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Advantage rule

HONGKONG

Following the recent scandal, involving two senior government officials, which rocked the local construction industry and the property-linked stock market, Hongkong businessmen now fear the government is planning legislation to bring them within the scope of the stringent anti-corruption laws that govern civil servants. If it became law, this legislation would give the courts power to sack private businessmen convicted under the Prevention of Bribery Ordinance and make sure they cannot get another job in the same line.

Civil servants already face certain dismissal if convicted following investigation by the Independent Commission Against Corruption. Others similarly convicted are banned for up to seven years from being a member of any public body, such as the urban council, the two advisory councils to the governor or 41 specified organisations, eg, utility companies and television stations. The two main charges used against civil servants in corruption cases are of accepting an "advantage" and of having assets disproportionate to income. If these criteria are, indeed, to be applied to business-

men, they have reason to quake. The onus is on the defendant to show his assets are proportionate to his income, not on the prosecution to show they are disproportionate. And while a bribe may be hard to define, an advantage is a catch-all term that could make businessmen wary about offering a cigarette.

As well as bringing the public and private sectors into line, the proposed changes would ensure that company directors, especially of family-run companies typical of Hongkong's Chinese business community, are held responsible when staff are convicted of corruption. This was always the intention, but the courts have not been interpreting the existing legislation this way.



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