



ADDLESHAW GODDARD

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Quarterly Fraud Review

Update on the Bribery Bill



Update on the Bribery Bill

The third reading in the House of Lords, which was the final chance for the Lords to change the Bribery Bill (the "Bill"), took place on 8 February. The Bill was then presented to the House of Commons on 9 February 2010, for the first reading. There was no debate on the Bill at this stage. The second reading debate took place on 3 March 2010, and has now been referred to a Public Bill Committee with proceedings in the Committee to be concluded by 25 March 2010.

It is anticipated that the Bill will receive Royal Assent before the general election which is expected to be held in May 2010.

The most significant change to the Bill from the perspective of businesses is the inclusion of a duty on the Secretary of State to provide guidance on the corporate offence of failing to prevent bribery. This guidance regarding what will constitute the adequate procedures that businesses will be required to put in place in order to rely on the defence to this offence will be welcomed by businesses and organisations.

Recap on the key offences:

The purpose of the Bill is to provide a modern and comprehensive scheme of bribery offences to equip prosecutors and courts to deal effectively with bribery in the UK and abroad.

The Bill is intended to replace old and fragmented legislation with an updated and consolidated bribery law. The Bill creates four offences:

- 1 Offering, promising or giving a "financial or other advantage" where the offeror intends to induce or reward "improper performance" of a "function or activity".
- 2 Requesting, agreeing to receive or accepting a financial or other advantage where the requestor intends that in consequence a relevant function or activity shall be performed improperly.
- 3 Bribing a foreign public official. This offence requires that the intention of the person offering the bribe (P) is to influence the exercise of public functions by someone holding a legislative, administrative or judicial position of any kind outside the UK (F), where F is "not permitted nor required by the written law applicable to" him or her "to be influenced" by the offer promise or gift, and where P intends to obtain or retain business or a business advantage.
- 4 Failure of a commercial organisation (including partnerships) (C) to prevent bribery by a person associated with it if that person intends to obtain or retain business for the commercial organisation or obtain or retain an advantage in the conduct of C's business. This is an offence of strict liability which does not require any intention on the part of C; however, it will be a defence if C had in place "adequate procedures" designed to prevent persons from undertaking such conduct.

Should you have any concerns about the issues raised above please contact either:

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