Unpacking the 2024 amendments to the Prevention and Combating of Corrupt Activities Act (PRECCA):

Your 2025 Compliance Compass

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Navigating the Complex Lanscape of Anti-Corruption Compliance

Ensuring compliance in today's regulatory environment requires more than just ticking boxes - it demands strategic foresight, operational integration, and a culture of integrity. Let us explore the Prevention and Combating of Corrupt Activities Act (PRECCA) and its impact on South African businesses in 2025.

Why PRECCA Matters Now

PRECCA serves as South Africa's corporate immune system against corruption. With the 2023 amendments introduced by the Judicial Matters Amendment Act 15 of 2023, the compliance landscape has fundamentally shifted. Whether you lead a JSE-listed company or manage a private enterprise, understanding these changes is critical to safeguarding your business.

The Reality Check

Corruption is not just a legal issue   it is a commercial crime risk. South African enterprises collectively lose billions of rands annually due to fraud, bribery, and compliance failures. Beyond financial losses, organisations face regulatory penalties, reputational damage, and loss of investor confidence. A single oversight can trigger severe legal, operational and reputational consequences.

Amended PRECCA Act 2024: Key Legal Obligations

The amended PRECCA Act 2024 confirms the legal obligation on businesses and their principals. The amendment introduces a new

failure to prevent corruption

offence, aligning closely with global best practices, including the UK Bribery Act 2010.

Failure to Prevent Corrupt Activities

The amended PRECCA now criminalises the failure to prevent corrupt activities. Specifically, if a member of the private sector or a state owned entity is associated with someone offering a bribe for an undue personal or business advantage, that entity will be guilty of an offence, unless it can demonstrate that it had taken reasonable internal precautions to prevent corruption.

Legislative Background

A significant recommendation from the State Capture Commission was to introduce a new offence of failure to prevent corrupt activities. This was officially enacted in South Africa on 3 April 2024. The Judicial Matters Amendment Bill was passed by the National Council of Provinces on 6 December 2023, and President Cyril Ramaphosa assented to the Bill on 3 April 2024 (*Government Gazette No. 50430*). The Bill amends PRECCA by adding Clause 34A, creating this new offence.

Strengthening Governance for PRECCA Compliance

Board and Executive Accountability

Strong leadership commitment is vital for compliance. Executives and board members must actively support anti-corruption measures and assign clear responsibilities for oversight. Regular reporting on corruption risks to the board enhances accountability and fosters a culture of compliance from the top down.

Corporate Governance Best Practices

Aligning PRECCA compliance with King IV principles helps businesses integrate ethical leadership and effective risk management. Companies should establish internal policies for anti-corruption, promote transparency, and encourage whistleblowing. Clear governance structures and codes of conduct can mitigate corruption risks and enhance the organisation□s reputation.

Internal Audit and Assurance

Robust internal audit functions are essential for identifying corruption risks and ensuring compliance with PRECCA. Regular audits confirm that anti-corruption policies are effectively implemented. Proactive measures like real-time fraud detection help organisations prevent compliance breaches.

Ethics and Compliance

Creating a dedicated ethics and compliance committee ensures oversight of corruption risk assessments and adherence to regulatory requirements. These committees collaborate with internal audit teams to review policies and investigate ethical violations, adopting a culture of integrity through transparent decision-making and accountability.

Key Commercial Crime Risks and Mitigation Strategies

Procurement Fraud

Procurement fraud is a major risk for organisations, typically involving inflated invoices and conflicts of interest. To mitigate these risks, businesses should establish strict procurement controls, conduct thorough supplier due diligence, and maintain clear policies. Transparency, along with data analytics and forensic auditing, is essential for detecting and preventing fraud.

Cybercrime and Financial Fraud

With the rise of digital transactions, cybercrime has become a significant threat, impacting businesses through financial fraud like phishing and payment fraud. Companies should adopt strong cybersecurity measures, including multi-factor authentication, fraud detection software, and employee training in cyber threats. A proactive cybersecurity strategy minimises financial losses and safeguards sensitive information.

Money Laundering and Terrorism Financing Risks

Businesses in South Africa must follow FICA regulations to combat money laundering and terrorism financing. This involves due diligence on clients, monitoring transactions, and reporting suspicious activities. Adopting automated compliance solutions can improve detection and adherence to anti-money-laundering laws.

Insider Threats

Insider threats pose a significant risk, as employees may exploit their access for fraud or corruption. To mitigate these risks, organisations can implement access controls, monitor high-risk roles, and promote an ethical culture. Encouraging whistleblowing and enforcing strict disciplinary measures can further deter unethical behaviour.

Alignment Between PRECCA and the UK Bribery Act

The wording of the new offence closely aligns with the version proposed in the State Capture Report and draws inspiration from the UK Bribery Act□s Section 7□ Failure to Prevent Bribery.
In terms of Section 34A, a private sector entity or state owned enterprise will be guilty of an offence if an associated person offers, agrees, or gives any gratification to another person (as defined in Chapter 2 of PRECCA) to obtain or retain business or an undue advantage for the entity.

Key Considerations from the UK Bribery Act

1. **Proportionate Procedures** - Policies must be proportionate to the risks faced.
2. **Top-Level Commitment** - Leadership must demonstrate a commitment to compliance.
3. **Risk Assessment** - Organisations must conduct regular commercial crime risk assessments.
4. **Due Diligence** - Businesses must complete a due diligence assessment on third parties and partners.
5. **Communication and Training** - Employees must receive proper compliance training.
6. **Monitoring and Review** - Regular reviews must ensure policies remain effective.

Implications of the New PRECCA Offence

While the failure to prevent corruption offence brings South Africa's anti - corruption laws in line with international standards, there are some key distinctions:

No official guidance on "adequate procedures": Unlike the UK, South Africa has not published specific guidelines on what constitutes adequate anti-corruption procedures. Businesses are advised to adopt a risk-based approach similar to the UK Bribery Act's six principles.

Broad definition of "associated persons": Section 34A applies to anyone performing services on behalf of an entity, including employees, contractors, and third parties. Companies must extend compliance controls to cover these stakeholders.

No Deferred Prosecution Agreements (DPAs): Unlike the UK and US, South Africa does not currently allow for DPAs that encourage self-reporting in exchange for reduced penalties. However, the South African Law Reform Commission is considering introducing DPAs in future amendments.

Developing a Robust Compliance Strategy

Strengthening Internal Controls

Internal controls are essential for a strong compliance framework. Companies should regularly assess corruption risks, update policies, and ensure segregation of duties to prevent fraud. A clear compliance framework with guidelines on reporting, risk assessment, and disciplinary actions offers strong protection against corruption.

Extending Compliance to Third Parties

Third-party relationships, such as suppliers, vendors and customers, carry corruption risks. Businesses should implement robust due diligence to vet these parties and ensure compliance with anti-corruption standards. Contracts must include anti-bribery clauses, and ongoing monitoring is essential to detect irregularities.

Understanding the Impact on Listed Companies

Publicly traded entities operate under intense scrutiny, akin to being under a constant spotlight. Key considerations include:

Market Trust and Stability

Investor Confidence and Share Price Performance

Investor confidence significantly affects a company's market value. Assurance of transparency and ethical operations, along with strong anti-corruption measures, is vital for financial stability.

Global Investor Expectations for Anti-Corruption Measures

International investors demand strict anti-corruption policies. Many investment firms require portfolio companies to comply with global anti-bribery standards. Failure to do so may lead to disinvestment and reduced capital inflow.

Reputation Management and Ongoing Due Diligence

Maintaining a strong corporate reputation requires ongoing monitoring and anti-corruption efforts. Companies should conduct continuous due diligence on partners and operations to identify and mitigate risks, as a strong reputation fosters market trust and supports long-term sustainability.

Regulatory Reporting and Transparency

Companies must submit accurate compliance reports to regulatory bodies, ensuring legal obligations are met and building trust with investors and stakeholders. Precise documentation helps reduce legal risks and regulatory scrutiny.

International Compliance Considerations

Adherence to Multiple Legal Frameworks in Cross-Border Operations

Navigating anti-corruption laws across jurisdictions is complex. Companies must comply with local regulations and international standards like the UK Bribery Act and the US FCPA.- Non compliance can result in significant fines and legal issues.

Alignment with Global Best Practices

To be competitive internationally, companies must enhance their anti-corruption measures by adopting best practices, exceeding compliance requirements, conducting regular risk assessments, and pursuing continuous improvement.

Complexity of Foreign Corrupt Practices Laws

Foreign corrupt practices laws impose severe penalties for bribery and corruption, even outside the enforcing country. Businesses must ensure that employees and third party partners understand and comply with these regulations to avoid prosecution.

Due Diligence for International Partnerships

Partnering with international entities requires thorough due diligence. Companies should verify that potential partners have strong compliance programs to minimise the risk of indirect involvement in corruption. Conducting background due diligence verifications and monitoring transactions are essential for risk mitigation.

Cultural Adoption and Leadership Commitment

Embedding Ethical Considerations into Decision-Making

Corporate decisions should include ethical considerations to mitigate corruption risks. Businesses need to embed anti-corruption strategies into their operations and ensure that ethical decision-making is a core aspect of their corporate culture.

Developing Leadership Accountability Frameworks

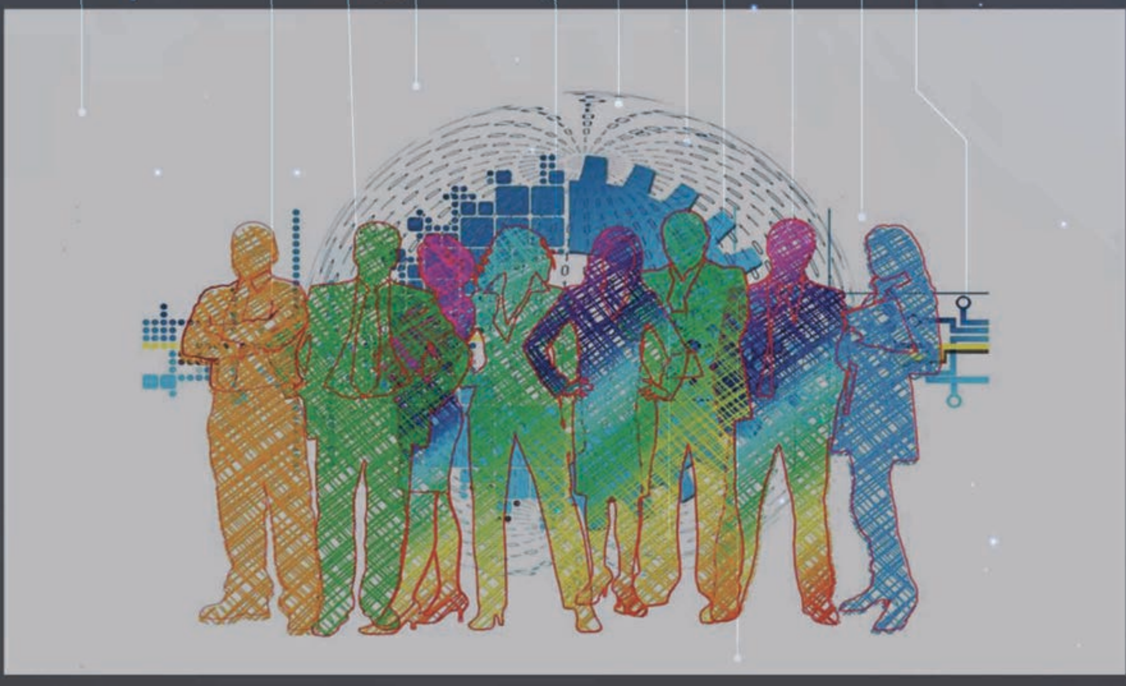
Strong leadership accountability is crucial for a compliance driven environment. Boards and executives must personally enforce anti-corruption policies, showcasing their commitment to ethical governance through decisive actions.

Establishing Sustainable Compliance Practices

A long-term approach to compliance helps companies stay vigilant against corruption risks. Sustainable practices involve regular training, enhancing internal controls, and adapting to regulatory changes. By prioritising sustainability, businesses foster a strong compliance culture.

Fostering a Culture of Continuous Improvement

A culture of continuous improvement helps organisations adapt to changing compliance landscapes. Companies should regularly assess and enhance their anti-corruption measures, using technology and regulatory updates to refine their compliance frameworks, which strengthens governance and resilience.



Critical Risk Areas

- Reputational damage that could erode business opportunities
- Director and officer liability under expanded legal obligations
- Financial penalties and regulatory sanctions for non-compliance
- Loss of stakeholder confidence, affecting partnerships and investments

Key Risk

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