (b) 英国海外領人 (c) 海外居住の英国人 (d) **British Overseas** 英国籍法 1981 施行時 ( 83 年 1 月 ) の英国及び英海外領居住者で英国籍でも英国海外領籍でもない者 (e) 英国籍法 1981 において英国籍とされた者、但し以下の者 (f) 国籍法の意味する「英国の保護下」の者 (g) 平素英国に居住する者 (h) 英国法人 (i) スコットランド合名

( 5 ) 第 7 条 ( 贈賄防止不十分 ) は構成要件該当行為地が英国の内外を問わない。

( 6 ) 7 条犯は英国で何も構成要件該当行為/不行為がないとしても、英国の何処かで起訴できる。

( 7 ) ~ ( 9 ) スコットランド関係

### 13 Defence for certain bribery offences etc.

(1) It is a defence for a person charged with a relevant bribery offence to prove that the person's conduct was necessary for

(a) the proper exercise of any function of an intelligence service, or

(b) the proper exercise of any function of the armed forces when engaged on active service.

(2) The head of each intelligence service must ensure that the service has in place arrangements designed to ensure that any conduct of a member of the service which would otherwise be a relevant bribery offence is necessary for a purpose falling within subsection (1)(a).

(3) The Defence Council must ensure that the armed forces have in place arrangements designed to ensure that any conduct of

(a) a member of the armed forces who is engaged on active service, or

(b) a civilian subject to service discipline when working in support of any person falling within paragraph (a),

which would otherwise be a relevant bribery offence is necessary for a purpose falling within subsection (1)(b).

(4) The arrangements which are in place by virtue of subsection (2) or (3) must be arrangements which the Secretary of State considers to be satisfactory.

(5) For the purposes of this section, the circumstances in which a person's conduct is necessary for a purpose falling within subsection (1)(a) or (b) are to be treated as including any circumstances in which the person's conduct

(a) would otherwise be an offence under section 2, and

(b) involves conduct by another person which, but for subsection (1)(a) or

(b), would be an offence under section 1.

(6) In this section

"active service" means service in

(a) an action or operation against an enemy,

(b) an operation outside the British Islands for the protection of life or property, or

(c) the military occupation of a foreign country or territory,

"armed forces" means Her Majesty's forces (within the meaning of the Armed Forces Act 2006),

"civilian subject to service discipline" and "enemy" have the same meaning as in the Act of 2006,

"GCHQ" has the meaning given by section 3(3) of the Intelligence Services Act 1994,

"head" means

(a) in relation to the Security Service, the Director General of the Security Service,

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(b) in relation to the Secret Intelligence Service, the Chief of the Secret Intelligence Service, and

(c) in relation to GCHQ, the Director of GCHQ,

"intelligence service" means the Security Service, the Secret Intelligence Service or GCHQ,

"relevant bribery offence" means

(a) an offence under section 1 which would not also be an offence under section 6,

(b) an offence under section 2,

(c) an offence committed by aiding, abetting, counselling or

procuring the commission of an offence falling within paragraph (a) or (b),  
(d) an offence of attempting or conspiring to commit, or of inciting the commission of, an offence falling within paragraph (a) or (b), or  
(e) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to an offence falling within paragraph (a) or (b).

### 第 13 条 賄賂犯罪に関する抗弁

- ( 1 ) 個人は以下の公務の実行の挙証をもって抗弁できる。
  - (a) 情報・諜報公務の正当な行使
  - (b) 有事の軍務での正当な軍事力行使
- ( 2 ) 情報局の長はその一員の何れの正当な業務行為も上記( 1 )(a)に照らして上記( 1 )(a)の特認抗弁を援用しなければ、賄賂罪とならざるを得ないことの挙証を要す。
- ( 3 ) 軍務行為：国防省国防委（国防相を議長としその他 5 名の国務相を中心とする）は( 1 )(b)関係で軍人/軍属が( 1 )(b)の特別抗弁を援用しなければ、どうしても賄賂罪とならざるを得ないことの挙証を要す。
- ( 4 ) ( 2 ) も ( 3 ) も関係国務相の合法（違法性阻却）判断が必須である。
- ( 5 ) 本条の抗弁は 1 条（贈賄）2 条（収賄）及び 6 条（外国公務員増賄）何れでもあり得る。
- ( 6 ) 本条における定義  
(日本語に馴染まないもので略するが、関連する事案あるとき必ず原文チェックのこと)

### 14 Offences under sections 1, 2 and 6 by bodies corporate etc.

- (1) This section applies if an offence under section 1, 2 or 6 is committed by a body corporate or a Scottish partnership.
- (2) If the offence is proved to have been committed with the consent or connivance of
  - (a) a senior officer of the body corporate or Scottish partnership, or
  - (b) a person purporting to act in such a capacity,the senior officer or person (as well as the body corporate or partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) But subsection (2) does not apply, in the case of an offence which is committed under section 1, 2 or 6 by virtue of section 12(2) to (4), to a senior officer or

person purporting to act in such a capacity unless the senior officer or person has a close connection with the United Kingdom (within the meaning given by section 12(4)).

(4) In this section

“director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate,

“senior officer” means

(a) in relation to a body corporate, a director, manager, secretary or other similar officer of the body corporate, and

(b) in relation to a Scottish partnership, a partner in the partnership.

#### **第 14 条 1 条（贈賄） 2 条（収賄） 6 条（外国公務員贈賄）各罪の組織犯**

（ 1 ） 法人又はスコットランド合名がこれら 3 か条（7 条防止不十分以外全部）を犯す場合、本 14 条が適用される。

（ 2 ） これ等の犯行が(a)法人の上層部又は(b)上層部と称する者の同意又は黙認の下実行された場合組織のみならずその上層部個人も同罪で違法有責となる。

（ 3 ） しかし、それら各犯行において、第 12 条（ 2 ）～（ 4 ）が適用される環境でも、上層部或いは自称上層部が 12 条（ 4 ）の定義による英国密接関係者でなければ、それら個人には適用されない。

（ 4 ） 本 14 条において、

「取締役又は理事」とは法人の社員・団員・株主・組合員を意味し、

「上層部」とは(a)法人では「取締役・部課長/運営者・秘書官その他同等の者、

(b)スコットランド合名では合名者を意味する。

#### **15 Offences under section 7 by partnerships**

(1) Proceedings for an offence under section 7 alleged to have been committed by a partnership must be brought in the name of the partnership (and not in that of any of the partners).

(2) For the purposes of such proceedings

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(a) rules of court relating to the service of documents have effect as if the partnership were a body corporate, and

(b) the following provisions apply as they apply in relation to a body corporate

(i) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the

Magistrates' Courts Act 1980,

(ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c.

15 (N.I.)) and Schedule 4 to the Magistrates' Courts (Northern

Ireland) Order 1981 (S.I. 1981/1675 (N.I.26)),

(iii) section 70 of the Criminal Procedure (Scotland) Act 1995.

(3) A fine imposed on the partnership on its conviction for an offence under section 7 is to be paid out of the partnership assets.

(4) In this section "partnership" has the same meaning as in section 7.

#### **第 15 条 Partnership (合名/組合法人) による第 7 条 (贈賄防止不十分) 犯罪**

( 1 ) 第 7 条 (防止不十分) の容疑で合名/組合を訴追する場合、訴状は法人 (団体) 名宛でなければならない。 (メンバー個々宛に届けてはならない)

( 2 ) (訴追手続きの細則 略)

( 3 ) 罰則たる罰金は法人 (団体) 財産から拠出しなければならない。

( 4 ) Partnership の定義は第 7 条と同義である。

#### *Supplementary and final provisions*

補則と締め括り

#### **16 Application to Crown**

This Act applies to individuals in the public service of the Crown as it applies to other individuals.

#### **第 16 条 王室への適用**

本法は王室既公務に従事する者にも他の (職の) 者と同様に適用される。

以下和訳省略

#### **17 Consequential provision (事後措置)**

(1) The following common law offences are abolished

(a) the offences under the law of England and Wales and Northern Ireland of bribery and embracery,

(b) the offences under the law of Scotland of bribery and accepting a bribe.

(2) Schedule 1 (which contains consequential amendments) has effect.

(3) Schedule 2 (which contains repeals and revocations) has effect.

(4) The relevant national authority may by order make such supplementary, incidental or consequential provision as the relevant national authority

considers appropriate for the purposes of this Act or in consequence of this Act.

(5) The power to make an order under this section

(a) is exercisable by statutory instrument,

(b) includes power to make transitional, transitory or saving provision,

(c) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under an enactment

(including any Act passed in the same Session as this Act).

(6) Subject to subsection (7), a statutory instrument containing an order of the Secretary of State under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(7) A statutory instrument containing an order of the Secretary of State under this section which does not amend or repeal a provision of a public general Act or of devolved legislation is subject to annulment in pursuance of a resolution of either House of Parliament.

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(8) Subject to subsection (9), a statutory instrument containing an order of the Scottish Ministers under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.

(9) A statutory instrument containing an order of the Scottish Ministers under this section which does not amend or repeal a provision of an Act of the Scottish Parliament or of a public general Act is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(10) In this section

“devolved legislation” means an Act of the Scottish Parliament, a Measure of the National Assembly for Wales or an Act of the Northern Ireland Assembly,

“enactment” includes an Act of the Scottish Parliament and Northern Ireland legislation,

“relevant national authority” means

(a) in the case of provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, the Scottish Ministers, and

(b) in any other case, the Secretary of State.

## **18 Extent (改正の効力波及)**

- (1) Subject as follows, this Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Subject to subsections (3) to (5), any amendment, repeal or revocation made by Schedule 1 or 2 has the same extent as the provision amended, repealed or revoked.
- (3) The amendment of, and repeals in, the Armed Forces Act 2006 do not extend to the Channel Islands.
- (4) The amendments of the International Criminal Court Act 2001 extend to England and Wales and Northern Ireland only.
- (5) Subsection (2) does not apply to the repeal in the Civil Aviation Act 1982.

## **19 Commencement and transitional provision etc. (施行と経過措置)**

- (1) Subject to subsection (2), this Act comes into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (2) Sections 16, 17(4) to (10) and 18, this section (other than subsections (5) to (7)) and section 20 come into force on the day on which this Act is passed.
- (3) An order under subsection (1) may
  - (a) appoint different days for different purposes,
  - (b) make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.
- (4) The Secretary of State must consult the Scottish Ministers before making an order under this section in connection with any provision of this Act which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.

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- (5) This Act does not affect any liability, investigation, legal proceeding or penalty for or in respect of
  - (a) a common law offence mentioned in subsection (1) of section 17 which is committed wholly or partly before the coming into force of that subsection in relation to such an offence, or
  - (b) an offence under the Public Bodies Corrupt Practices Act 1889 or the Prevention of Corruption Act 1906 committed wholly or partly before the coming into force of the repeal of the Act by Schedule 2 to this Act.

(6) For the purposes of subsection (5) an offence is partly committed before a particular time if any act or omission which forms part of the offence takes place before that time.

(7) Subsections (5) and (6) are without prejudice to section 16 of the Interpretation Act 1978 (general savings on repeal).

**20 Short title (略称)**

This Act may be cited as the Bribery Act 2010.

以下Schedules略