

## Guidance published on adequate

### anti-bribery procedures under Bribery Act 2010

The Ministry of Justice has published guidance on the adequate procedures that commercial organisations should put in place to prevent persons associated with them from committing an offence. Adequate anti-bribery procedures will enable organisations to rely on the statutory defence to the corporate offence of failing to prevent bribery under section 7 of the Bribery Act 2010. Organisations must now familiarise themselves with the guidance prior to the Bribery Act 2010 coming into force on 1 July 2011.

The guidance sets out six guiding principles, each followed by commentary and examples. The six principles are: proportionate procedures, top-level commitment, risk assessment, due diligence, communication (including training) and monitoring and review. Although the principles are intended to be of general application, the guidance does not advocate a 'one-size-fits-all' approach. Instead, organisations should put in place procedures that are proportionate to the risk of bribery faced by their particular business, taking into account its size and nature. Thus, the procedures that a small or medium-sized organisation implements to apply the principles are likely to be different to those for a large multi-national organisation.

The guidance also includes case studies on hospitality, facilitation payments and joint ventures to provide additional clarity in these areas and it gives an indicative but non-exhaustive list of topics that an organisation's anti-bribery policy should cover, for example sanctions for breach of the policy. The guidance also makes clear that the Act will not prohibit bona fide hospitality, promotional or other business expenditure, such as entertaining clients and networking, provided that it is proportionate and reasonable. However, facilitation payments (made to induce officials to perform routine functions that they are obliged to perform in any event) remain illegal under the Act.

The guidance is supplemented by a non-statutory 'quick start guide' for small businesses, explaining the key points organisations should be aware of prior to the Act's implementation.

The Bribery Act 2010 was due to come into force in April 2011 but the Government delayed its implementation. It will now come into force with effect from 1 July 2011. However, the Government does not anticipate a large number of prosecutions being brought under the Act.

Accountax are available to advise and consult on what measures you should put into place to avoid the corporate offence of bribery. As stated above it is not a one-size fits all scenario. At the very least companies should introduce a bribery policy which should be tailored to the specific needs of the company. Accountax can provide a template which can be amended to suit. Don't forget if you have a retainer then you receive a 20% discount on our fees for document drafting.