



The Bribery Act 2010 – CIS LAWYERS FORUM

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Overview

- Introduction
- Bribery Act
- Guidance on Adequate Procedures
- Enforcement



Bribery

- Bribery Act 2010
 - Commencement: 1 July 2011
 - Current law....
 - Public Bodies Corrupt Practices Act 1889
 - Prevention of Corruption Act 1906
 - Prevention of Corruption Act 1916
 - Anti-Terrorism, Crime & Security Act 2001

Scope

- Any act or omission takes place in UK
- OR
- Act / omission = offence in UK
- AND**
- Close connection
 - British national / corporate / ordinarily resident
 - Commercial organisations
 - registered in UK
- OR
- business presence in UK if involved in bribery anywhere in the world
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General Offences

- Offering, promising or giving a bribe (s.1)
 - Requesting, agreeing to receive or accepting a bribe (s.2)
 - Relevant function or activity (s.3):
 - public nature
 - connected with business / trade / profession
 - in the course of employment
 - by or on behalf of a body of persons
 - Conditions:
 - Good faith
 - Impartially
 - Position of trust
 - Breach of Expectation Test (ss.4 & 5)
 - Reasonable person in the UK
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Bribery of a foreign public official

- Bribery of a foreign public official (s.6)
- Intention to influence
- Intention to obtain or retain business
- Meaning of foreign public official:
 - Holds legislative, administrative, judicial position
 - Exercises public function
 - Works for public international organisation

Corporate offence

- Failure by a commercial organisation to prevent bribery offences being committed by persons associated with it (s.7)
- Intention to obtain or retain business
- Bribery by any “associated” person – one who provides services to the organisation
- Defence – adequate procedures

Director Liability • Senior managers and directors will be liable if:

- They turn a blind eye to bribery
 - They consent to or sanction bribery
 - They know or suspect bribery is being used and take no action
 - They do not implement adequate policies and procedures
 - They fail to “self report” the corporate offence
 - Civil liability/reputational damage
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Guidance

- Key messages
 - Jurisdictional reach
 - Associated person
 - Facilitation payments
 - Foreign public officials
 - Hospitality



Guidance

- Jurisdictional Reach
 - Individuals
 - Doing business in the UK:
 - Subsidiary
 - Listing on the LSE/AIM
 - UK national
- Associated person
 - Suppliers
 - Joint ventures
 - Company
 - Contractual

