



# **Proceeds of Crime Amendment (Proceeds and Other Matters) Act 2018**

**No. 21, 2018**

**An Act to amend the *Proceeds of Crime Act 2002*,  
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# Proceeds of Crime Amendment (Proceeds and Other Matters) Act 2018

No. 21, 2018

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**An Act to amend the *Proceeds of Crime Act 2002*,  
and for related purposes**

[Assented to 28 March 2018]

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Proceeds of Crime Amendment (Proceeds and Other Matters) Act 2018*.

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No. 21, 2018      *Proceeds of Crime Amendment (Proceeds and Other Matters) Act 2018*      1

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after this Act receives the Royal Assent.	29 March 2018

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Enhancements to the proceeds of crime regime**

### ***Proceeds of Crime Act 2002***

#### **1 Paragraph 5(ba)**

After “derived”, insert “or realised, directly or indirectly,”.

#### **2 Subparagraphs 20A(1)(g)(ii) and (3)(c)(ii)**

After “derived”, insert “or realised, directly or indirectly,”.

#### **3 Section 179A**

After “derived”, insert “or realised, directly or indirectly,”.

#### **4 Paragraphs 179E(1)(b) and (2)(b)**

After “derived”, insert “or realised, directly or indirectly,”.

#### **5 Subsection 179E(3)**

After “derived”, insert “or realised, directly or indirectly,”.

#### **6 Subsections 330(1) and (2)**

Repeal the subsections, substitute:

- (1) Property becomes *proceeds* of an offence if:
  - (a) the property is wholly or partly derived or realised from a disposal or other dealing with \*proceeds of the offence; or
  - (b) the property is wholly or partly acquired using proceeds of the offence; or
  - (c) an \*encumbrance or a security on, or a liability incurred to acquire, retain, maintain or make \*improvements to, the property is wholly or partly discharged using proceeds of the offence; or
  - (d) the costs of retaining, maintaining or making improvements to the property are wholly or partly met using proceeds of the offence; or
  - (e) the property is improved using proceeds of the offence;

including because of one or more previous applications of this section.

- (2) Property becomes an *instrument* of an offence if:
- (a) the property is wholly or partly derived or realised from the disposal or other dealing with an \*instrument of the offence; or
  - (b) the property is wholly or partly acquired using an instrument of the offence; or
  - (c) an \*encumbrance or a security on, or a liability incurred to acquire, retain, maintain or make \*improvements to, the property is wholly or partly discharged using an instrument of the offence; or
  - (d) the costs of retaining, maintaining or making improvements to the property are wholly or partly met using an instrument of the offence; or
  - (e) the property is improved using an instrument of the offence; including because of one or more previous applications of this section.

#### **7 Subsection 330(3)**

Omit “\*proceeds of an offence or an \*instrument”, substitute “*proceeds* of an offence or an *instrument*”.

#### **8 Subsection 330(4)**

Omit “\*proceeds of an offence or an \*instrument”, substitute “*proceeds* of an offence or an *instrument*”.

#### **9 Subsection 330(5)**

Omit “becomes proceeds of an offence or an instrument”, substitute “becomes *proceeds* of an offence or an *instrument*”.

#### **10 Subsection 330(6)**

Omit “\*proceeds of an \*unlawful activity, or an \*instrument”, substitute “*proceeds* of an \*unlawful activity, or an *instrument*”.

#### **11 At the end of section 330**

Add:

- (7) Paragraphs (1)(a) to (e) and (2)(a) to (e) do not limit each other.
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(8) This section does not limit section 329.

## **12 Paragraph 336A(c)**

Repeal the paragraph (including the note), substitute:

- (c) the property or wealth is not \*proceeds or an \*instrument of an offence.

## **13 Section 338**

Insert:

*improvements* to property or \*wealth includes additions to, altering, repairing, restoring, structuring, restructuring, or any other change to the whole or part of the property or \*wealth (whether or not it results in an increase in value of the property or wealth).

## **14 Application of amendments**

- (1) The amendments made by items 1 to 5 of this Schedule apply after the commencement of this Schedule in relation to property derived or realised, before or after that commencement, from the commission of an offence occurring before or after that commencement.
- (2) The amendments made by items 6 to 11 and 13 of this Schedule apply after the commencement of this Schedule in relation to:
- (a) property that is wholly or partly derived or realised from a disposal or other dealing, before or after that commencement, with property that is proceeds or an instrument of an offence (within the meaning of the *Proceeds of Crime Act 2002* as amended by those items); and
  - (b) property that is wholly or partly acquired, before or after that commencement, using property that is proceeds or an instrument of an offence (within the meaning of that Act as amended by those items); and
  - (c) property for which an encumbrance, security or liability is wholly or partly discharged, before or after that commencement, using property that is proceeds or an instrument of an offence (within the meaning of that Act as amended by those items); and
  - (d) property for which the costs of wholly or partly retaining, maintaining or improving are met, before or after that commencement, using property that is proceeds or an

**Schedule 1** Enhancements to the proceeds of crime regime

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instrument of an offence (within the meaning of that Act as amended by those items); and

- (e) property that is improved, before or after that commencement, using proceeds or an instrument of an offence (within the meaning of that Act as amended by those items).
- (3) The amendment made by item 12 of this Schedule applies after the commencement of this Schedule in relation to property or wealth acquired before or after that commencement.
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*[Minister's second reading speech made in—  
House of Representatives on 18 October 2017  
Senate on 16 February 2018]*

(243/17)

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