

# **BRIBERY ACT 2010**

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## **EXPLANATORY NOTES**

### **BACKGROUND**

6. The reform of the law on bribery dates back to the Nolan Committee's *Report on Standards in Public Life* in 1995 (Cm 2850I), which was set up in response to concerns about unethical conduct by those in public office, and its suggestion that the Law Commission might usefully take forward the consolidation of the statute law on bribery. The Law Commission first made proposals for reform of bribery in a 1998 report (*Legislating the Criminal Code: Corruption*, Report No. 248).
7. The Government then set up a working group of stakeholders which met over the period 1998-2000, and this was followed in June 2000 by a Government White Paper on corruption (*Raising Standards and Upholding Integrity: the prevention of Corruption* Cm 4759). This was positively received and led to the publication of a draft Corruption Bill in 2003 (*Corruption Draft Legislation* Cm 5777). That draft Bill was then subjected to pre-legislative scrutiny by a Joint Committee of Parliament which reported in July 2003 (*Joint Committee on the Draft Corruption Bill Session 2002-03 Report and Evidence* HL 157, HC 705). The draft Bill failed to win broad support, in particular the Joint Committee was critical of the retention of the agent/principal relationship as the basis for the offence.
8. The Government responded to the Joint Committee's report in December 2003 (*The Government Reply to the Report from the Joint Committee on the Draft Corruption Bill* Session 2002-03 HL 157, HC 705, Cm 6068). In its response, the Government accepted the Report's recommendations in part but expressed reservations about the suggestions made by the Committee in relation to how the offences should be structured given its rejection of the principal/agent model. A Government consultation exercise, *Bribery: Reform of the Prevention of Corruption Acts and SFO powers in cases of bribery of foreign officials*, followed in 2005. The Government concluded that, although there remained support for reform, there was no clear consensus on the form it should take. It was therefore decided to refer the matter back to the Law Commission for a further review.
9. The Law Commission's terms of reference were to consider the full range of options for consolidating and reforming the law on bribery. The Law Commission issued a consultation paper, *Reforming Bribery* (Consultation Paper No. 185), in October 2007. The Law Commission published its report *Reforming Bribery* (Report No. 313) on 20 November 2008.
10. The Government presented a draft Bribery Bill (Cm 7570) to Parliament on 25 March 2009 which built on the proposals in the Law Commission's report. A Joint Committee of Parliament was established to undertake pre-legislative scrutiny of the draft Bill. It reported on 28 July 2009 (*Joint Committee on the Draft Bribery Bill, First Report, Session 2008-09*, HL115, HC430 – I & II). The Government responded to the Joint Committee's report on 20 November 2009 (*Government Response to the conclusions and recommendations of the Joint Committee Report on the Draft Bribery Bill*, Cm7748).