

# **Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Regulations 1992 No. 402**

## **EXPLANATORY STATEMENT**

### **Statutory Rules 1992 No. 402**

Issued by the Authority of the Minister of State for Justice

*Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990*

Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Regulations

Section 22 of the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990* (the Act) provides that the Governor-General may make regulations for the purpose of applying some sections of the Act to particular States and Territories.

Regulations are required to enable Australia to meet certain obligations under the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Convention).

Australia's instrument of ratification of the Convention was deposited with the United Nations on 16 November 1992. The Convention will enter into force for Australia on the ninetieth day after the deposit of the instrument of ratification, that is, on Sunday 14 February 1993.

Australia's obligations under the Convention include obligations to establish as criminal offences a comprehensive list of activities related to trafficking in drugs.

Certain "gaps" in State and Territory legislation concerning provisions making it an offence to launder property or money derived from drug offences led to the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Amendment Act 1992* (the amending Act). That was intended as an interim measure to enable ratification of the Convention, by overcoming the problem of States and Territories not having enacted provisions criminalising money laundering as required by the Convention.

The amending Act inserted sections 15A, 15B and 15C, (the Commonwealth offence sections) into the Act. They create three Commonwealth offences relating to laundering money or other property known to be derived from serious drug trafficking offences (which are identified by the Convention and which are also offences against State or Territory law).

The purpose of the Regulations is to prescribe 5 States and 2 Territories to which the Commonwealth offence sections will not apply, because those States and Territories have adequate laws to deal with offences relating to laundering the proceeds of drug offences.

Under subsection 22(2) of the Act, the Governor-General is not authorised to make such regulations unless satisfied that conduct which is an offence against the Commonwealth offence sections is also an offence against the law of a prescribed jurisdiction.

The Attorney-General of every State and Territory, except Tasmania, has advised of the adequacy of each jurisdiction's money laundering legislation. Accordingly, the States and Territories which are prescribed in the proposed Regulations are New South Wales, Victoria, Queensland, Western Australia, South Australia, the Australian Capital Territory and the Northern Territory.

Details of the Regulations are as follows.

Regulation 1 is a citation provision.

Regulation 2 provides that the Regulations will commence on the same date as the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Amendment Act 1992*, which itself is to commence immediately after the commencement of the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990*. It is proposed to proclaim that Act to commence on 14 February 1993, so as to coincide with Australia becoming a party to the Convention.

Regulation 3 is an interpretation provision.

Regulation 4 prescribes the States and Territories which have adequate money laundering legislation, and hence lists the States and Territories to which the Commonwealth offence sections will not apply.

Subregulation 4(1) prescribes States and Territories for the purposes of section 15A of the Act.

Subregulation 4(2) prescribes States and Territories for the purposes of section 15B of the Act.

Subregulation 4(3) prescribes States and Territories for the purposes of section 15C of the Act.