

# INSIGHTS



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## LIGHTS – CAMERA – ECCTA!

The Economic Crime and Corporate Transparency Act 2023 ("ECCTA") is a UK legislation that has introduced the offence of "failure to prevent fraud" in section 199. As of 1 September 2025, this offence imposes strict liability on organisations for failure to prevent fraud committed by their employees, agents, subsidiaries or other associated persons. This will apply to and affect incorporated (registered) organisations doing business or having business interests in the UK.

This has harsher consequences on an organisation than those imposed by South Africa's Prevention and Combating of Corrupt Activities Act 12 of 2004 ("PRECCA").

Both acts impose accountability on organisations for failing to prevent fraudulent or corrupt acts committed by management, employees, and associated parties, the key differences are the scope, extraterritorial jurisdiction reach and defences available.

ECCTA's scope is fraud (the intentional use of deception, false statements, or misrepresentation to secure an unlawful gain (usually financial) or cause a loss to another). Section 199 of the ECCTA imposes strict liability if fraud is committed for the organisation's benefit and the fraud committed has a UK nexus including UK-incorporated organisations, UK victims, transactions, or UK-based personnel. There must be either conduct, an actor or its effect that is linked to the UK for prosecution under ECCTA.



PRECCA focuses on corruption (the abuse of public or private power, position, or authority for undue advantage). Section 34 of PRECCA imposes liability on an organisation if the corruption committed is for the organisation's benefit and the South African connection is: A citizen, an ordinarily resident person or an organisation incorporated in South Africa. The corrupt act or its effect does not have to have a South African connection.

The ECCTA strict liability onus implies that lack of knowledge and intent are not a valid defence, and even if an employee's actions in the commission of fraud are covert and independent, the organisation may be held accountable and sanctioned. It is the simple act or presence of fraud that attributes liability. This contrasts with PRECCA, which requires proof of intent or negligence by the organisation for it to be held liable; this is more difficult to prove and less onerous to the organisation.



It is important to note that s199 of ECCTA does not apply to all organisations, it specifically applies to large organisations and subsidiaries as defined in the act, i.e. number of employees > 250, annual turnover > 36m and total assets > 18m.

A valid defence under s199 of ECCTA is if the organisation can show it had "reasonable fraud prevention procedures" that were breached.

The "reasonable" fraud prevention framework put in place by a relevant organisation should be informed by six principles:

- top level commitment (*Governance*)
- risk assessment (*Risk Management*)
- proportionate risk-based prevention procedures (*Risk Management*)



- due diligence (*Compliance*)
- communication (including training) (*Conduct Risk*)
- monitoring and review (*Compliance & Risk Management*)

The application of these principles is not rigid and should be practical and proportionate to the risk.

If these principles look familiar, it's because they are all factored in with comprehensive CGRC (Conduct Risk, Governance, Risk Management and Compliance) fraud deterrent framework and practice.

1. **Conduct Risk:** Organisation culture, protections and incentives.
2. **Governance:** Board accountability, policy and strategy.
3. **Risk Management:** Assessment and controls to identify, detect, respond and stop.
4. **Compliance:** Regulatory, monitoring and reporting.

The Economic Crime and Corporate Transparency Act (ECCTA) demands more than just policies, it requires demonstrable, proportionate fraud prevention practice.

Cyclopedic Consulting's CGRC services equip your organisation with tools, frameworks, and practical guidance to turn your ECCTA readiness into a competitive advantage.

Our CGRC expertise turns compliance into confidence.

By [Adv. Sannah Pooe](#) 2025/08/26