



# Saudi Arabia - Global bribery offenses guide

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## 1. What is the legal framework governing bribery in the Kingdom of Saudi Arabia (KSA)?

In KSA, bribery and corruption are governed by several distinct and overlapping laws. However, the Anti-Bribery Law (promulgated pursuant to Royal Decree M/36 dated 29/12/1412H corresponding to July 1, 1992), is the key piece of legislation that prohibits bribery of public officials in KSA and KSA recently expanded its anti-bribery legislation to the private sector by way of Royal Decree 4 of 1440 in March 2019.

## 2. What constitutes a bribe?

A bribe is not expressly defined under the Anti-Bribery Law, however, the constituent parts of the bribery offences under the Anti-Bribery Law broadly indicate that a bribe is a gift, financial or other advantage offered or received directly or indirectly, to induce or reward the improper performance of a person's professional duty.

## 3. What are the principal offences under this legal framework?

Public officials are deemed to have received a bribe if they accept or receive gifts or the promise of one in order to perform, abstain from performing or violate any of their duties (arts. 1, 2 and 3).

Public officials are also deemed to have received a bribe if they accept or receive gifts for exercising their influence in order to obtain from a public authority a benefit in the form of a job, act, order, decision, obligation, license, supply agreement, or service (art. 5).

For the purposes of the KSA Anti-Bribery Law, public official is broadly defined and includes those employed by the government or a public body (whether on a permanent or temporary basis), arbitrators or experts appointed by the government or by any authority with judicial capacity, those assigned to a specific assignment by the Saudi government, those employed by individual companies or institutions which are in charge of managing and operating a public facility or performing a public service, as well as those employed by joint stock companies or companies to which the government contributes capital or that perform banking activities.

Individuals who offer, promise, or grant a gift or benefit to another working at a private organization or company, private establishment or professional body, in order to get them to act in breach of their professional duties, commit an offence (art. 9 bis 1 of the Anti-Bribery Law).

Individuals who work at private organizations, companies, establishments or professional bodies, and request or accept a gift, or a promise of one, in order to act in breach of their professional duties, commit an offence (art. 9 bis 2 of the Anti-Bribery Law).

Persons who incite or knowingly assist in the commission of the bribery offence shall be deemed to be an accomplice (art. 10 of the Anti-Bribery Law).

Persons who have been appointed by the bribed or the briber to receive the bribe and accept this role while knowing the underlying reason (art. 11 of the Anti-Bribery Law).

#### 4. What is the jurisdictional reach of the legal framework?

KSA anti-bribery legislation does not expressly have extra-territorial effect; accordingly, it applies only to crimes committed within the territory of the Kingdom.

#### 5. Who may be liable for bribery? (public officials, private individuals, legal entities etc.)

The bribe payer, the bribe recipient, any intermediary and any other person who has taken part in conduct criminalized under the anti-bribery legislation shall be penalized in accordance with the sanctions prescribed in the legislation. Furthermore, any person who has agreed, incited or knowingly assisted in the commission of the crime shall be deemed to be an accomplice and subject to the sanctions as prescribed under KSA anti-bribery legislation, provided the crime was committed in pursuance of that agreement or incitement. Liability can apply to public officials, private individuals and legal entities.

#### 6. Can a parent company be liable for its subsidiary's involvement in bribery?

Yes. The circumstances in which this may occur are fact-specific. Some possibilities include:

- the subsidiary is established as a branch in KSA in which the principal parent may be directly liable for the acts of the subsidiary;
- the parent company acts as an intermediary or incites the bribery offence; or
- the parent company benefits from the bribery offence. If the parent company knows or should have known about the bribery offence and benefits from it, it is possible that the parent company would be held liable.

#### 7. Are facilitation payments (i.e. small payments to speed up routine governmental action) considered bribes?

Yes, provided they meet the criteria, facilitation payments are considered bribery, no matter how small the amount.

#### 8. Does the legal framework restrict political and charitable contributions?

There are no express provisions under KSA anti-bribery legislation that restrict charitable contributions.

There are, however, restrictions under fundraising and charity laws which could apply. Fundraising and the establishment of charities in KSA is highly regulated, in part, to mitigate the risk of terrorism financing and money laundering. Charities are closely scrutinized and regulated and fundraising is only permitted in partnership with locally established charities.

As KSA is a constitutional monarchy, political contributions are not applicable.

#### 9. Does the legal framework place restrictions on corporate hospitality?

KSA anti-bribery legislation contains no express provisions with regard to corporate hospitality, and any financial or other advantage given in that context would be assessed by reference to the provisions described in this note.

#### 10. Are there any defenses for bribery offences?

The KSA anti-bribery legislation states that a briber or intermediary shall be exonerated from the principal and accessory offences if they report to the authorities before the crime is discovered (art. 16).

#### 11. What are the key regulatory or enforcement bodies with regard to bribery?

The National Anti-Corruption Commission (Nazaha) is a KSA governmental anti-corruption agency. The main objective of Nazaha is to promote integrity and transparency and fight all forms of corruption in the administrative and financial domains.

The Control and Investigation Board has the authority to investigate reports of criminal activity by government, military or public institutions' employees that involve corruption, bribery and the misuse of power. The Control and Investigation Board also has the power to prosecute bribery cases before the Board of Grievances (an independent administrative judicial committee), which has jurisdiction over such matters.

Public Prosecution has the authority to investigate all criminal activity.

The Saudi Arabian Monetary Agency has the power to investigate any suspicious financial transactions that appear to be unlawful.

The General Directorate of Investigation has the authority to investigate and expose administrative corruption.

The Capital Market Authority is KSA's government financial regulatory authority responsible for capital markets in KSA. Its objectives are to create an appropriate investment environment, reinforce transparency and disclosure standards in all listed companies, and to protect investors and dealers from illegal acts in the market.

## 12. What are the legal consequences of being found guilty of bribery offenses?

Legal Consequence	Application
<p>For each offence:</p> <ul style="list-style-type: none"> <li>• up to ten years' imprisonment;</li> <li>• a fine not exceeding SAR10 million (art. 3 and 5); and/or</li> <li>• removal or being barred from public office (art. 13).</li> </ul>	<ul style="list-style-type: none"> <li>• Public officials who accept or receive a promise or a gift to perform, abstain or violate any of their duties even if the duties are lawful (art. 3).</li> <li>• Public officials who accept or receive a promise or a gift for exercising influence in order to obtain a benefit, service, act, job, order, decision, obligation, license, supply agreement from the public authority (art. 5).</li> </ul>
<p>For each offence:</p> <ul style="list-style-type: none"> <li>• up to five years' imprisonment; and/or</li> <li>• a fine not exceeding SAR10 million (art. 9 (bis 1) and 9 (bis 2)).</li> </ul>	<ul style="list-style-type: none"> <li>• Individuals who offer or promise a gift or benefit to any person working at a private entity or professional body in order to get them to act in breach of their professional duties (art. 9 (bis 1)).</li> <li>• Individuals working at a private entity or professional body who request or accept a gift or a promise of one in order to act in breach of their professional duties (art. 9 (bis 2)).</li> </ul>
<p>Up to two years' imprisonment and/or a fine not exceeding SAR50,000 (art. 11).</p>	<ul style="list-style-type: none"> <li>• Individuals who have been appointed by the bribed or the briber to receive a bribe, and who accept to do so while knowing the underlying reason.</li> </ul>
<p>Up to 10 years' imprisonment and a fine of up to SAR10 million (art. 9).</p>	<ul style="list-style-type: none"> <li>• Individuals who offer or promise to offer a bribe, and such a bribe is rejected.</li> </ul>
<p>Confiscation of the proceeds of crime, privilege or gift (art. 15).</p>	<ul style="list-style-type: none"> <li>• For all offences that are committed in breach of the Anti-Bribery Law.</li> </ul>
<p>Punishment of more than the maximum penalty prescribed for the crime but not exceeding double (art. 18).</p>	<ul style="list-style-type: none"> <li>• Individuals who have already been convicted of a bribery offence under the KSA anti-bribery legislation, and commit bribery again within five years of the</li> </ul>

	previous sentence.
Barred from entering into procurement contracts, and implementing works and projects (art. 19).	<ul style="list-style-type: none"> <li>National and foreign private and institutional companies whose personnel have been convicted of offences under the KSA Anti-Bribery Law, and were committed to serve the interest of that company or institution.</li> </ul>

### 13. Are deferred prosecution agreements (DPAs) or other similar settlement mechanisms available?

Bribery offences are not currently capable of being settled by way of DPA under KSA anti-bribery legislation.

No formal settlement mechanisms are available under the Anti-Bribery Law.

On an informal basis, settlements can be discussed with the regulator at any stage during investigations or prosecution, but no consistent or transparent mechanisms currently exist in KSA for settlement.



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