



Isle of Man

Ellan Vannin

AT 10 of 2008

CORRUPTION ACT 2008



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**Isle of Man***Ellan Vannin*

CORRUPTION ACT 2008

Received Royal Assent: 16 July 2008

Announced to Tynwald: 16 July 2008

Commenced: 1 September 2008

AN ACT to amend the law relating to the prevention of corruption and for connected purposes.

1 General corruption offences

- (1) A person commits an offence if that person —
- (a) gives an advantage to or procures an advantage for any person; or
 - (b) offers or agrees to give an advantage to or to procure an advantage for any person,

with the intention of influencing that person or another person to exercise a function improperly, or as a reward for so exercising a function.

- (2) A person commits an offence if that person —
- (a) obtains an advantage for that person or another person; or
 - (b) solicits or agrees to obtain an advantage for that person or another person,

upon the basis that it will or may influence that person or another person to exercise a function improperly or as a reward for so exercising a function.

2 Corrupt transactions involving agents

- (1) A person commits an offence if that person —
- (a) gives an advantage to or procures an advantage for any person; or
 - (b) offers or agrees to give an advantage to or to procure an advantage for any person,

with the intention of influencing that person or another person to exercise a function improperly, or as a reward for so exercising a

function, in each case in that or the other person's capacity as an agent in relation to the affairs of the principal of that agent.

(2) A person commits an offence if, in the capacity as an agent in relation to the affairs of the principal of that agent, that person —

- (a) obtains an advantage for that person or for another person; or
- (b) solicits or agrees to obtain an advantage for that person or another person,

upon the basis that it will or may influence that person or another person to exercise a function improperly or as a reward for so exercising a function.

(3) For the purposes of this section, it is immaterial if —

- (a) the agent's functions have no connection with the Island and are conducted in a country or territory outside the Island;
- (b) the principal's affairs or business have no connection with the Island and are conducted in a country or territory outside the Island.

3 Bribery of foreign public officials

A person commits an offence if that person —

- (a) gives an advantage to or procures an advantage for any person; or
- (b) offers or agrees to give an advantage to or procure an advantage for any person,

with the intention of influencing that person or another person to exercise a function improperly, in each case in that or the other person's capacity as a foreign public official.

4 Presumption of corruption

Where in proceedings against a person for an offence under section 1 or 2 of this Act involving the exercise of a function on behalf of a public body, it is proved that that person has given or obtained an advantage for that person or another person, the advantage shall be deemed to have been given or obtained upon the basis that it would or might influence that person or another person to exercise a function improperly, or as a reward for so exercising a function, unless evidence is adduced on the balance of probabilities which casts doubt on the presumed fact.

5 Duty to report public sector corruption

(1) A person exercising a function on behalf of a public body who is offered or receives an advantage in circumstances which may constitute an offence under sections 1 or 2 of this Act, or under section 323 of the

- Criminal Code 1872*, shall disclose as soon as reasonably practicable and in the prescribed manner —
- (a) the existence and nature of the advantage, or the offer of it; and
 - (b) the name, if known, of the person by whom it was given or procured or offered or who agreed to give or procure it.
- (2) A person exercising a function on behalf of a public body who knows or reasonably suspects, or ought reasonably to have known or reasonably to have suspected, that any person has committed, is committing or is about to commit an offence under sections 1 or 2 of this Act, or under section 323 of the *Criminal Code 1872*, must disclose, as soon as reasonably practicable and in the prescribed manner, that knowledge or suspicion, and the information on which it is based, or cause such knowledge or suspicion to be so disclosed.
- (3) For the purposes of subsections (1) and (2) —
- (a) “a person exercising a function on behalf of a public body” excludes a foreign public official;
 - (b) “the prescribed manner” means —
 - (i) to a constable; or
 - (ii) where the employer of the person exercising the function on behalf of a public body has established a procedure for that person to make disclosures of the kind mentioned in subsections (1) or (2), in accordance with that procedure, and to a constable.
- (4) [Amends section 49 of the *Employment Act 2006* by inserting “, or in accordance with section 5(1) or 5(2) of the *Corruption Act 2008*” after “sections 51 to 56”.]
- (5) Any provision of an agreement between a worker and the worker’s employer (whether or not a worker’s contract), including an agreement to refrain from instituting or continuing any proceedings under the *Employment Act 2006* or any proceedings for breach of contract is void in so far as it purports to preclude any worker from a protected disclosure.
- (6) For the purposes of subsection (5) —
- (a) the expression “protected disclosure” has the same meaning as in section 49 of the *Employment Act 2006*; and
 - (b) the expressions “worker”, “employer” and “worker’s contract” have the same meaning as in section 58 of that Act.

6 Failure to report public sector corruption

- (1) A person who fails to comply with section 5 commits an offence.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that such person reasonably believed that if the disclosure

required to be made under that section had been made, serious physical harm would be done to that person or to another person or to the property of either such person.

7 Interfering with duty to report public sector corruption

A person who intentionally takes any action harmful to any person, including interference with a person's lawful employment or occupation, on the ground that a person has made or may make a disclosure in accordance with section 5 commits an offence.

8 Corruption committed outside the Island

- (1) This section applies if —
 - (a) a resident of the Island does or omits to do anything in a country or territory outside the Island; and
 - (b) the act or omission would, if done or made in the Island, constitute a corruption offence.
- (2) In such a case —
 - (a) the act or omission constitutes the offence concerned;
 - (b) proceedings for the offence may be taken in the Island;
 - (c) the offence may be treated for incidental purposes as having been committed at a place in the Island.
- (3) These offences are corruption offences —
 - (a) an offence under this Act or under section 323 (bribery etc.) of the *Criminal Code 1872*;
 - (b) an attempt, conspiracy or incitement to commit an offence specified in paragraph (a);
 - (c) aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a).
- (4) A resident of the Island is —
 - (a) an individual who is ordinarily resident in the Island; or
 - (b) a body incorporated under the laws of the Island.

9 Penalties

- (1) A person guilty of an offence under this Act is liable —
 - (a) on conviction on information, to custody for a term not exceeding the term specified in subsection (2) or a fine or both;
 - (b) on summary conviction, to custody for a term not exceeding 6 months or a fine not exceeding £5,000 or both.
- (2) The maximum term of imprisonment on conviction on information is —

- (a) 2 years for an offence under section 6 or 7; and
- (b) 7 years in any other case.

10 Offences by bodies corporate

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of —
 - (a) a person who is a director, manager, secretary or other similar officer of the body corporate;
 - (b) a person purporting to act in any such capacity,the person is also guilty of the offence and liable in the same manner as the body corporate to the penalty provided for the offence.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to acts and defaults of a member in connection with the member's functions or management as if the member were a director of the body corporate.

11 Interpretation

In this Act —

“**advantage**” includes —

- (a) any benefit whether direct or indirect;
- (b) any other act done or omission made at the request of another person and whether or not the nature or timing of the advantage is then known or the making of the request is express or implied, direct or indirect;

“**agent**” includes —

- (a) any person employed by or acting for another;
- (b) any person employed by, serving under, appointed by or acting for a public body;

“**exercise a function**” includes exercising or failing to exercise any duty or power irrespective of whether the function —

- (a) is or is not within the competence of the person exercising it;
- (b) is exercised in the Island or elsewhere;

“**foreign public official**” means any person —

- (a) holding a legislative, executive, administrative or judicial office of a country or territory outside the Island, whether appointed or elected;
- (b) exercising a function on behalf of a public body which exists in a country or territory outside the Island; or

- (c) who is an official of a public international organisation or who is authorised by such an organisation as its agent;

“**improperly**” means in breach of any duty, whether express or implied, and whether of a public or private nature, including any duty to act in good faith or impartially;

“**official of a public international organisation**” means an international civil servant;

“**principal**” includes an employer;

“**public body**” means any of the following —

- (a) the Crown;
- (b) Tynwald and either of its constituent branches;
- (c) a Department or Statutory Board;
- (d) a body the members, or any of the members, of which are appointed by, or whose appointment requires the approval of Tynwald;
- (e) a local authority;
- (f) any body which exists in a country or territory outside the Island and is equivalent to any body specified in paragraphs (a) to (e);
- (g) any other description of public body (including bodies existing in a country or territory outside the Island).

12 Application

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

13 Amendments

The enactments specified in Schedule 1 are amended in accordance with that Schedule.

14 Repeals

The enactments specified in Schedule 2 are repealed in accordance with that Schedule.

15 Short title and commencement

- (1) This Act may be cited as the Corruption Act 2008.
- (2) This Act comes into operation on such day as may be appointed by order made by the Department of Home Affairs and different days may be so appointed for different provisions and for different purposes.¹

SCHEDULE 1

AMENDMENTS

Section 13

[Sch 1 amends the following Acts —

- Criminal Code 1872 q.v.
- Income Tax Act 1970 q.v.
- Limitation Act 1984 q.v.
- Criminal Justice Act 1990 q.v.
- Police Act 1993 q.v.
- Criminal Justice Act 2001 q.v.]

SCHEDULE 2

REPEALS

Section 14

[Sch 2 repeals the following Act wholly —

Corruption Act 1986

and the following Act in part —

Anti-Terrorism and Crime Act 2003.]

ENDNOTES**Table of Legislation History**

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ ADO (whole Act) 1/9/2008 (SD689/08).