

## 135.4 Conspiracy to defraud

### *Obtaining a gain*

- (1) A person is guilty of an offence if:
  - (a) the person conspires with another person with the intention of dishonestly obtaining a gain from a third person; and
  - (b) the third person is a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (2) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew that the third person was a Commonwealth entity.

### *Causing a loss*

- (3) A person is guilty of an offence if:
  - (a) the person conspires with another person with the intention of dishonestly causing a loss to a third person; and
  - (b) the third person is a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (4) In a prosecution for an offence against subsection (3), it is not necessary to prove that the defendant knew that the third person was a Commonwealth entity.

- (5) A person is guilty of an offence if:
  - (a) the person conspires with another person to dishonestly cause a loss, or to dishonestly cause a risk of loss, to a third person; and
  - (b) the first-mentioned person knows or believes that the loss will occur or that there is a substantial risk of the loss occurring; and
  - (c) the third person is a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (6) In a prosecution for an offence against subsection (5), it is not necessary to prove that the defendant knew that the third person was a Commonwealth entity.

### *Influencing a Commonwealth public official*

- (7) A person is guilty of an offence if:
  - (a) the person conspires with another person with the intention of dishonestly influencing a public official in the exercise of the official's duties as a public official; and
  - (b) the public official is a Commonwealth public official; and
  - (c) the duties are duties as a Commonwealth public official.

Penalty: Imprisonment for 10 years.

- (8) In a prosecution for an offence against subsection (7), it is not necessary to prove that the defendant knew:

- (a) that the official was a Commonwealth public official; or
- (b) that the duties were duties as a Commonwealth public official.

### *General provisions*

- (9) For a person to be guilty of an offence against this section:

- (a) the person must have entered into an agreement with one or more other persons; and
  - (b) the person and at least one other party to the agreement must have intended to do the thing pursuant to the agreement; and
  - (c) the person or at least one other party to the agreement must have committed an overt act pursuant to the agreement.
- (10) A person may be found guilty of an offence against this section even if:
- (a) obtaining the gain, causing the loss, causing the risk of loss, or influencing the Commonwealth public official, as the case may be, is impossible; or
  - (b) the only other party to the agreement is a body corporate; or
  - (c) each other party to the agreement is a person who is not criminally responsible; or
  - (d) subject to subsection (11), all other parties to the agreement have been acquitted of the offence.
- (11) A person cannot be found guilty of an offence against this section if:
- (a) all other parties to the agreement have been acquitted of such an offence; and
  - (b) a finding of guilt would be inconsistent with their acquittal.
- (12) A person cannot be found guilty of an offence against this section if, before the commission of an overt act pursuant to the agreement, the person:
- (a) withdrew from the agreement; and
  - (b) took all reasonable steps to prevent the doing of the thing.
- (13) A court may dismiss a charge of an offence against this section if the court thinks that the interests of justice require the court to do so.
- (14) Proceedings for an offence against this section must not be commenced without the consent of the Director of Public Prosecutions. However, before the necessary consent has been given, a person may be:
- (a) arrested for an offence against this section; or
  - (b) charged with an offence against this section; or
  - (c) remanded in custody or released on bail in connection with an offence against this section.