



New South Wales

Crimes Amendment (Corrupt Benefits for Trustees) Bill 2023

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crimes Act 1900* (*the Act*) to—

- (a) substitute the offence in the Act, section 249E in relation to corrupt benefits for trustees and others to—
 - (i) specify that the offering, giving, receiving or soliciting of the benefit must be corrupt, and
 - (ii) exclude the requirement to obtain the consent of each person beneficially entitled to the property or the Supreme Court in certain circumstances, and
 - (iii) exclude the requirement for the Attorney General's consent to commence proceedings for an offence under the section, and
- (b) provide that proposed section 249E and sections 249F and 316 apply and extend to conduct engaged in before the commencement of the proposed Act and that section 249E, as in force before its substitution, no longer applies to conduct that occurred before the commencement.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Crimes Act 1900 No 40

Schedule 1[1] substitutes the offence in the Act, section 249E in relation to the offering, giving, receiving or soliciting of benefits to or from a person entrusted with property as an inducement or reward for the appointment of a person to be a person entrusted with property. The proposed section—

- (a) specifies that the offering, giving, receiving or soliciting of the benefit must be corrupt, and
- (b) excludes the requirement to obtain the consent of each person beneficially entitled to the property or the Supreme Court if a benefit is provided to a person entrusted with property, and
- (c) excludes the requirement for the Attorney General’s consent to commence proceedings for an offence under the section.

The term “corruptly” would include dishonestly offering, giving, receiving or soliciting the benefit. This is consistent with other offences in the Act, Part 4A.

Schedule 1[2] inserts savings and transitional provisions in relation to sections 249E, 249F and 316, including to provide that—

- (a) proposed section 249E applies and extends to conduct engaged in before the commencement of the proposed Act and that section 249E, as in force before the commencement, no longer applies to conduct engaged in before the commencement other than in limited circumstances, and
- (b) sections 249F and 316 extend to a person who, before the commencement of the proposed Act, aided, abetted, counselled, procured, solicited, incited or concealed conduct engaged in before the commencement of the proposed Act.