

Combatting Corruption and Enhancing Integrity in the Kingdom of Saudi Arabia: New Amendments to the Anti-Bribery Law

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New amendments have been approved by Saudi Arabia's authorities to the Anti-Bribery Law, issued by Royal Decree No. M/36 of 29 Dhu al-Hijjah 1412 (corresponding to 30 June 1996), which contains the Kingdom's primary anti-corruption provisions. These amendments were issued by Royal Decree No. M/83 of 27 Rabi al-Thani 1443 (corresponding to 2 December 2021) and are considered the second set of approved amendments to the law, which was previously amended by Royal Decree No. M/4 of 2 Muharram 1440 (corresponding to 12 September 2018).

The Anti-Bribery Law's primary focus is on "*public servants*" and certain positions in the private sector that "*shall be treated as public servants*". This includes the personnel of joint stock companies, along with their board members and directors, employees of companies engaged in banking services, individuals working on government-related projects, such as consultants to government projects, including temporary contractors, experts appointed by the government or judiciary, and even employees of private companies contracted to provide public services.

Article 1 of the law broadly defines a bribee as any public servant who solicits, accepts or receives for himself or for others, a gift or payment of any sort, or a promise thereof, as consideration for performing any of his duties or alleged duties, even if the action taken is legitimate.

The previous amendments to the Anti-Bribery Law, which were made in 2018, broadened the reach of the law further into the private sector by criminalizing the bribery of or the making of a bribery request from "*any person working at private or cooperative associations, private organisations, or companies, private establishments or professional bodies, in any capacity.*" The new amendments issued recently in 2021, which contain changes to three articles, have gone even further in expanding the reach of the law, as the term "*any public servant*" has now been replaced with "*any person*" in its Article 5, thus the article now reads as follow:

"Any person who solicits, accepts, or receives for himself or for others a gift or payment of any sort, or a promise thereof, as consideration for using actual or alleged influence to obtain or attempt to obtain, from any public authority, a contract, order, decision, commitment, license, supply agreement, job, service, or privilege of any type, shall be considered a bribe and shall be punished by the same penalty set forth in Article 1 of this Law."

The amendment further strengthens the Kingdom's regulatory regime to combat private sector bribery and is in line with the increased scrutiny that the Oversight and Anti-Corruption Authority ("Nazaha") has placed on the private sector, as reflected in recent investigations that it has initiated.

Article 8, which defines those who shall be treated as public servants, has also been amended and "*foreign public servants*" have been added to paragraph 7, which previously included employees of international organizations and bodies with respect to the conduct of international commercial activities. This amendment is significant in that it brings the Kingdom's anti-corruption provisions into closer alignment with the United Nations Convention Against Corruption and general international standards.

Lastly, Article 15, which relates to the confiscation of funds, benefits, or privileges subject to the offense of bribery, has now been expanded to include the confiscation of the value of the funds, benefit, or privilege as well as any related proceeds arising from the criminal act. The amended article now reads as follows:

“Those who are found guilty of the crime of bribery shall be subjected to a judgement ordering the confiscation of the funds, benefit, or privilege – subject of the offence – whenever possible, or depending on the circumstances confiscation of its value, and confiscation of any proceeds gained from the funds, benefit or privilege.”

This amendment will likely further enable the recovery of funds by the Kingdom’s authorities following anti-corruption investigations and settlements. According to a review conducted by the Council of Economic and Development Affairs in 2021 on the 5th anniversary of Vision 2030, the total money recovered by the public treasury following anti-corruption settlements reached 247 billion riyals over the past three years, which represents roughly 20% of the total non-oil revenues, in addition to tens of billions of non-cash assets transferred to the Ministry of Finance.

Overall, these new amendments further build upon the previous amendments made to the Anti-Bribery Law in 2018 and significantly expand the scope of the Kingdom’s anti-bribery and anti-corruption legislation, which form an integral part of the Saudi government’s wider efforts under Vision 2030 of combating corruption, enhancing integrity, and cultivating a culture of accountability within the Kingdom’s overall economy.