

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

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The prosecution must prove:

1. That the defendant was employed in the public service (or was the holder of a public office<sup>3</sup>).
2. The defendant was charged by virtue of such employment (or office) with the performance of any duty did not touch on the administration of justice.
3. The defendant asked for, (received, obtained or agreed or attempted to receive or obtain)
4. Any property (or benefit) of any kind
5. For himself (or any other person)
6. The defendant did so corruptly<sup>4</sup>
7. On account of anything already done (or omitted to be done, or to be afterwards done or omitted to be done)
8. By the defendant in the discharge of the duties of the defendant's office.<sup>5</sup>

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<sup>1</sup> See also s 87(1)(b) 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> This is a question of fact: *R v McCann* [1998] 2 Qd R 56.

<sup>4</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>5</sup> 'Holder of Public Office' has a narrower meaning than 'public officer' defined in s 1: *McCann* (ibid).