

CorporateBites

Updating you on company and commercial issues



The role of the modern legal adviser goes beyond simply interpreting the law. Whether it's keeping up to date with commercial developments applicable to our clients' businesses or flagging up future legislation likely to impact on them, our clients rightly expect these qualities from their advisers. To this end, this month's edition focuses on two recently published bills likely to receive Royal Assent in 2010, one important set of recently tabled amendments and two developments likely to have a significant impact on a number of our client companies.

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A fairer future?

The much-heralded Equality Bill aims to consolidate 40 years' worth of British discrimination law, condensing nine separate pieces of legislation into a single Bill. The intention is to make the law more accessible and more consistent across the various types of discrimination.

The Equality Bill will also introduce a number of reforms. One measure that has proved particularly controversial is the idea that private companies with 250 or more employees will be made to publish details of their gender pay gap. The Government's stated intention is not to use this power until 2013 (and only then if the private sector has failed to make sufficient progress on a voluntary basis).

There are also ambitious plans to extend the range of the public sector duties to promote equality of opportunity and to widen the scope of the age discrimination legislation so that it covers goods and services.

The Bill has now passed its second reading in the House of Commons, and is currently at committee stage. It is anticipated to receive Royal Assent in spring 2010 with the majority of its provisions taking effect the following autumn.

For further information, click [here](#).



For further information, contact [Charles Pigott](#).

Modernising bribery laws

The recently published Bribery Bill aims to modernise and simplify the existing bribery laws as well as enabling more effective prosecution of bribery and associated offences.

The main provisions of the Bill are:

- establishing two general bribery offences – put simply, one for giving



For further information, contact [Ben Turner](#).

bribes and the other for taking them;

- introducing a new offence for companies negligently failing to prevent bribery by persons working on behalf of a business (whether as employees or agents);
- introducing a separate offence of bribery of a foreign public official; and
- increasing the maximum penalty for bribery from seven to ten years' imprisonment, with an unlimited fine.

Companies will have a defence to the offence of negligently failing to prevent bribery by an employee or agent if the company can show it had "adequate procedures" in place to prevent such offences. The adequacy of a company's procedures will likely depend on the size (and available resource) of the company in question.

Prudent companies should look to update their risk assessments, training programmes, systems and controls to demonstrate suitably robust compliance and whether more needs to be done to proactively manage the risks.

The Bill has been welcomed by both the police and the Serious Fraud Office. It is expected to receive Royal Assent in 2010.

Fewer senior accounting officers (SAOs) in the firing line

A recent amendment to the Finance Bill 2009 will significantly reduce the impact of new proposals relating to SAOs, accounting systems and tax reporting arrangements.

The 2009 Budget included new proposals relating to SAOs of "large" companies. This came as something of a surprise (there being no prior consultation exercise) and proved immediately controversial, raising the prospects of personal liability for SAOs. The proposals required SAOs to establish and monitor adequate accounting systems for the purposes of accurate tax reporting and to certify that such systems were adequate. Under the budget proposals, all companies not defined as being "small" or "medium sized" under the Companies Act 2006, would be caught.

The recent amendments will, however, substantially reduce the number of companies affected. The rules will now apply only to "qualifying companies", that is, any company whose turnover in the previous financial year exceeded £200 million or whose gross assets exceeded £2 billion (applied on a group basis). A significant number of companies (and SAOs) that would have been caught by the draft legislation can breathe a little easier.

The new rules will apply to financial years beginning on or after the date on which the Finance Bill receives Royal Assent, which is expected to be later this month.



For further information, contact [Christopher Townsend](#).

Software given UK patent protection

UK software developers have, unlike their US counterparts, historically had to rely on copyright to protect their work from being copied. Recent developments, however, suggest that some types of software may now be capable of being registered as patents. This should provide the developers with far greater protection than is currently the case.

The Intellectual Property Office (IPO) recently approved a patent for software. Nokia owned software that enabled a computer to control a mobile phone remotely, thereby enabling more efficient programming. The IPO initially refused to grant a patent of the software because the Patents Act 1977 prevents something that consists only of a computer programme from being patented. Nokia successfully appealed this ruling. The decision follows two landmark Court



For further information, contact [Simon Elsegood](#).

of Appeal cases, which said that software can be patented if it is not just a better piece of software than already exists but also makes a "technical contribution", for example, by making the machine it runs on "a better and faster computer".

If software developers can show that their software is more than just a clever bit of programming, but also produces a technical effect, it should be possible to apply for patent protection.

Big business pledge to pay fairly and promptly

The Government has announced that various high profile companies, including Barclays, Sky, British Airways and Sony have signed up to its prompt payment code.

The code requires that signatories not only pay on time, but are clear about the payment procedure and that contracts with their lead suppliers contain terms to ensure that the code is adopted throughout their own supply chains as well.

The average payment period in the UK is 23 days beyond the agreed terms – up three days in the past year – and a quarter of businesses that fail report late payment by debtors as the primary cause. In the current climate, these issues have, of course, become magnified.

The Government is clearly taking a lead on this. Governmental bodies in England and regional development agencies have committed to pay firms within ten days to improve supplier cash flows.



For further information, contact [Stephen Hamilton](#).

Shortcut – how directors can keep their home address confidential?

Directors can, from 1 October 2009, provide a service address for the public records of Companies House. Documents filed before this date will still show their residential address unless, for example, the director is at serious risk of violence or intimidation as a result of the activities of their company.

For further information, click [here](#).



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