

# Bribery Act Update

Legal update: March 2011

## BRIBERY ACT TO COME INTO FORCE ON 1 JULY 2011

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The government announced today that the Bribery Act will come into force on 1 July 2011. The government also published the final version of its guidance for businesses on how to comply with the Act.

The Act is important to businesses because it not only prohibits giving and accepting bribes, but also creates a new offence under which companies have criminal liability for bribery undertaken by their employees, agents or other representatives. The only defence is to show that you had put in place adequate procedures to prevent bribery. The guidance published today is intended to help companies assess what “adequate procedures” means in practice.

Implementation of the Act was delayed following a wave of concern from businesses and organisations (including the Law Society and the CBI) over the initial draft guidance, which was criticised for lacking clarity and failing to give businesses enough information to assess whether they had taken adequate steps to avoid liability.

This concern was further fuelled by widespread media reports claiming that the Act would outlaw corporate hospitality or make it impossible for British companies to compete in overseas markets. Many speculated that the government (which had inherited the legislation from the previous administration) was looking for ways to “water down” the Act.

The government is keen to emphasise that it has not bowed to pressure to water down the Act. Apart from some minor changes to enforcement, the Act’s provisions remain unchanged. However, the guidance is intended to allay some of the more extreme concerns about the Act’s effects, and to reassure businesses that normal, honest business activity (such as most forms of corporate hospitality) is unlikely to be a problem.

The guidance emphasises that businesses should take a proportionate, risk-based approach. The justice secretary, Kenneth Clarke, said that he had “listened carefully to business representatives to ensure the Bribery Act is implemented fully and in a workable, commonsense way”.

The guidance, which as well as advising on anti-bribery procedures includes practical case studies on hospitality, facilitation payments and joint ventures, is available on the Ministry of Justice website. There is also a quick-start guide for small businesses.

At Cripps Harries Hall LLP, we have recognised from the start that a risk-based, practical and proportionate approach is required to the Bribery Act – in contrast to the alarmist claims made by some in what Clarke called “the compliance industry”. So we welcome the new guidance as a big improvement in helping businesses understand what they need to do (and, equally important, what they don’t need to do) in order to comply.

We have prepared a detailed briefing note setting out practical advice on how to assess the bribery risk for your business and how to prepare adequate procedures to cover that risk, as well as guidance on communicating these procedures to your staff. If you would like to receive a copy of this briefing note, or if you have any other queries about the Bribery Act, please contact John Halton at [john.halton@crippslaw.com](mailto:john.halton@crippslaw.com) or your usual Cripps Harries Hall contact.



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