



Compliant CIS Payroll
Services for the
Construction Industry



The 2010 Bribery Act

Exec Summary

I have considered the EEBS rewards scheme in light of both the legislative definitions of the bribery act, the definition of improper performance, and the guidance from the Ministry of Justice booklet on the Act. It is my strong view that the relatively small amounts involved in the rewards scheme are proportional, not excessive, and will not lead to any improper conduct by persons receiving them.

See the notes below from Justice.Gov on the bribery Act, and advice from Gardner Leader LLP.

Section 1: Offences of bribing another person

17 Section 1 makes it an offence for a person ('P') to offer, promise or give a financial or other advantage to another person in one of two cases:

- Case 1 applies where P intends the advantage to bring about the improper performance by another person of a relevant function or activity or to reward such improper performance.
- Case 2 applies where P knows or believes that the acceptance of the advantage offered, promised or given in itself constitutes the improper performance of a relevant function or activity.

18 'Improper performance' is defined at sections 3, 4 and 5. In summary, this means performance which amounts to a breach of an expectation that a person will act in good faith, impartially, or in accordance with a position of trust. The offence applies to bribery relating to any function of a public nature, connected with a business, performed in the course of a person's employment or performed on behalf of a company or another body of persons. Therefore, bribery in both the public and private sectors is covered.

Solicitors view:

There is a statutory definition of 'improper performance', although it is questionable whether it adds much to what anyone might think those words would mean. For a relevant function or activity to be regarded as such there had to be an expectation that the activities will be carried out in good faith (Condition A), or impartially (Condition B), or the person performing them is in a position of trust (Condition C).

The definition of 'improper performance' is tied to these three conditions. 'Improper performance' is performance which breaches a relevant expectation. A 'relevant expectation' means the expectation mentioned in Conditions A or B above, or (in relation to Condition C) any expectation of the manner in which, or the reasons for which, the function or activity will be performed which arises from the position of trust.



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Further guidance from Justice.Gov.

Hospitality, promotional, and other business expenditure

26 Bona fide hospitality and promotional, or other business expenditure which seeks to improve the image of a commercial organisation, better to present products and services, or establish cordial relations, is recognised as an established and important part of doing business and it is not the intention of the Act to criminalise such behaviour. The Government does not intend for the Act to prohibit reasonable and proportionate hospitality and promotional or other similar business expenditure intended for these purposes.

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Nick Pilgrim

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Managing Director

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