

MACAO SPECIAL ADMINISTRATIVE REGION
LAW NO. 19/2009
PREVENTION AND SUPPRESSION OF BRIBERY
IN THE PRIVATE SECTOR

The Legislative Assembly decrees, pursuant to subparagraph 1) of Article 71 of the Basic Law of the Macao Special Administrative Region, that the following shall be enforced as law:

CHAPTER I
General provisions

Article 1
Object

This law establishes the classification of bribery offences in the private sector, the regime of prevention and the allocation of powers in this scope to the Commission Against Corruption.

Article 2
Definitions

For the purposes of this law:

- 1) “Unfair competition” means any act of competition that objectively reveals itself to be in breach of the norms and honest usage of economic activity.
- 2) “Functional duties” means the duties to be complied with when carrying out a certain activity as stipulated by law or legal acts between the parties concerned.

CHAPTER II
Penal provisions

Article 3
Passive bribery in the private sector

1. Any person who, performing his professional duties, including the personnel of management or administration of any entity in the private sector, even such entities are irregularly established, solicits or accepts, personally or through an intermediary with his consent or ratification, an undue pecuniary or non-pecuniary advantage,

or the promise of such advantage, for himself or a third party, as a reward for acting or refraining from acting, in violation of his functional duties, shall be liable to imprisonment for a maximum term of 1 year or a fine.

2. If the act or omission mentioned in the preceding paragraph induces any unfair competition, the actor shall be liable to imprisonment for a maximum term of 2 years or a fine.

3. If the act or omission mentioned in paragraph 1 is adequate to cause damage to the health or safety of third parties, the actor shall be liable to imprisonment for a maximum term of 3 years or a fine.

4. No punishment shall be inflicted if the actor, before the act is performed, voluntarily rejects the offer or the promise he has accepted, or returns the advantage, or, in case of fungible goods, its value.

Article 4

Active bribery in the private sector

1. Any person who, personally or through an intermediary with his consent or ratification, gives or promises to give the person mentioned in the preceding article, or a third party with the knowledge of that person, an undue pecuniary or non-pecuniary advantage, for the purpose indicated in paragraph 1 of the preceding article, shall be liable to imprisonment for a maximum term of 6 months or a fine.

2. If the conduct mentioned in the preceding paragraph induces any unfair competition, the actor shall be liable to imprisonment for a maximum term of 1 year or a fine.

3. If the conduct mentioned in paragraph 1 is adequate to cause damage to the health or safety of third parties, the actor shall be liable to imprisonment for a maximum term of 2 years or a fine.

Article 5

Complaint

1. In the cases prescribed by paragraph 1 of Article 3 and paragraph 1 of Article 4, penal procedures shall only be instituted when there is a complaint.

2. In the cases prescribed by paragraph 2 of Article 3 and paragraph 2 of Article 4, penal procedures shall only be instituted when there is a complaint; however, if the case involves acquisition of assets and services with funding coming totally or partly from public money, penal procedures shall be instituted even without a complaint.

3. Not exercising the right of complaint or withdrawing from a complaint against the actor referred to in paragraph 1 of Article 3 or paragraph 1 of Article 4 will also benefit the corresponding actors of active and passive bribery.

4. The preceding paragraph shall apply correspondingly to the cases mentioned in paragraph 2 of Article 3 and paragraph 2 of Article 4, in which penal procedures shall only be instituted when there is a complaint.

Article 6

Special mitigation and remission of punishment

For the crimes prescribed by this law, punishment shall be specially reduced or waived if the actor assists in the collection of evidence crucial to the identification or arrest of other actors or, in some way makes a decisive contribution to the discovery of the truth.

CHAPTER III

Final provisions

Article 7

Scope of activity of the Commission Against Corruption

1. The Commission Against Corruption aims, within its scope of activity, at carrying out investigation and inquiry with regard to acts of corruption in the private sector, in accordance with penal procedure legislation and without prejudice to the powers vested by law in other bodies.

2. Subparagraph 1) of paragraph 1 of Article 3 of Law no. 10/2000 also applies to the prevention of bribery in the private sector, and, for this purpose, the Commission Against Corruption shall particularly promote:

1) the formulation of standards and procedures aiming to ensure the integrity of relevant private entities, including the codes of conduct;

2) transparency among private entities.

3. Law no. 10/2000 shall apply, with necessary adaptations, to the acts and measures carried out by the Commission Against Corruption within its scope of activity referred in the preceding paragraphs.

Article 8 Subsidiary Law

Provisions under the Penal Code shall subsidiarily apply to the offences prescribed by this law.

Article 9 Entry into force

This law shall enter into force on 1 March 2010.

Approved on 4 August 2009.

The President of the Legislative Assembly, Susana Chou.

Signed on 7 August 2009.

To be published.

The Chief Executive, Ho Hau Wah.

**(The English version of this law is provided for reference only.
Only the Chinese and Portuguese versions published in the
Official Gazette of the Macao SAR are official.)**