



New South Wales

Crimes Amendment (Misconduct in Public Office and Other Matters) Bill 2018

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to prohibit the following misconduct in or in relation to public office:

- (a) current and former public officials misusing information obtained in an official capacity,
- (b) public officials engaging in official conduct, or exercising influence, for dishonest purposes,
- (c) public officials acting in matters in which they have a pecuniary interest,
- (d) the bribing of public officials,
- (e) public officials accepting bribes,
- (f) conspiring to dishonestly influence a public official,
- (g) conspiring to dishonestly obtain a benefit from a public authority,
- (h) conspiring to dishonestly cause a loss or risk of loss to a public authority.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Crimes Act 1900 No 40

Schedule 1 inserts the following provisions in the *Crimes Act 1900* in proposed Part 4AF:

Proposed section 215 defines *public official*.

Proposed section 216 makes it an indictable offence for a public official or former public official to use information obtained in the person's capacity as a public official with the intention of dishonestly obtaining a benefit for any person (including the public official) or dishonestly causing a detriment to another person. The maximum penalty is imprisonment for 7 years.

Proposed section 217 makes it an indictable offence:

- (a) for a public official to engage in official conduct with the intention of dishonestly obtaining a benefit for any person or dishonestly causing a detriment to another person, or
- (b) for a public official to exercise influence as a public official with the intention of dishonestly obtaining a benefit for any person or dishonestly causing a detriment to another person.

In each case, the maximum penalty is imprisonment for 7 years.

Proposed section 218 makes it an indictable offence for a public official to deal with matters in an official capacity if the public official has a pecuniary interest in the matters. The maximum penalty is imprisonment for 7 years.

Proposed section 219 makes it an indictable offence to bribe a public official. The maximum penalty is imprisonment for 7 years.

Proposed section 220 makes it an indictable offence for a public official to receive a bribe. The maximum penalty is imprisonment for 7 years.

Proposed section 221 makes it an indictable offence to conspire with another person with the intention of dishonestly influencing a public official in the exercise of the official's duties as a public official. The maximum penalty is imprisonment for 7 years.

Proposed section 222 makes it an indictable offence to conspire with another person with the intention of dishonestly obtaining a gain from, or causing a loss or substantial risk of loss to, a public authority. In each case, the maximum penalty is imprisonment for 7 years.

Proposed section 223 provides that the proposed Part is in addition to, and does not derogate from, other existing offences about corrupt practices.