

## Client Advisory | March 2009

## Update on Draft Bribery Bill (UK)

On 25 March 2009 the UK Government published the draft Bribery Bill (the Bill) which built on the proposals in the Law Commission report: “Reforming Bribery,” published on 20 November 2008 (as reported in EAPD’s Guidance Note: “*Proposed Reform of UK bribery laws.*”)

The Bill largely reflects the offences and penalties set out in the Law Commission Report.

At a glance

- The Bill incorporates the proposed offences set out in the Law Commission Report:
  - requesting or receiving a bribe;
  - offering or giving a bribe;
  - bribery of a foreign public official;
  - a corporate offence of negligently failing to prevent bribery.
- The Bill retains the Law Commission’s recommendation that company directors, managers and secretaries

should be personally criminally liable if they have consented to or connived at the commission of one of the three general offences (but not the corporate offence).

- The proposed offence of failure to prevent bribery will effectively require companies to implement, maintain and enforce rigorous anti-bribery policies. It remains unclear whether conviction for failure to prevent bribery could lead to exclusion (debarment) from public contracts.
- It is proposed that the offence of failure to prevent bribery will apply not only to companies incorporated in

England, Wales or Northern Ireland, but also to companies incorporated anywhere in the world which carry on business in England, Wales or Northern Ireland.

- Consent to a criminal prosecution for offences under the Bill are required from the Director of Public Prosecutions, the Director of the Serious Fraud Office or the Director of Revenue and Customs Prosecutions.

The date for the first Reading of the Bill has yet to be set, but a joint parliamentary scrutiny committee will soon be formed to evaluate the Bill.

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