



# Zimbabwe - Global bribery offenses guide

11 January 2022

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## 1. What is the legal framework governing bribery in Zimbabwe?

The governing legal framework for bribery in Zimbabwe consists of the following:

- The Prevention of Corruption Act [Chapter 9:16];
- The Anti-Corruption Commission Act [Chapter 9:22]; and
- The Criminal Law (Codification and Reform) Act [Chapter 9:23] (the Criminal Code)

All of the above legal statutes are applied and read with the following international instruments to which Zimbabwe is a party to:

- The UN Convention against Corruption (2004)
- The African Union Convention on Preventing and Combating Corruption (2003)
- The SADC Protocol Against Corruption (2001)

## 2. What constitutes a bribe?

Section 170 of the Criminal Code provides that bribery occurs when an agent obtains or gives any gift or consideration as an inducement or reward for doing or omitting to do any act in relation to their principal's affairs, or for showing or not showing any favor or disfavor in relation to their principal's affairs, whilst knowing that there is a real risk or possibility that such gift or consideration is not due in terms of any agreement or arrangement between the agent and the principal.

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

The Criminal Code governs a wide range of criminal offenses in Zimbabwe, these include bribery and corruption.

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

The legal framework applies to transactions which take place in Zimbabwe.

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

In terms of the Criminal Code, an agent may be liable for bribery and corruption. In terms of section 170 of the Act, an agent is defined as a person employed by or acting for another person in any capacity and includes: a director or secretary of a company, the trustee of an insolvent estate, the assignee of an estate, the liquidator of a company, the executor of a deceased estate, the legal representative of a minor or person of unsound mind, a public officer, a member

of a board, a person who manages the affairs of another or takes care of the property of another. In terms of this definition, a public officer and a private individual may be liable for bribery. On the other hand, a company cannot be liable for bribery as an entity - only the person acting on behalf of the company may be liable.

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

A parent company will not be liable for its subsidiary's involvement in bribery; however, the directors of a parent company may be liable for its subsidiary's involvement in bribery, if the directors are also the directors of the subsidiary and the circumstances require the piercing of the corporate veil.

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

In terms of the Prevention of Corruption Act, facilitation payments are considered to be bribes and are described as instances whereby an agent obtains any gift or consideration in connection with their principal's affairs or business.

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

Yes, although this depends on the manner in which the contribution is given.

A company can make a donation/contribution to a charity/political party but it must be kept anonymous so that it is not viewed as the company receiving favors from that party or avoiding tax contributions.

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

The legal framework places restrictions on anything that can be viewed as a bribe, for example, a company cannot receive any hospitality gifts that could be seen as payment for contracts.

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

There are no statutory defenses to the charge of bribery. A defendant to a charge of bribery would attack the essential elements of the charge when presenting their defense to the court.

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

The key regulatory body with regards to bribery is the Zimbabwe Anti-Corruption Commission (ZACC).

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

The legal consequences of being found guilty of bribery are the imposition of a fine or imprisonment.

The fine must not exceed level 14 (ZWL500,000/USD5,882.35 – the amount in USD is based on the foreign exchange auction rate determined by the Reserve Bank of Zimbabwe on a weekly basis (every Tuesday). At the time of publication, the auction rate is USD1 = ZWL85) or must be seven times the value of any consideration obtained or given in the course of the crime, whichever is greater. Imprisonment would be for a period not exceeding 20 years.

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

DPAs and similar settlement mechanism are currently not available under Zimbabwean law.

*Summary provided by Manokore Attorneys, a member of DLA Piper Africa, a Swiss Verein whose members are comprised of independent law firms in Africa working with DLA Piper.*

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