

Passed by both Houses



New South Wales

Crimes Amendment (Corrupt Benefits for Trustees) Bill 2023

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2023



New South Wales

Crimes Amendment (Corrupt Benefits for Trustees) Bill 2023

Act No _____, 2023

An Act to amend the *Crimes Act 1900* in relation to corrupt benefits for trustees and others.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Crimes Amendment (Corrupt Benefits for Trustees) Act 2023*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Crimes Act 1900 No 40

[1] Section 249E

Omit the section. Insert instead—

249E Corrupt benefits for trustees and others

- (1) A person is guilty of an offence if—
 - (a) the person corruptly offers or gives a benefit to a person entrusted with property as an inducement or reward for the appointment of a person to be a person entrusted with the property, or
 - (b) the person is entrusted with property and corruptly receives or solicits a benefit for any person as an inducement or reward for the appointment of a person to be a person entrusted with the property.Maximum penalty—imprisonment for 7 years.
- (2) In this section, a *person entrusted with property* means the following—
 - (a) a trustee of the property,
 - (b) an executor or administrator appointed for the purpose of dealing with the property,
 - (c) a person who, because of a power of attorney or a power of appointment, has authority over the property,
 - (d) a person managing or administering the property, or appointed or employed to manage or administer the property, under the *NSW Trustee and Guardian Act 2009*.
- (3) A reference to the appointment of a person includes—
 - (a) joining in the appointment of the person, and
 - (b) assisting in the appointment of the person.

[2] Schedule 11 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Crimes Amendment (Corrupt Benefits for Trustees) Act 2023

Application of sections 249E, 249F and 316

- (1) Section 249E, as inserted by the amendment Act, applies and extends to conduct engaged in before the commencement in the same way as if the conduct occurred after the commencement.
- (2) Without limiting subclause (1), section 249E, as in force before the commencement, no longer applies in relation to conduct engaged in before the commencement.
- (3) Subclauses (1) and (2) have no effect in relation to a conviction for an offence under section 249E that occurred before the commencement.
- (4) Sections 249F and 316—
 - (a) extend to a person who, before the commencement, aided, abetted, counselled, procured, solicited, incited or concealed engagement in conduct mentioned in section 249E as inserted by the amendment Act, and

- (b) no longer apply in relation to aiding, abetting, counselling, procuring, soliciting, inciting or concealing engagement in conduct referred to in section 249E, as in force before the commencement.
- (5) Despite subclauses (1) and (4)(a), section 249E as inserted by the amendment Act and sections 249F and 316 do not apply or extend to conduct engaged in before the commencement in relation to property with the consent of—
 - (a) each person beneficially entitled to the property, or
 - (b) the Supreme Court.
- (6) To avoid doubt, the *Interpretation Act 1987*, section 30 does not apply in relation to engagement in conduct mentioned in section 249E, or the application of section 249E, before the commencement.
- (7) In this clause—

amendment Act means the *Crimes Amendment (Corrupt Benefits for Trustees) Act 2023*.

commencement means the commencement of the *Crimes Amendment (Corrupt Benefits for Trustees) Act 2023*.