



Australian Government

Bribing a foreign public official is a crime

It is a criminal offence to bribe a foreign public official.

The offence applies to:

- Individuals or companies, whether or not they are Australian, who bribe or attempt to bribe a foreign public official while in Australia, and
- Australian citizens, Australian residents or companies incorporated in Australia who bribe or attempt to bribe a foreign public official while overseas.

Individuals or companies that commit the offence can be prosecuted in an Australian court.

The maximum penalty for individuals found guilty of bribing a foreign public official is 10 years imprisonment and/or a fine of \$1.8 million. The maximum penalty for companies is a fine of \$18 million or three times the value of benefits obtained through bribery, whichever is greater. If the value of benefits obtained through bribery cannot be ascertained, the maximum penalty is a fine of \$18 million or 10% of the annual turnover of the company and related bodies corporate, whichever is greater. Proceeds of foreign bribery can also be forfeited to the Australian Government.

The high penalties for foreign bribery reflect the seriousness of the offence. Corruption shrinks the global market for Australian exports and investment. It undermines fair competition, and can have disastrous consequences for developing economies.

The law applies to both individuals & companies

Companies can be found guilty of the foreign bribery offence and can be held criminally responsible for the acts of their agents.

Companies must create and maintain a corporate culture that requires compliance with the law. They must take reasonable steps to ensure that their employees do not commit foreign bribery offences.

Companies should also ensure that they have appropriate channels for reporting suspected breaches of the law, and that people who do report breaches are protected from persecution within the company.

FOREIGN BRIBERY

What is bribing a foreign public official?

The definition of 'foreign bribery' is very broad. It includes providing or offering a benefit to another person, or causing a benefit to be provided or offered to another person, where the benefit is not legitimately due.

The benefit must be intended to influence a foreign public official in the exercise of his or her official duties for the purpose of obtaining business or a business advantage. However, it is not necessary to prove that the benefit was intended to influence a particular foreign public official.

A 'benefit' can be a non-monetary or non-tangible inducement. It does not need to be provided or offered to the foreign public official (that is, it can be provided or offered to another person). It can also be provided or offered by an agent.

Who are foreign public officials?

The definition of 'foreign public official' is also very broad. It includes:

- employees, officials or contractors of a foreign government body
- individuals performing the duties of an appointment, office or position under a law of a foreign country
- individuals holding or performing the duties of an appointment, office or position created by custom or convention of a foreign country
- individuals in the service of a foreign government body (including service as a member of a military force or police force)
- members of the executive, judiciary, magistracy or legislature of a foreign country
- employees, contractors and individuals who perform the duties of an office or position, or are otherwise in the service of a public international organisation (such as the United Nations)
- individuals who hold themselves out to be an authorised intermediary of a foreign public official.

If you suspect that an individual or company has bribed or attempted to bribe a foreign public official, please report the matter to Crime Stoppers on **1800 333 000** or to:

Australian Federal Police **(02) 6126 7777**
or from outside Australia on **+61 2 6126 7777**
GPO Box 401, Canberra ACT 2601, AUSTRALIA
www.afp.gov.au

Alternatively, write to the Australian Federal Police in your capital city. For more information, visit
www.ag.gov.au/foreignbribery