



New South Wales

Crimes Amendment (Money Laundering) Bill 2022

Explanatory note

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

The following Bills are cognate with this Bill—

Dedicated Encrypted Criminal Communication Device Prohibition Orders Bill 2022

Law Enforcement (Powers and Responsibilities) Amendment (Digital Evidence Access Orders) Bill 2022

Overview of Bill

The object of this Bill is to prevent and disrupt organised and other serious crime by making amendments to the *Crimes Act 1900* (***the Act***) and the *Criminal Procedure Act 1986* to—

- (a) create new offences relating to money laundering, and
- (b) set out the circumstances in which there are reasonable grounds to suspect property is the proceeds of crime, and
- (c) provide for circumstances where there are reasonable grounds for suspecting property is the proceeds of crime, including circumstances where representations about property being the proceeds of crime or proceeds of general crime are obtained in the course of a controlled operation, and
- (d) enable alternative verdicts to be reached for an offence of money laundering relating to the proceeds of general crime, and
- (e) provide that there is no requirement to prove an offence was committed in relation to property that is the proceeds of general crime to prove an offence under the Act, Part 4AC, and
- (f) provide that an offence under the Act, section 193BA(3) is a summary offence.

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] inserts definitions of *cause* and *proceeds of general crime* for Part 4AC.

Schedule 1[2] amends the definition of *deal with* for Part 4AC.

Schedule 1[4] inserts proposed section 193BA into the Act to make it an offence to deal with proceeds of general crime being reckless as to whether it is proceeds of general crime and intending to conceal features of the property. The maximum penalty for the offence is imprisonment for 15 years. The proposed section sets out matters that may be relevant to whether a person intended to conceal or disguise features of money or other property. The proposed section also makes it an offence to deal with the proceeds of general crime being reckless as to whether it is proceeds of general crime with a maximum penalty of imprisonment for 10 years. **Schedule 1[3]** makes a consequential amendment.

Schedule 1[5] inserts proposed section 193C(1AA) and (1AB) into the Act. Section 193C(1AA) makes it an offence to deal with property valued at \$5 million or more where there are reasonable grounds to suspect the property is the proceeds of crime. The maximum penalty for the offence under subsection (1AA) is imprisonment for 8 years. Section 193C(1AB) provides that, where the offence under section 193C(1AA) is committed in circumstances of aggravation, the penalty for the offence is imprisonment for 10 years. **Schedule 1[6]** makes a consequential amendment to the offence in section 193C(1).

Schedule 1[8] inserts proposed section 193C(5) and (6) into the Act to define *circumstances of aggravation* for section 193C(1AB) and *criminal group*, *criminal organisation* and *serious criminal activity* for the section.

Schedule 1[9] inserts proposed sections 193CA and 193CB into the Act to set out the circumstances in which there are reasonable grounds to suspect property is the proceeds of crime under section 193C and to provide for circumstances in which property is taken to be proceeds of crime when, in the course of a controlled operation, the property is represented to be proceeds of crime or the proceeds of general crime. **Schedule 1[7]** makes a consequential amendment.

Schedule 1[10]–[14] amend the Act, section 193E to enable alternative verdicts to be reached for an offence of money laundering relating to the proceeds of general crime.

Schedule 1[15] inserts proposed section 193F(3) into the Act to make it clear there is no requirement to prove an offence was committed in relation to property that is the proceeds of general crime to prove an offence under Part 4AC of the Act.

Schedule 1[16] inserts a transitional provision into the Act, Schedule 11 to make it clear that an amendment made by the proposed Act apply only in relation to an offence committed, or alleged to have been committed, on or after the commencement of the amendment.

Schedule 2 Amendment of Criminal Procedure Act 1986 No 209

Schedule 2 makes an offence under the *Crimes Act 1900*, section 193BA(3) an offence that may be dealt with summarily.