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52 and 53 Vict., c. 69

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**PUBLIC BODIES CORRUPT PRACTICES ACT 1889**

**REVISED**

**Updated to 14 May 2013**

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This Revised Act is an administrative consolidation of the *Public Bodies Corrupt Practices Act 1889*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Defence Forces (Second World War Amnesty and Immunity) Act 2013 (12/2013)*, enacted 14 May 2013, and all statutory instruments up to and including *Education (Miscellaneous Provisions) Act 2007 (Commencement) Order 2013 (S.I. No. 166 of 2013)*, made 14 May 2013, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to [revisedacts@lawreform.ie](mailto:revisedacts@lawreform.ie).





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### **Introduction**

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

### **Related legislation**

***Prevention of Corruption Acts 1889 to 2010***: This Act is one of a group of Acts included in this collective citation (*Prevention of Corruption (Amendment) Act 2010*, s. 7(2)). The Acts in the group are:

- *Public Bodies Corrupt Practices Act 1889* (52 & 53 Vict., c. 69)
- *Prevention of Corruption Act 1906* (6 Edw. 7., c. 34)
- *Prevention of Corruption Act 1916* (6 & 7 Geo. 5., c. 64)
- *Ethics in Public Office Act 1995* (22/1995), section 38
- *Prevention of Corruption (Amendment) Act 2001* (27/2001)
- *Proceeds of Crime (Amendment) Act 2005* (1/2005), Part 5
- *Prevention of Corruption (Amendment) Act 2010* (33/2010)

### **Annotations**

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at

[www.lawreform.ie/annotations](http://www.lawreform.ie/annotations)

### **Material not updated in this revision**

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 2000, may be found in the Legislation Directory at [www.irishstatutebook.ie](http://www.irishstatutebook.ie).

**Acts which affect or previously affected this revision**

- *Prevention of Corruption (Amendment) Act 2010* (33/2010)
- *National Asset Management Agency Act 2009* (34/2009)
- *Local Government Act 2001* (37/2001)
- *Criminal Law Act 1997* (14/1997)
- *Ethics in Public Office Act 1995* (22/1995)
- *Electoral Act 1963* (19/1963)
- *Statute Law Revision Act 1908* (8 Edw. 7 c. 49)

All Acts up to and including *Defence Forces (Second World War Amnesty and Immunity) Act 2013* (12/2013), enacted 14 May 2013, were considered in the preparation of this revision.

**Statutory instruments, orders and regulations which affect or previously affected this revision**

- *Prevention of Corruption Acts, 1889 To 1916, Adaptation Order 1928* (S.R.O. 37 of 1928)

All statutory instruments up to and including *Education (Miscellaneous Provisions) Act 2007 (Commencement) Order 2013* (S.I. No. 166 of 2013), made 14 May 2013, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

Section

1. Corruption in office a misdemeanor.
2. Penalty for offences.
3. Savings.
4. Restriction on prosecution.
5. Expenses of prosecution.
6. Jurisdiction of quarter sessions.
7. Interpretation.
8. Application to Scotland.
9. Criminal Law and Procedure (Ireland) Act, 1887, not to apply to trial under Act.
10. Short title.



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52 and 53 Vict., c. 69

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**PUBLIC BODIES CORRUPT PRACTICES ACT 1889**

**REVISED**

**Updated to 14 May 2013**

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AN ACT for the more effectual Prevention and Punishment of Bribery and Corruption of and by Members, Officers, or Servants of Corporations, Councils, Boards, Commissions, or other Public Bodies.<sup>[1]</sup> [30th August 1889.]

[*Preamble.*]

BE it therefore enacted by the King'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:

**Annotations**

**Modifications (not altering text):**

- C1** Act included in collective citation (15.12.2010) by *Prevention of Corruption (Amendment) Act 2010* (33/2010), s. 7(2), commenced on enactment.

**Short title and collective citation.**

**7.— ...**

(2) The Prevention of Corruption Acts 1889 to 2005 and this Act may be cited together as the Prevention of Corruption Acts 1889 to 2010.

Acts included or previously included in the collective citation are:

- *Prevention of Corruption (Amendment) Act 2010* (33/2010) (15.12.2010) by s. 7(2), commenced on enactment.
- *Proceeds of Crime (Amendment) Act 2005* (1/2005), Part 5 (12.02.2005) by s. 1(4), commenced on enactment.
- *Prevention of Corruption (Amendment) Act 2001* (27/2001) (26.11.2001) by s. 10(2), S.I. No. 519 of 2001.
- *Ethics in Public Office Act 1995* (22/1995), section 38 (1.11.1995) by s. 1(3), S.I. No. 282 of 1995.
- *Prevention of Corruption Act 1916* (6 & 7 Geo. 5., c. 64) (22.12.1916) by s. 4(1), commenced on enactment.
- *Prevention of Corruption Act 1906* (6 Edw. 7., c. 34) (22.12.1916) by *Prevention of Corruption Act 1916* (6 & 7 Geo. 5., c. 64), s. 4(1), commenced on enactment.
- *Public Bodies Corrupt Practices Act 1889* (52 & 53 Vict., c. 69) (22.12.1916) by *Prevention of Corruption Act 1916* (6 & 7 Geo. 5., c. 64), s. 4(1), commenced on enactment.

[<sup>1</sup> Short title, "The Public Bodies Corrupt Practices Act, 1889." See s. 10.]

- C2** Application of collectively cited *Prevention of Corruption Acts 1889 to 2001* extended (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 16, S.I. No. 545 of 2009.

**Prevention of corruption.**

**16.**— (1) To avoid doubt, the provisions of the Prevention of Corruption Acts 1889 to 2001 apply to—

- (a) every officer of NAMA,
- (b) the Chief Executive Officer,
- (c) the other members of the Board, and
- (d) every director of a NAMA group entity.

(2) Where in any proceedings against a person who performs functions for or on or behalf of NAMA, or who performs functions connected to the valuation of eligible bank assets, for an offence under the Public Bodies Corrupt Practices Act 1889 or the Prevention of Corruption Act 1906 it is shown that—

- (a) any gift, consideration or advantage has been given to or received by the person, and
- (b) the person who gave the gift, consideration or advantage or on whose behalf the gift, consideration or advantage was given was—
  - (i) a person who is a debtor in relation to an eligible bank asset, or
  - (ii) an associated debtor of such a person,

the gift or consideration or advantage shall be taken, unless the contrary is proved, to have been given and received corruptly as an inducement to or reward for the person performing or omitting to perform any of those functions.

- C3** Application of collectively cited *Prevention of Corruption Acts 1889 to 1995* confirmed (1.01.2003 and 21.05.2004) by *Local Government Act 2001* (37/2001), s. 170, S.I. No. 218 of 2002 and S.I. No. 217 of 2004.

**Prohibition of favours, rewards, etc.**

**170.**—(1) An employee or a member of a local authority or of a committee of a local authority shall not seek, exact or accept from any person, other than from the local authority concerned, any remuneration, fee, reward or other favour for anything done or not done by virtue of his or her employment or office, and a code of conduct under section 169 may include guidance for the purposes of this subsection.

(2) Subsection (1) shall not be read so as to exclude the persons to whom that subsection relates from the application of the Prevention of Corruption Acts, 1889 to 1995, and any Act which is to be construed together as one with those Acts.

- C4** Preamble repealed (21.12.1908) by *Statute Law Revision Act 1908* (8 Edw. 7 c. 49), s. 1 and sch., commenced on enactment.

Corruption in office a misdemeanor.

**1.**—(1) Every person who shall by himself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive, for himself, or for any other person, any gift, loan, fee, reward, or advantage whatever as an inducement to, or reward for, or otherwise on account of F1[an office holder or his or her special adviser or a director of, or occupier of a position of employment in,] a public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the said F1[office holder or public body] is concerned, shall be guilty of a misdemeanor.

(2) Every person who shall by himself or by or in conjunction with any other person corruptly give, promise, or offer any gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of F1[an office holder or his or her special adviser or a director of, or occupier of a position of employment in,] any

public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such F1[office holder or public body] as aforesaid is concerned, shall be guilty of a misdemeanor.

#### Annotations

#### Amendments:

- F1** Substituted (1.11.1995) by *Ethics in Public Office Act, 1995* (22/1995) s. 38(a)(i), commenced (with restrictions) by S.I. No. 282 of 1995 and (1.01.1996) by resolutions of both Houses of the Oireachtas. Resolution of Dáil Éireann: Debates Volume 457, 26 October 1995. Resolution of Seanad Éireann: Debates Volume 145, 15 November 1995.

Penalty for offences.

**2.**—Any person on conviction for offending as aforesaid shall, at the discretion of the court before which he is convicted,—

F2[(a) (i) if the conviction is a summary conviction, be liable to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or to both, or

(ii) if the conviction is on indictment, be liable to a fine not exceeding £50,000 or to imprisonment for a term not exceeding 7 years or to both,

and paragraphs (b) to (e) of this subsection shall apply only if the conviction is on indictment; and]

(b) in addition be liable to be ordered to pay to such body, and in such manner as the court directs, the amount or value of any gift, loan, fee, or reward received by him or any part thereof; and

(c) F3[...]

(d) F3[...]

(e) if such person is an officer or servant in the employ of any public body upon such conviction he shall, at the discretion of the court, be liable to forfeit his right and claim to any compensation or pension to which he would otherwise have been entitled.

#### Annotations

#### Amendments:

- F2** Substituted (1.11.1995) by *Ethics in Public Office Act 1995* (22/1995), s. 38(a)(ii), commenced (with restrictions) by S.I. No. 282 of 1995 and (1.01.1996) by resolutions of both Houses of the Oireachtas. Resolution of Dáil Éireann: Debates Volume 457, 26 October 1995. Resolution of Seanad Éireann: Debates Volume 145, 15 November 1995.

- F3** Repealed (9.12.1963) by *Electoral Act 1963* (19/1963), s. 3 and sch. 1, S.I. No. 245 of 1963.

Savings.

**3.**—[Sub-s. (1) rep. 8 Edw. 7. c. 49 (S.L.R.).]

(2) A person shall not be exempt from punishment under this Act by reason of the invalidity of the appointment or election of a person to a public office.

**Annotations****Editorial Notes:**

- E1** As noted in relation to subs. (1) above, this subsection was repealed (21.12.1908) by *Statute Law Revision Act 1908* (8 Edw. 7 ch. 49), s. 1 and sch., commenced on enactment.

Restriction on prosecution.

**4.—(1)** A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Attorney-General.

(2) In this section the expression “Attorney General” means the Attorney or Solicitor General for England, and as respects Scotland means the Lord Advocate, and as respects Ireland means the Attorney or Solicitor General for Ireland.

**Annotations****Modifications (not altering text):**

- C5** Construction of section affected (12.06.1928) by *Prevention of Corruption Acts 1889 To 1916 Adaptation Order 1928* (S.R.O. 37 of 1928), para. 3 and sch. pt. I.

In sub-section (1) the reference to the Attorney-General shall be construed as a reference to the Attorney-General of Saorstát Eireann and sub-section (2) shall cease to have effect.

Expenses of prosecution.

**5.—F4[...]**

**Annotations****Amendments:**

- F4** Repealed (22.07.1997) by *Criminal Law Act 1997* (14/1997), s. 16 and sch. 3, commenced as per s. 1.

Jurisdiction of quarter sessions.

**6.—**A court of general or quarter sessions shall in England have jurisdiction to inquire of, hear, and determine an offence under this Act.

Interpretation.

**7.—**In this Act—

The expression F5[‘public office’ means any office or employment of a person as an office holder or special adviser or as a director of, or occupier of a position of employment in, a public body;]

F5[‘director’, ‘office holder’, ‘public body’ and ‘special adviser’ have the meanings assigned to them by the *Ethics in Public Office Act, 1995*:]

The expression “person” includes a body of persons, corporate or unincorporate:

The expression “advantage” includes any office or dignity, and any forbearance to demand any money or money’s worth or valuable thing, and includes any aid, vote, consent, or influence, or pretended aid, vote, consent, or influence, and also includes any promise or procurement of or agreement or endeavour to procure, or the holding out of any expectation of any gift, loan, fee, reward, or advantage, as before defined.

**Annotations****Amendments:**

- F5** Substituted (1.11.1995) by *Ethics in Public Office Act 1995* (22/1995), s. 38(a)(iii), commenced (with restrictions) by S.I. No. 282 of 1995 and (1.01.1996) by resolutions of both Houses of the Oireachtas. Resolution of Dáil Éireann: Debates Volume 457, 26 October 1995. Resolution of Seanad Éireann: Debates Volume 145, 15 November 1995.

**Editorial Notes:**

- E2** Previous affecting provision: *Prevention of Corruption Acts, 1889 To 1916, Adaptation Order 1928* (S.R.O. 37 of 1928), s. 3 and sch. pt. I, substituted as per F-note above.

Application of Act to Scotland. **8.**—In the application of this Act to Scotland the sheriff and sheriff substitute shall have jurisdiction to try any offence under this Act; and

The expression “misdemeanor” shall mean “crime and offence”; and

The expression “municipal borough” shall mean any “burgh.”

50 & 51 Vict. c. 20 not to apply to trial under Act. **9.**—The provisions of the Criminal Law and Procedure (Ireland) Act, 1887, shall not apply to any trial under the provisions of this Act.

Short title. **10.**—This Act may be cited as the Public Bodies Corrupt Practices Act, 1889.