

# China Amends Criminal Law Related to Bribery and Corruption

## Amendments Reflect Ongoing Scrutiny Across Multiple Industries

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Anti-Corruption

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On December 29, 2023, China's legislature, the National People's Congress, [amended](#) the *Criminal Law*. Among other things, the amendments impose higher penalties on bribe givers and entities that accept bribes. These amendments, which will take effect on March 1, 2024, correspond with the Communist Party's policy to target both bribe receivers and bribe givers -- an idea first put forward during the Party's 19th National Congress in 2017.

The Party and government continue to focus on anti-corruption efforts, as reflected in a recent speech by President Xi Jinping vowing "no mercy" in fighting corruption and singling out the pharmaceutical, finance, infrastructure, and energy industries, as well as state-owned enterprises.

### Key Amendments to the Existing Criminal Law Related to Corruption-Related Crimes

**1. Higher penalties on bribe givers.** The amendments impose more severe penalties on bribe givers, both individuals and entities. Under the current version of the *Criminal Law*, an entity giving a bribe to a "state functionary" (e.g., civil servants, certain SOE employees, certain employees of public institutions, and others) could be fined, and the employees at the entity responsible for committing the crime could face up to five years of prison plus individual fines. The amended Article 393 increases the maximum prison term to 10 years for culpable individuals at an entity responsible for giving a bribe to a state functionary.

Similarly, the amended Article 391 increases from three to seven years the maximum prison sentence for an individual (unconnected with an entity) offering bribes to a government-affiliated entity.

**2. New provisions on aggravating circumstances for bribery that could lead to higher penalties.** The amended Article 390 adds seven aggravating circumstances that could increase penalties for bribery, including when the bribe giver has (1) repeatedly offered bribes or offered bribes to more than one person, (2) been a state functionary, (3) offered bribes in connection with key national projects or major programs, (4) offered bribes for job positions, promotions, or adjustments, (5) offered bribes to supervisory, administrative law enforcement, or judicial officers, (6) offered bribes and committed criminal activities related to ecological environment, financial and fiscal affairs, workplace safety, food and drugs, disaster prevention and relief, social security, education, and healthcare, or (7) used illegal gains to pay bribes.

Notably, compared to the previous guidance regarding aggravating factors from Article 7 of the 2016 *Judicial Interpretation Regarding Interpretation of Applicable Law on Handling Cases of Corruption and Bribery*, healthcare has been added to the list of industries targeted for heightened scrutiny.

**3. Higher penalties on entities that take bribes.** Previously, if an entity accepted bribes, the persons directly in charge and persons directly responsible for the offense could be punished by up to five years in prison. The amended Article 387 differentiates between “serious” circumstances, which carry a sentence of up to three years, and “especially serious” circumstances, which carry a sentence of three to 10 years.

## Comparison of Provisions Related to Bribery and Corruption in the Preexisting PRC Criminal Law Against Revisions in the 12th Amendment

Preexisting Criminal Law	After the 12th Amendment to Criminal Law (enacted December 2023, effective March 1, 2024)
<p>Article 387</p> <p>Where a State organ, State-owned company, enterprise, institution or people's organization extorts from another person or illegally accepts another person's money or property in return for securing benefits for the person, if the circumstances are serious, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.</p> <p>Any of the units mentioned in the preceding paragraph that, in economic activities, secretly accepts off-the-book rebates or service charges of various descriptions shall be regarded as guilty of acceptance of bribes and punished in accordance with the provisions of the preceding paragraph.</p>	<p>Article 387</p> <p>Where a State organ, State-owned company, enterprise, institution or people's organization extorts from another person or illegally accepts another person's money or property in return for securing benefits for the person, if the circumstances are serious, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than <del>five</del> <b>three</b> years or criminal detention; <b>if the circumstances are especially serious, they shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.</b></p> <p>Any of the units mentioned in the preceding paragraph that, in economic activities, secretly accepts off-the-book rebates or service charges of various descriptions shall be regarded as guilty of acceptance of bribes and punished in accordance with the provisions of the preceding paragraph.</p>
<p>Article 390</p> <p>Whoever commits the crime of offering bribes shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall be concurrently fined; whoever offers bribes to secure illegitimate benefits, if the circumstances are serious or if heavy losses are caused to the interests of the State, shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall be concurrently fined; if the circumstances are especially serious, or if especially heavy losses are caused to the interests of the State, he shall be sentenced to fixed-term imprisonment of not less than</p>	<p>Article 390</p> <p>Whoever commits the crime of offering bribes shall be sentenced to fixed-term imprisonment of not more than <del>five</del> <b>three</b> years or criminal detention and shall be concurrently fined; whoever offers bribes to secure illegitimate benefits, if the circumstances are serious or if heavy losses are caused to the interests of the State, shall be sentenced to fixed-term imprisonment of not less than <del>five</del> <b>three</b> years but not more than 10 years and shall be concurrently fined; if the circumstances are especially serious, or if especially heavy losses are caused to the interests of the State, he shall be sentenced to fixed-term</p>

<p>10 years or life imprisonment, and shall be concurrently fined or subject to confiscation of property.</p> <p>Any briber who, before he is prosecuted for criminal liability, voluntarily confesses his act of offering bribes may be given a reduced or mitigated punishment. If he commits a minor crime, and plays a key role in investigating or solving a significant case, or performs major meritorious behavior, his punishment may be mitigated or waived.</p>	<p>imprisonment of not less than 10 years or life imprisonment, and shall be concurrently fined or subject to confiscation of property.</p> <p><b>An increased punishment shall be imposed under any of the following circumstances:</b></p> <p><b>(1) repeatedly offering bribes or offering bribes to more than one person;</b></p> <p><b>(2) offering bribes by a state functionary;</b></p> <p><b>(3) offering bribes in a national key project or major program;</b></p> <p><b>(4) offering bribes to secure promotions or adjustments in position or rank;</b></p> <p><b>(5) offering bribes to supervisory, administrative law enforcement, or judicial officers;</b></p> <p><b>(6) offering bribes and committing criminal activities in areas such as ecology and environment, financial and fiscal affairs, work safety, food and drugs, disaster prevention and relief, social security, education, and healthcare; or</b></p> <p><b>(7) using the illegal gains to pay bribes.</b></p> <p>Any briber who, before he is prosecuted for criminal liability, voluntarily confesses his act of offering bribes may be given a reduced or mitigated punishment. If he commits a minor crime, and plays a key role in investigating or solving a significant case, or performs major meritorious behavior, his punishment may be mitigated or waived.</p>
<p>Article 391</p> <p>Whoever, for the purpose of securing illegitimate benefits, gives money or property to a State organ, State-owned company, enterprise, institution or people's organization or, in economic activities, violates State regulations by giving rebates or service charges of various descriptions shall be sentenced to fixed-term imprisonment of not more than three years</p>	<p>Article 391</p> <p>Whoever, for the purpose of securing illegitimate benefits, gives money or property to a State organ, State-owned company, enterprise, institution or people's organization or, in economic activities, violates State regulations by giving rebates or service charges of various descriptions shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and shall be concurrently fined; <b>if the circumstances</b></p>

<p>or criminal detention, and shall be concurrently fined.</p> <p>Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offense shall be punished in accordance with the provisions of the preceding paragraph.</p>	<p><b>are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years, and shall be concurrently fined.</b></p> <p>Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offense shall be punished in accordance with the provisions of the preceding paragraph.</p>
<p>Article 393</p> <p>Where a unit offers bribes for the purpose of securing illegitimate benefits or, in violation of State regulations, gives rebates or service charges to a State functionary, if the circumstances are serious, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offense shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and shall be concurrently fined. Any person who takes into his own possession the illegal gains derived from bribing shall be convicted and punished in accordance with the provisions of Articles 389 and 390 of this Law.</p>	<p>Article 393</p> <p>Where a unit offers bribes for the purpose of securing illegitimate benefits or, in violation of State regulations, gives rebates or service charges to a State functionary, if the circumstances are serious, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offense shall be sentenced to fixed-term imprisonment of not more than <del>five</del> <b>three</b> years or criminal detention, and shall be concurrently fined; <b>if the circumstances are especially serious, they shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall be concurrently fined.</b> Any person who takes into his own possession the illegal gains derived from bribing shall be convicted and punished in accordance with the provisions of Articles 389 and 390 of this Law.</p>

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