

FIRST PRINT

**CRIMES (MISUSE OF PUBLIC PROPERTY) AMENDMENT
BILL 1994**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Crimes Act 1900 to enable the prosecution in New South Wales of certain offences committed by public officials outside New South Wales that involve the misuse of public money of the State, or other property held by or on behalf of the State.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Crimes Act 1900.

SCHEDULE 1—AMENDMENTS

Misuse of public property by public officials outside New South Wales

Schedule 1 (2) inserts new section 3B in Part 1 of the Crimes Act 1900.

The proposed section provides that public officials who commit certain offences that involve public money of the State, or other property held by or on behalf of the State, outside New South Wales may be prosecuted and liable to the same punishment as if the offence had been committed within New South Wales. "Public official" and "the State" are defined in proposed section 3B (8).

The offences concerned are offences under section 178BA (Obtaining money etc. by deception) or 178BB (Obtaining money etc. by false or misleading statements) of the Crimes Act 1900.

Proposed section 3B (6) makes it clear that the proposed section applies only to offences committed after the commencement of the proposed section.

Crimes (Misuse of Public Property) Amendment 1994

Consequential amendments to the Crimes Act 1900

Schedule 1 (1) is consequential on the insertion of proposed section 3B.

Schedule 1 (3) is a consequential amendment that excludes proposed section 3B from the Second Schedule to the Crimes Act 1900 (which contains a list of provisions of the Crimes Act 1900 that extend to all offences and courts).

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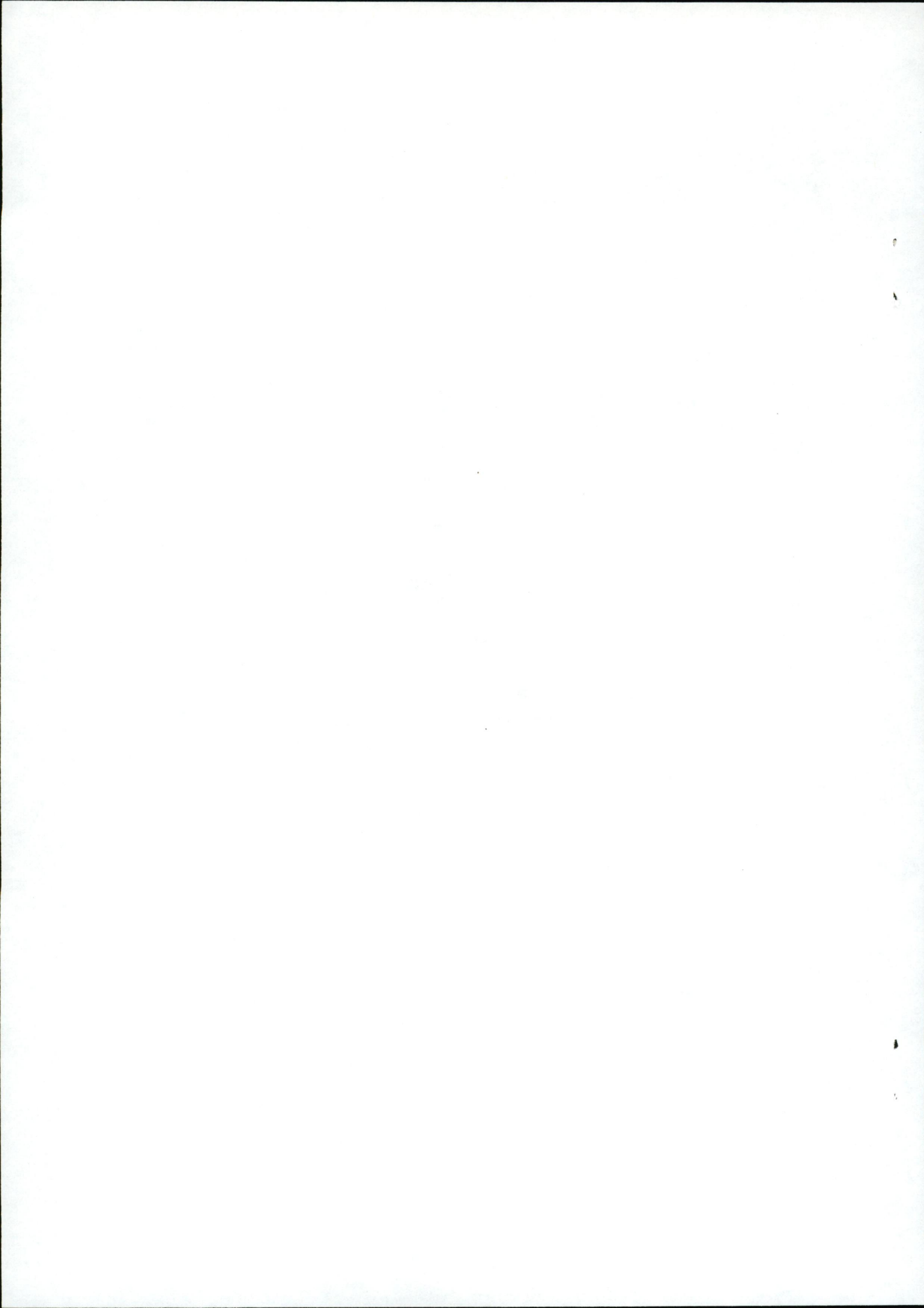
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Crimes Act 1900 No. 40

SCHEDULE 1—AMENDMENTS



**CRIMES (MISUSE OF PUBLIC PROPERTY) AMENDMENT
BILL 1994**

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to amend the Crimes Act 1900 to make further provision with respect to the extraterritorial application of the criminal law of New South Wales; and for other purposes.

Crimes (Misuse of Public Property) Amendment 1994

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Crimes (Misuse of Public Property) Amendment Act 1994.

5 Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Crimes Act 1900 No. 40

3. The Crimes Act 1900 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

10

(Sec. 3)

(1) Section 1 (**Short title and contents of Act**):

After the matter relating to Part 1 (3A), insert:

(3B) *Misuse of public property by public officials outside the State—s. 3B*

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(2) Section 3B:

After section 3A, insert:

Misuse of public property by public officials outside the State

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Misuse of public property by public officials outside the State

3B. (1) A public official commits an offence under section 178BA or 178BB if:

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- (a) the public official does, or omits to do, outside the State any act or thing that constitutes the offence; and
- (b) (apart from this section) the act or omission would have constituted the offence had it been done, or omitted to be done, within the State; and

Crimes (Misuse of Public Property) Amendment 1994

SCHEDULE 1—AMENDMENTS—*continued*

(c) the offence involves public money of the State or other property held by any person for or on behalf of the State.

(2) A public official who commits an offence by the operation of this section may be dealt with, and is liable to the same punishment, as if the public official had committed the offence within the State. 5

(3) A sufficient nexus exists between the State and an element of an offence to which this section applies if the offence is committed by a public official and involves the misuse of public money of the State or other property held by any person for or on behalf of the State. 10

(4) The other provisions of this Act, the provisions of other Acts and the common law, in so far as these are applicable, apply to an offence to which this section applies as if it had been committed within the State (for example, section 344A and the rules of law relating to attempts to commit offences apply to such an offence). 15

(5) Nothing in this section prevents or affects any other punishment, or any forfeiture, provided under any Act. In particular, nothing in this section prevents or affects any other punishment for a breach of discipline by a public official. 20

(6) This section applies only to acts or omissions occurring after the commencement of this section. 25

(7) This section is in addition to and does not derogate from any other basis on which the courts of the State may exercise criminal jurisdiction.

(8) In this section: 30

“public official” has the same meaning as it has in the Independent Commission Against Corruption Act 1988;

“the State” includes:

(a) the territorial sea adjacent to the State; and

(b) the sea on the landward side of the territorial sea that is not within the limits of the State. 35

Crimes (Misuse of Public Property) Amendment 1994

SCHEDULE 1—AMENDMENTS—*continued*

(3) Second Schedule (Application of certain Parts and sections of Act):

5 Omit “Sections 3A to 10”, insert instead “Sections 3A, 4 to 10”.

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Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Crimes Act 1900.

SCHEDULE 1—AMENDMENTS

Misuse of public property by public officials outside New South Wales

Schedule 1 (2) inserts new section 3B in Part 1 of the Crimes Act 1900.

The proposed section provides that public officials who commit certain offences that involve public money of the State, or other property held by or on behalf of the State, outside New South Wales may be prosecuted and liable to the same punishment as if the offence had been committed within New South Wales. "Public official" and "the State" are defined in proposed section 3B (8).

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Crimes (Misuse of Public Property) Amendment 1994

Consequential amendments to the Crimes Act 1900

Schedule 1 (1) is consequential on the insertion of proposed section 3B.

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Crimes (Misuse of Public Property) Amendment 1994

SCHEDULE 1—AMENDMENTS—*continued*

(c) the offence involves public money of the State or other property held by any person for or on behalf of the State.

(2) A public official who commits an offence by the operation of this section may be dealt with, and is liable to the same punishment, as if the public official had committed the offence within the State. 5

(3) A sufficient nexus exists between the State and an element of an offence to which this section applies if the offence is committed by a public official and involves the misuse of public money of the State or other property held by any person for or on behalf of the State. 10

(4) The other provisions of this Act, the provisions of other Acts and the common law, in so far as these are applicable, apply to an offence to which this section applies as if it had been committed within the State (for example, section 344A and the rules of law relating to attempts to commit offences apply to such an offence). 15

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