



BExA Commentary UK Bribery Law

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Bribery is unacceptable business practice. It pushes up the cost of trade and can deprive companies and people of goods and services that are most suitable for their needs.

UK Bribery Law opens a new chapter on 1 July 2011 when the 2010 Bribery Act comes into force. The Law has been described as the harshest bribery legislation in the world. To a large extent, the UK has been playing catch-up: the new law replaces the fragmented and complex offences at common law and in the Prevention of Corruption Acts 1889-1916. Other countries have had strong law on bribery for many years. Sharia law forbids corruption. The US's wide-ranging 1977 Foreign Corrupt Practices Act (FCPA) was amended by its International Anti-Bribery and Fair Competition Act, and many international companies have set their compliance policy to be compliant to US law.

UK Bribery Law goes further than its US equivalent. UK Bribery Law

- Treats bribery of a private sector person/entity in the same way as bribery of a government official,
- Includes a new offence of failure to prevent bribery by putting in place 'adequate procedures', and
- Whereas for US exporters, under limited circumstances a modest 'facilitation payment' can be made to expedite the action of an official – for example to speed up paperwork relating to movements of goods – this is deemed bribery under UK Law, and
- There is a 5 year statute of limitations on US bribery, but UK Bribery Law has none.

UK Bribery Law applies, of course, to activities taking place within the UK. It also covers the actions by UK citizens and UK exporting companies, and their agents and representatives, wherever they operate in the world.

BExA recommends that, unless they have already done so, all UK exporters review their own procedures within the sales process. Terms of business with agents, representatives and distributors should be strengthened where necessary, and documentary processes put in place to record activity. Particular attention should also be given to client entertainment and hospitality¹. A company falling foul of the law will find that, in addition to harsh financial penalties, there are other serious consequences in terms of management time and loss of reputation. BExA recommends that you take professional advice.

BExA's new Compliance Guide sets out guidance to help exporters to avoid paying a bribe, including tips for preventing someone asking for, or offering, inappropriate gifts or hospitality and how to resist an offer or a request for inappropriate gifts or hospitality. Copies are available to download from bexa.co.uk² and printed copies can be posted on payment of a small postage charge.

Hugh Bailey

Director, British Exporters Association 020 7222 5419 hughbailey@bexa.co.uk

DISCLAIMER: You are advised to undertake your own research and take professional advice

¹ <http://incelaw.com/news-and-events/News/bribery-act-guidance>

² <http://bexa.co.uk/docs/BExA%20Guide%20to%20Export%20Compliance.pdf>