

TASMANIA

**CRIMINAL CODE AMENDMENT (MISCONDUCT IN PUBLIC
OFFICE) BILL 2021**

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CRIMINAL CODE AMENDMENT (MISCONDUCT IN PUBLIC OFFICE) BILL 2021

(Brought in by Cassandra Stanwell O'Connor MP)

A BILL FOR

An Act to amend the *Criminal Code Act 1924* to establish the offence of misconduct in public office

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Criminal Code Amendment (Misconduct in Public Office) Act 2021*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Principal Act

In this Act, the *Criminal Code Act 1924** is referred to as the Principal Act.

4. Schedule 1 amended (*Criminal Code*)

Schedule 1 to the Principal Act is amended as follows:

by inserting the following section after section 83

*No. 69 of 1924

83A. Misconduct in relation to public office

- (1) A public officer who, with intent to dishonestly gain a benefit for the officer or another person or to dishonestly cause a detriment to another person –
 - (a) deals with information gained because of office; or
 - (b) performs or fails to perform a function of office; or
 - (c) without limiting paragraphs (a) and (b), does an act or makes an omission in abuse of the authority of office –

is guilty of a crime.

Charge: Misconduct in public office

- (2) subsection (1)(a) applies to a person who ceases to be a public officer in a particular office, whether or not the person continues to be a public officer in some other capacity, if the person deals with information gained because of the office.
- (3) A reference in subsections (1) and (2) to information gained because of office or a particular capacity includes information gained because of an opportunity provided by the office or capacity.
- (4) In this section –

authority includes the trust imposed by office and the influence relating to office;

deals with includes –

- (a) uses;
- (b) supplies;
- (c) copies;
- (d) publishes.

function includes power;

information includes knowledge;

office, in relation to a person who is a public officer, means the position, role or circumstance that makes the person a public officer; and

performs includes purportedly performs and in relation to a power, exercises and purportedly exercises.

5. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.