

Ordinance 11 of 2015

Published in Gazette No. 1784 of 01 September 2015

P R E V E N T I O N O F C O R R U P T I O N O R D I N A N C E 2 0 1 5

CONTENTS

1. Short title and commencement
2. Interpretation
3. Offences relating to corruption
4. Relevant function or activity
5. Improper performance
6. Offences in connection with the functions or activities of the Crown or public body
7. Repeal

PREVENTION OF CORRUPTION ORDINANCE 2015

An Ordinance to modernise legislation making corruption in connection with the performance of public functions and business activities a criminal offence

M. Wigston
ADMINISTRATOR

26 August 2015.

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

Short title and commencement

1. This Ordinance may be cited as the Prevention of Corruption Ordinance 2015 and comes into force on 14 September 2015.

Interpretation

2. In this Ordinance—

“agent” includes—

- (a) a person employed by or acting for or on behalf of another person;
- (b) a person employed by, in the service of or acting for or on behalf of the Crown;
- (c) a person employed by or acting for or on behalf of a public body;
- (d) a person acting for or on behalf of a country or territory outside the Areas;
- (e) a person employed by or acting for or on behalf of a public international organisation.

“principal” includes the Crown and an employer;

“public body” includes—

- (a) a community council;
- (b) a municipal council;
- (c) a public agency or public enterprise which exercises a public function, including for or on behalf of a country or territory outside the Areas; and
- (d) a public international organisation.

“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.

Offences relating to corruption

3.—(1) An agent (A) commits an offence where—

- (a) A requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly;
 - (b) A requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by A or another person) of a relevant function or activity; or
 - (c) A gives to A's principal a document, which A knows or has reasonable grounds for believing is false or inaccurate, intending that, in consequence, the principal is misled in connection with the performance of a relevant function or activity.
- (2) A person (P) commits an offence where—
- (a) P offers, promises or gives a financial or other advantage to an agent; and
 - (b) P intends the advantage—
 - (i) to induce the agent (or another person) to perform improperly a relevant function or activity; or
 - (ii) to reward the agent (or another person) for the improper performance of such a function or activity.
- (3) A person (P) commits an offence where P gives to A a document, which P knows or has reasonable grounds for believing is false or inaccurate, intending that, in consequence, A's principal is misled in connection with the performance of relevant function or activity,
- (4) A person convicted of an offence under subsection (1), (2) or (3) is liable to a term of imprisonment not exceeding 7 years or to a fine not exceeding €100,000, or to both.

Relevant function or activity

- 4.—(1) For the purpose of this Ordinance 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 or service;
 - (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.
- (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) In this section "business" includes trade or profession.

Improper performance

- 5.—(1) For the purposes of this Ordinance 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 Ordinance as being done (or omitted) by that person in the performance of that function or activity.

Offences in connection with the functions or activities of the Crown or public body

6.—(1) There is a rebuttable presumption that an offence under section 3 has been committed where it is proved that—

- (a) a relevant agent has received a financial or other advantage from another person who has, or seeks to obtain, a contract from the Crown or a public body;
- (b) a person who has, or seeks to obtain, a contract from the Crown or a public body has given a financial or other advantage to a relevant agent.

(2) In this section, “relevant agent” means—

- (a) a person employed by, in the service of or acting for the Crown;
- (b) a person employed by or acting for or on behalf of a public body.

Repeal

7. The Prevention of Corruption Ordinance^(a) is repealed.

^(a) Cap 161, Statute Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

1. This explanatory note relates to the Prevention of Corruption Ordinance 2015 (the “Ordinance”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance.
2. The Ordinance repeals the Prevention of Corruption Ordinance (Cap 161) and re-enacts it incorporating amendments made by the Republic’s Law 97(I)/2012. In summary, the Ordinance makes requesting, receiving or offering a financial advantage to induce or reward improper performance of public functions or business activities a criminal offence, punishable by a term of imprisonment of up to 7 years or a fine of up to €100,000 or both penalties. A criminal offence is committed where the person requesting, receiving or offering a financial advantage is employed by or acting on behalf of the Crown, a public body, including a public body of a country or territory outside the Areas, or a country or territory outside the Areas
3. Section 2 defines the terms used in the Ordinance.
4. Section 3 sets out the offences of requesting, receiving or offering a financial or other advantage (a bribe). It is also an offence for a person to provide a document which a person knows, or has reasonable grounds to believing is false or inaccurate with the intention that another person is misled in connection with the performance of a relevant function or activity.
5. Relevant functions or activities are functions of a public nature, activity connected with business, activity in the course of employment or service, and activity on behalf of a body of persons, where the person performing the function or activity is expected to perform the function impartially, in good faith or is in a position of trust. This is set out in section 4.
6. A relevant function or activity is performed improperly where there a breach of the expectation referred to above and the failure to perform the function or activity is itself a breach of the expectation. This is set out in section 5.
7. Section 6 provides for a rebuttable presumption that the offer or receipt of a bribe in order to seek or obtain a contract from the Crown or a public body is an offence under section 3.
8. Section 7 repeals the Prevention of Corruption Ordinance (Cap 161).

SBA/AG/2/CR/634

Published by the Sovereign Base Areas Administration
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