

## Official Corruption<sup>1</sup> s 87(1)(b)<sup>2</sup>

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The prosecution must prove:

1. That the defendant gave<sup>3</sup> property or a benefit<sup>4</sup> to a holder of public office.<sup>5</sup>
2. The defendant did so corruptly.<sup>6</sup>
3. The defendant did so with the intention<sup>7</sup> that the holder of public office should be corrupted.
4. The defendant did so on account of the holder of public office doing or omitting to do something in the discharge of his duties.<sup>8</sup>

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<sup>1</sup> See also s 87(1)(a) and ss 120 Judicial Corruption, 121 Official Corruption not Judicial but Relating to Offences.

<sup>2</sup> The offence is a prescribed offence under s 161Q *Penalties and Sentences Act 1992* so a serious organised crime circumstance of aggravation is applicable.

<sup>3</sup> (Or conferred or procured or promised, etc).

<sup>4</sup> If the charges alleges “promises” or “offers to give”, it is not necessary for the prosecution to prove that the holder of public office received any property or benefit.

<sup>5</sup> This is a question of fact: *R vMcCann* [1998] 2 Qd R 56.

<sup>6</sup> Corruption is not to be equated with dishonesty and dishonesty does not necessarily connote corruption: see *Re Lane* (QSC, Ryan J, 9 October 1992, unreported) which is referred to with approval in *DPP (Cth) v Hogarth* (1995) 93 A Crim R 452. In *Re Lane* at [10], Ryan J stated that in the context of the legislation relevant to the case, corrupt conduct means conduct which is done deliberately and contrary to the duties incumbent on the person by virtue of his public office, as a result of which the person sought to gain an advantage for himself or another (see Hogarth at 455).

<sup>7</sup> See notes to Intention.

<sup>8</sup> “Holder of public office” has a narrower meaning than “public officer” defined in s 1: *McCann* [ibid].