



**AN BILLE UM ÉILLIÚ A CHOSC (LEASÚ), 1999
PREVENTION OF CORRUPTION (AMENDMENT)
BILL, 1999**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

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Acts Referred to

Prevention of Corruption Act, 1916

6 & 7 Geo. 5, c. 64.

Prevention of Corruption Acts, 1906 and 1916



AN BILLE UM ÉILLIÚ A CHOSC (LEASÚ), 1999
PREVENTION OF CORRUPTION (AMENDMENT)
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entitled

AN ACT TO AMEND THE LAW RELATING TO THE PREVENTION OF CORRUPTION SO AS TO PROVIDE FOR NEW OFFENCES OF BRIBERY AND SECRET COMMISSION; AND TO PROVIDE FOR RELATED MATTERS.

10 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act, save where the context otherwise requires—

Definitions.

15 “advantage” shall be accepted and conferred corruptly if it is an inducement or reward to act or refrain from acting in any way which has a substantial tendency to encourage a person, or his or her agent, to act in breach of his or her duty;

20 “agent” includes any person who acts on behalf of another person with the actual or implied authority of that person and who has undertaken, expressly or by implication, to act for and on behalf of that person where such undertaking involves one or more of the following—

- (a) exercising discretion on behalf of that person,
- (b) having access to the assets of that person,
- (c) having or exercising influence over a decision of that person;

25 “corruptly” means to destroy or pervert the integrity or fidelity of a person in the discharge of his or her duty, and shall include an inducement to act in a dishonest or unfaithful manner.

2.—The Prevention of Corruption Act, 1916, is hereby amended by the insertion of the following section after section 2:

Amendment of Act of 1916.

30 “Bribery.

2A. (1) A person, or his or her agent, shall be guilty of the offence of bribery if:

(a) that person or agent corruptly accepts, solicits or agrees to accept an advantage or reward in respect of any person in connection with the performance of his or her duty, or 5

(b) that person or agent corruptly confers, offers or promises to confer an advantage or reward in respect of any person in connection with the performance of his or her duty. 10

(2) Where a person other than an agent corruptly accepts a bribe in connection with the performance by an agent of his or her duty, the offence shall also be committed by that agent if he or she receives: 15

(a) some or all of the bribe itself;

(b) some or all of the proceeds of the bribe; or

(c) a benefit resulting from the bribe.”.

Secret commission. **3.**—(1) The offence of receiving a secret commission shall be committed when an agent corruptly takes a payment from another as an inducement or reward for performing any act in relation to the business of a principal. 20

(2) It shall be an offence under this section—

(a) for any person, without the full knowledge and consent of the principal, to directly or indirectly, give or agree to give or offer to any agent of the principal, or to any person at the request of an agent of a principal, or 25

(b) for an agent of the principal, to accept or obtain, or agree or offer to accept or obtain, from any person for himself or herself or another person, other than the principal, 30

any gift or consideration as an inducement or reward for any act performed or to be performed or any favour or disfavour shown or to be shown in relation to the affairs or business of a principal or on behalf of a principal, or obtain, aid, or assist in obtaining for any person or agency a contract for or with the principal. 35

Abuse of public position.

4.—A person who holds himself or herself out to the public as being engaged in any business or activity of making disinterested selections or examinations, or expressing disinterested opinions in respect of property or services, and dishonestly asks for, or receives or agrees to receive, a benefit for himself or herself or another in order to influence his or her selections, examination or opinion, shall be guilty of an offence under this Act. 40

Abuse of public office.

5.—A public official who dishonestly:

(a) exercises any function or influence that he or she holds arising out of his or her public office; or 45

(b) refuses or fails to exercise any function he or she has arising out of his or her public office; or

(c) uses any information he or she has gained arising out of his or her public office,

5 with the intention of obtaining a benefit for himself or herself or another person or causing a detriment to another person, shall be guilty of an offence under this Act.

10 **6.**—Where in any proceedings against a person for an offence under this Act, it is proved that any money, gift or other consideration has been paid or given to or received from a person or agent of a person, the money, gift or consideration shall be deemed to have been paid or given or received corruptly as such inducement or reward as is specified in the Act unless the contrary is proved. Presumption of corruption.

15 **7.**—(1) It shall not be a defence to the offence of bribery to show that any such gift, consideration or inducement is customary in any trade, calling or business, or that the act was— Lack of defence.

(a) done openly;

(b) done with the express or implied consent of the agent's principal;

20 (c) normal practice in the particular environment; or

(d) of little value or benefit in any event.

(2) Notwithstanding the generality of *subsection (1)*, the nature of the benefit must however be quantifiable however insignificant.

8.—A person guilty of a offence under this Act shall be liable— Penalties.

25 (a) on summary conviction to a fine not exceeding £1,500, or to imprisonment for a term not exceeding 12 months, or to both, or

30 (b) on conviction on indictment to a fine not exceeding £50,000, or to imprisonment for a term not exceeding 7 years, or to both.

9.—(1) This Act may be cited as the Prevention of Corruption (Amendment) Act, 1999. Short title, collective citation and commencement.

35 (2) The Prevention of Corruption Acts, 1906 and 1916, and this Act may be cited together as the Prevention of Corruption Acts, 1906 to 1999, and shall be construed together as one.

(3) This Act shall come into operation one month after the date of its passing.