

Practical Tips for Doing Business in Hong Kong

- Know and abide by the laws
- Practise strong corporate governance
- Formulate codes of conduct and effective control measures against corruption
- Don't bribe and don't accept bribe
- Report corrupt activities to the Independent Commission Against Corruption (ICAC) without delay

Corruption Prevention Services offered by the Hong Kong Business Ethics Development Centre

The Hong Kong Business Ethics Development Centre (HKBEDC) stands ready to help Japanese companies in Hong Kong to prevent corruption.

The HKBEDC was established in May 1995 under the auspices of the Community Relations Department of the ICAC of the Hong Kong Special Administrative Region in response to requests of the business community. The Centre is a non-profit making organisation which aims to promote business ethics in Hong Kong on a long-term basis.

A team of experienced officers of the HKBEDC offers a full range of consultancy services on:

- arranging training on business / professional ethics and corruption prevention
- formulating / reviewing codes of conduct
- offering advice on system control
- producing practical guides

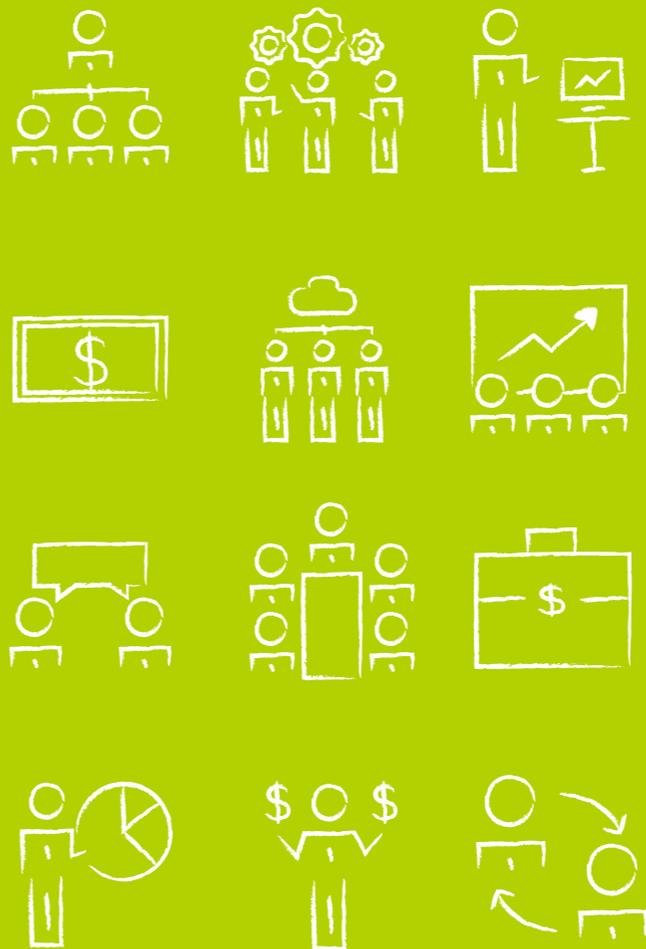
Contact Channels

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The work of the HKBEDC is guided by the Hong Kong Business Ethics Development Advisory Committee formed by 10 major chambers of commerce in Hong Kong including the Hong Kong Japanese Chamber of Commerce & Industry.

Corruption Doesn't Pay: Points to Note for Doing Business in Hong Kong



Anti-Corruption Laws of Hong Kong and Japan

Given the differences in history, culture and socio-economic development, Hong Kong and Japan have their own unique legislation to combat corruption. Despite the differences in the legal provisions, both places share the common belief that a fair, equal and clean environment is conducive to business growth. In doing business in Hong Kong and Japan, the best strategy for businessmen to avoid committing corruption offences inadvertently is to get acquainted with the anti-corruption laws of both places and uphold the principles of fairness and integrity.

In person:

ICAC Report Centre (24-hour service)
G/F, 303 Java Road, North Point, Hong Kong

Or

ICAC Regional Offices (Service hours: Mon – Fri,
9am-7pm; except public holidays)

Address list at
<https://www.icac.org.hk/en/rc/channel/ro/index.html>

By phone:

(852) 25 266 366 (24-hour hotline)

By mail:

G.P.O. Box 1000, Hong Kong

Corruption Reporting

Full evidence is not required when lodging a complaint to or making an enquiry with the ICAC. All information is kept strictly confidential. Corruption reports can be made through the following channels.

In Japan, the crime of corruption by public officers and in private sector (general enterprises) are prescribed in Chapter XXV Crimes of Corruption of the Penal Code (Articles 193 to 198) and the Articles 198 and 247 of the Penal Code and the Article 960, 961, 962, 967 and 968 of the Companies Act respectively. In Hong Kong, the Prevention of Bribery Ordinance prohibits corruption in both the public and private sectors. Briefly speaking, when it comes to private sector, the anti-corruption provisions in Japan take a strict stance towards incorporators and company officers, and it is by the Crimes of Special Breach of Trust to determine, in all aspects, the responsibilities of business management and the responsibilities to their employees that a business owner has to take. In Hong Kong, on the contrary, employees have to obtain their employer's permission in relation to the solicitation and acceptance of work-related advantages.

In addition, it is not mentioned in the Japanese laws about the legality of offering of mid-year gift or year-end gift to vendors and supervisors, which is a tradition in Japan for building working relationships or showing respect. The situation in Hong Kong is different. Under Section 19 of the Prevention of Bribery Ordinance of Hong Kong, customary practices in any profession, trade, vocation or calling cannot be used as a defence for corruption.



The Prevention of Bribery Ordinance of Hong Kong

The spirit of the Prevention of Bribery Ordinance is to ensure fairness and integrity when having official dealings in both the private and public sectors. Businessmen, government officials and other employees in both the private and public sectors in Hong Kong, regardless of their nationality, must follow the provisions of the law of Hong Kong.

Corruption in the Private Sector

Corruption in the private sector is governed by Section 9 of the Prevention of Bribery Ordinance. Briefly speaking, any agent (e.g. an employee), who without authorisation and permission of his principal (e.g. his employer), solicits or accepts an advantage* by abusing his authority in relation to his principal's (employer's) business shall be guilty of an offence. Anyone who offers an advantage to the agent (employee) shall also be guilty of an offence under the Prevention of Bribery Ordinance. [Corruption cases (1) – (3) in the next section refer]

**Advantage refers to anything that is of value, such as gift, loan, fee, reward, commission, employment or contract, service or favour, but does not include entertainment. Entertainment means the provision of food or drink for consumption on the occasion when it is provided. However, to avoid being sweetened up, an agent should refrain from accepting frequent and lavish entertainment offered by clients, suppliers, contractors and business associates.*



Corruption in the Public Sector

When doing business in Hong Kong, you may be required to contact relevant government departments or public bodies for public services, e.g. applying visas, or other official documents. Under Section 4 of the Prevention of Bribery Ordinance, if any person, without lawful authority or reasonable excuse, offers any advantage to a public servant so as to influence his handling of the affairs of a government department or public body, shall be guilty of an offence. Any public servant who solicits or accepts any advantage, without lawful authority or reasonable excuse, shall also be guilty of an offence under the Prevention of Bribery Ordinance. [Corruption case (4) in the next section refers]

Moreover, under Section 8 of the Prevention of Bribery Ordinance, any person, without lawful authority or reasonable excuse, offers any advantage to a public servant while having dealings with the government or a public body, shall also be guilty of an offence.

Use of False Documents

In addition, any agent (including public and private sector employees) who uses any false document, receipt or account with an intent to deceive his principal (e.g. employer) shall also be guilty of an offence under Section 9(3) of the Prevention of Bribery Ordinance.

The maximum penalties for an offence under Sections 4, 8, 9 and 9(3) of the Prevention of Bribery Ordinance are imprisonment of seven years and a fine of HK\$500,000.

For full text of the Prevention of Bribery Ordinance, please refer to or download from the ICAC website: www.icac.org.hk.



Corruption Cases

The following four cases can help you have a deeper understanding of the major points of the law.

- 1 Two senior executives of a bank were found guilty by the court of accepting bribes of HK\$5.8 million and other valuables from a corporate client in return for giving favourable recommendations on the client's loan applications and also extending the repayment due dates for that client. The bank executives were jailed for two to three years. The court also ordered to confiscate the bribe monies.
- 2 The general manager of a chemical factory was put into jail for accepting illegal rebates (being 5% of the transaction amount) from a supplier for helping that supplier secure a contract for providing chemical materials to the factory. The manager was sentenced to six months' imprisonment and was ordered to pay a restitution to the company.
- 3 The director of a garment trading company in Hong Kong, who offered a bribe of more than HK\$425,000 to the buyer of a foreign company in order to secure a garment order of HK\$16 million from the foreign company, was put into jail. The director was given a jail term of eight months.
- 4 A businessman was sentenced to imprisonment for offering bribe payments totaling HK\$70,000 to an officer of the Customs and Excise Department of the Hong Kong Government for obtaining restricted information to facilitate the transporting of undeclared textile products across the border. The businessman was sentenced to fourteen months' imprisonment.

