



Jamie Parker  
Legislation briefing  
16 April 2018

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

### **Background**

In NSW corrupt conduct is contained in the common law rather than being a statutory offence. In 2014, the Prosecutions arising from the Independent Commission Against Corruption (ICAC) investigations Inquiry was tasked to investigate if there is a need to create new criminal offences that capture corrupt conduct.

The impetus for the proposals contained in this Bill came from the ICAC submission which listed a range of offences that should be regulated as part of the the *Crimes Act 1990* (NSW) (the Crimes Act).

These recommendations are based on the rationale that members of the public and public officials should readily have available, via legislation, a succinct and clear statement of the offence of misconduct in public office and the maximum penalty that may be imposed where an offence is found to be committed.

By legislating these offences in the Crimes Act, Parliament is provided the opportunity to revise and modernise the elements and penalty for the offences.

### **Function**

This Bill creates indictable offences to prohibit the following misconduct in 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 obtain a benefit from, or to defraud, public authorities or public officials

The Bill is informed by Commonwealth and other state jurisdictions where corruption offences are statutory and attempts to retain the breadth and flexibility of the current common law offences.

### **Resources**

ICAC's 2014 submission to the Prosecutions arising from ICAC investigations Inquiry:  
<https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-submission-details.aspx?pk=%2050764>