

BRIBERY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 3: Function or activity to which bribe relates

27. This section defines the fields within which bribery can take place, in other words the types of function or activity that can be improperly performed for the purposes of sections 1 and 2. The term “relevant function or activity” is used for this purpose.
28. The purpose of the section is to ensure that the law of bribery applies equally to public and to selected private functions without discriminating between the two. Accordingly the functions or activities in question include all functions of a public nature and all activities connected with a business, trade or profession. The phrase “functions of a public nature” is the same phrase as is used in the definition of “public authority” in section 6(3)(b) of the Human Rights Act 1998 but it is not limited in the way it is in that Act. In addition, the functions or activities include all activities performed either in the course of employment or on behalf of any body of persons: these two categories straddle the public/private divide.
29. Not every defective performance of one of these functions for reward or in the hope of advantage engages the law of bribery. *Subsections (3) to (5)* make clear that there must be an expectation that the functions be carried out in good faith (condition A), or impartially (condition B), or the person performing it must be in a position of trust (condition C).
30. *Subsection (6)* provides that the functions or activities in question may be carried out either in the UK or abroad, and need have no connection with the UK. This preserves the effect of section 108(1) and (2) of the Anti-terrorism, Crime and Security Act 2001 (which is repealed by the Act).