

Message from the Justice Secretary on implementation of Bribery Act 2010

Today I have announced that the Bribery Act will enter into force on July 1st, replacing and bringing together the current bribery laws which date back to 1889. I am also publishing guidance to businesses about how they can reduce their exposure to bribery and understand the Act. This guidance is available on the Ministry of Justice's website here: <http://www.justice.gov.uk/guidance/bribery.htm>

The Act creates new offences of offering or receiving a bribe, bribery of foreign public officials and of a failure to prevent a bribe being paid on an organisation's behalf. It also provides a defence to the last of these where an organisation can show that it has 'adequate procedures' in place. These are quite tough rules. But what the guidance I am also publishing today underlines - after helpful consultation with businesses, and NGOs - is that combating bribery is about common sense, not bureaucracy.

Bribery is one of those things we know when we see - it is a cynical attempt to manipulate someone's judgement by financial or similar means. The guidance makes clear that no one is going to try to stop businesses getting to know their clients by taking them to events like Wimbledon, Twickenham or the Grand Prix. Reasonable hospitality to meet, network and improve relationships with customers is a normal part of business.

The guidance also explains that the procedures that need to be put in place to rely on the statutory defence only have to be proportionate to the size and nature of the business. Modest risks require modest procedures to mitigate them. Small companies ought not fear that they will suddenly need an army of lawyers in order to manage bribery risks. They can rely heavily on simply telling staff, verbally.

The guidance clarifies too that an 'associated' person will only engage criminal liability for a company where they actually represent the organisation, and any bribery they commit is intended to benefit it.

It will be up to the court to decide whether or not any individual organisation can be said to be 'carrying on a business' in the UK. They obviously take a range of factors into account - mere listing on the London Stock Exchange or just the fact of having a UK incorporated subsidiary would not necessarily mean the Act applies. To be clear: this is not a 'carve-out. Under the terms of the Act, it has always been a decision for the courts.

A very important issue is the question of prosecutions. Cases will be brought where they are in the public interest, which will require the personal agreement of the Director of Public Prosecutions or the Director of the Serious Fraud Office. I do not expect a large number of prosecutions and certainly not for trivial cases.

The guidance does not and cannot change the substance of the Act. But by improving clarity about its intentions, it should arm organisations of all sizes against the fears that millions of pounds must be spent on procedures, that in my opinion, no honest business will require. This is particularly important for small businesses, which is why, alongside the main guidance, I am publishing 'quickstart' advice tailored to their needs. If you are a small business owner, I strongly recommend you download a copy at the address above.

The ultimate aim of this legislation is to make life difficult for the minority of organisations responsible for corruption, not to burden the vast majority of decent and law-abiding businesses. We are not going it alone in pursuing this objective but working in tandem with our partners in the OECD, Europe and the United States.

I believe the Act will create greater clarity and establish a level playing field, helping to align trading nations around decent standards. It offers a strong hand to any worker or manager from whom illegal payments are solicited – giving them the power to say no. And it protects the reputation of British firms – particularly among institutional investors.

KENNETH CLARKE