2019

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Currency (Restrictions on the Use of Cash) Bill 2019

No. , 2019

(Treasury)

A Bill for an Act to restrict the use of cash in transactions, and for related purposes
## Contents

### Part 1—Preliminary

1. Short title ................................................................. 1
2. Commencement ............................................................ 2
3. Objects ........................................................................ 2
4. Simplified outline of this Act ........................................... 3
5. This Act binds the Crown ............................................... 3
6. Extension to external Territories ...................................... 3
7. Definitions ...................................................................... 3
8. Meaning of cash payment limit ........................................ 4
9. Value of cash—foreign currency and digital currency .......... 4
10. Periodic supplies .......................................................... 4

### Part 2—Offences

11. Simplified outline of this Part ......................................... 5
12. Offence—cash payments equalling or exceeding the cash payment limit (strict liability) ......................... 5
13. Offence—cash payments equalling or exceeding cash payment limit .................................................. 6

### Part 3—Miscellaneous

14. Simplified outline of this Part ......................................... 9
15. Treatment of entities other than individuals, bodies corporate and bodies politic ...................................... 9
16. Vicarious criminal liability .............................................. 10
17. Recovery of fines .......................................................... 11
18. Saving of other laws ...................................................... 11
19. Additional constitutional operation ................................... 11
20. Rules ........................................................................ 12
A Bill for an Act to restrict the use of cash in transactions, and for related purposes

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act is the *Currency (Restrictions on the Use of Cash) Act 2019*. 
Part 1 Preliminary

Section 2

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.

<table>
<thead>
<tr>
<th>Provisions</th>
<th>Commencement</th>
<th>Date/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The whole of this Act</td>
<td>1 January 2020.</td>
<td>1 January 2020</td>
</tr>
</tbody>
</table>

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 Objects

(1) The principal object of this Act is to protect the integrity of the Commonwealth taxation system, by preventing the use of cash in order to avoid scrutiny by the Commissioner of Taxation seeking to enforce the taxation law. A secondary object of this Act is, by adopting the same means, similarly to protect the integrity of other laws.

Note: Examples of activities that can be facilitated by large cash payments include tax evasion, money laundering, fraud, bribery, and obtaining financial advantage by deception.

(2) These objects are to be achieved by making it an offence for an entity to make or accept cash payments that are equal to or that exceed the cash payment limit, unless the payment is expressly exempted under this Act. Entities will need to use other payment methods for payments that equal or exceed the cash payment limit.
4 Simplified outline of this Act

This Act places restrictions on the use of cash or cash-like products within the Australian economy. The Act imposes criminal offences if an entity makes or accepts cash payments in circumstances that breach the restrictions. The Act also sets out rules for what happens when an entity that is not a legal person commits the offences.

5 This Act binds the Crown

(1) This Act binds the Crown in each of its capacities.

(2) This Act does not make the Crown liable to be prosecuted for an offence.

6 Extension to external Territories

This Act extends to every external Territory.

7 Definitions

In this Act:

cash means either or both of the following:

(a) digital currency;

(b) physical currency.

cash payment limit: see section 8.

digital currency has the meaning given by the Anti-Money Laundering and Counter-Terrorism Financing Act 2006.

entity has the meaning given by the Income Tax Assessment Act 1997.

Note: Subsection 960-100(1) of the Income Tax Assessment Act 1997 provides that entity means any of the following:

(a) an individual;

(b) a body corporate;

(c) a body politic;

(d) a partnership;
Part 1 Preliminary

Section 8

1. (e) any other unincorporated association or body of persons;
2. (f) a trust;
3. (g) a superannuation fund;
4. (h) an approved deposit fund.

Some of these terms are further defined in the *Income Tax Assessment Act 1997*.

- **physical currency** has the meaning given by the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.
- **rules** means the rules made under section 20.
- **supply** has the meaning given by section 9-10 of the *A New Tax System (Goods and Services Tax) Act 1999*.
- **value**, in relation to cash, has a meaning affected by section 9.

8 Meaning of cash payment limit

For this Act, the **cash payment limit** is $10,000.

9 Value of cash—foreign currency and digital currency

For the purposes of this Act, the value in Australian currency of an amount of cash paid in foreign currency or digital currency is to be worked out in accordance with the method prescribed by the rules.

10 Periodic supplies

1. (1) If a supply is made for a period and payment for that supply is to be made on a periodic basis, each periodic component of the supply is, for the purposes of this Act, a separate supply.
2. (2) A payment is part of a series of payments for a periodic component of a supply if it is, to any extent, a payment for that component.
Part 2—Offences

11 Simplified outline of this Part

This Part creates offences for making or accepting certain cash payments.

12 Offence—cash payments equaling or exceeding the cash payment limit (strict liability)

Single payment that equals or exceeds cash payment limit

(1) An entity commits an offence if:

(a) the entity:
   (i) makes a payment to another entity; or
   (ii) accepts a payment from another entity; and

(b) the payment is or includes an amount of cash; and

(c) the value of the cash equals or exceeds the cash payment limit.

Penalty: 60 penalty units.

(2) Strict liability applies to paragraphs (1)(b) and (c).

Note: For strict liability, see section 6.1 of the Criminal Code.

Series of payments that equals or exceeds cash payment limit

(3) An entity commits an offence if:

(a) the entity:
   (i) makes a payment to another entity; or
   (ii) accepts a payment from another entity; and

(b) the payment is part of a series of payments that are made for a supply or as a gift; and

(c) the payment is or includes an amount of cash; and
Part 2 Offences

Section 13

(d) as a result of the payment, the total value of all amounts of
   cash included in the payments in the series equals or exceeds
   the cash payment limit.

Penalty: 60 penalty units.

(4) Strict liability applies to paragraphs (3)(c) and (d).

Note: For strict liability, see section 6.1 of the Criminal Code.

Exception—kinds of payments to which this section does not apply

(5) Subsections (1) and (3) do not apply to:
   (a) the making of a payment of a kind specified by the rules; or
   (b) the acceptance of a payment of a kind specified by the rules;
       or
   (c) the making of a payment in circumstances specified by the
       rules; or
   (d) the acceptance of a payment in circumstances specified by
       the rules.

Note 1: A defendant bears an evidential burden in relation to the matters in
   subsection (5): see subsection 13.3(3) of the Criminal Code.

Note 2: The Minister may specify different matters for the purposes of this
   section and section 13.

Jurisdiction

(6) Section 15.2 (extended geographical jurisdiction—category B) of
   the Criminal Code applies to an offence against subsection (1) or
   (3) of this section if the payment or series of payments is for a
   supply and the supply occurs wholly or partly in Australia.

Note: If the supply does not occur wholly or partly in Australia, section 14.1
   of the Criminal Code (standard geographical jurisdiction) applies to
   the offence.

13 Offence—cash payments equalling or exceeding cash payment
   limit

Single payment that equals or exceeds cash payment limit

(1) An entity commits an offence if:

6 Currency (Restrictions on the Use of Cash) Bill 2019 No. , 2019
Offences  Part 2

Section 13

(a) the entity:
   (i) makes a payment to another entity; or
   (ii) accepts a payment from another entity; and
(b) the payment is or includes an amount of cash; and
(c) the value of the cash equals or exceeds the cash payment limit.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

Series of payments that equals or exceeds cash payment limit

(2) An entity commits an offence if:
   (a) the entity:
      (i) makes a payment to another entity; or
      (ii) accepts a payment from another entity; and
   (b) the payment is part of a series of payments that are made for
      a supply or as a gift; and
   (c) the payment is or includes an amount of cash; and
   (d) as a result of the payment, the total value of all amounts of
      cash included in the payments in the series equals or exceeds
      the cash payment limit.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

Exception—kinds of payments to which this section does not apply

(3) Subsections (1) and (2) do not apply to:
   (a) the making of a payment of a kind specified by the rules; or
   (b) the acceptance of a payment of a kind specified by the rules;
   or
   (c) the making of a payment in circumstances specified by the
      rules; or
   (d) the acceptance of a payment in circumstances specified by
      the rules.

Note 1: A defendant bears an evidential burden in relation to the matters in
   subsection (3): see subsection 13.3(3) of the Criminal Code.

Note 2: The Minister may specify different matters for the purposes of
   section 12 and this section.
Section 13

Jurisdiction

(4) Section 15.2 (extended geographical jurisdiction—category B) of the Criminal Code applies to an offence against subsection (1) or (2) of this section if the payment or series of payments is for a supply and the supply occurs wholly or partly in Australia.

Note: If the supply does not occur wholly or partly in Australia, section 14.1 of the Criminal Code (standard geographical jurisdiction) applies to the offence.
Part 3—Miscellaneous

14 Simplified outline of this Part

This Part sets out rules for how the offences in this Act apply when the entity that commits the offence is not a legal person. This Part also deals with miscellaneous matters, such as rules and the saving of other laws.

15 Treatment of entities other than individuals, bodies corporate and bodies politic

(1) Division 12 of the Criminal Code applies to offences against this Act committed by an entity that is not a person as if references in that Division to a body corporate were instead references to an entity.

(2) For the purposes of the application of Division 12 of the Criminal Code under subsection (1), an entity (the first entity) is taken to be an agent, employee or officer of another entity (the second entity), and is taken to be acting within the actual or apparent scope of employment by the second entity or within the actual or apparent authority of the second entity, if:

(a) the first entity is acting on behalf of the second entity; or

(b) both of the following apply:

(i) the first entity has duties, powers or responsibilities, or carries on activities, in relation to the second entity that are similar to the duties, powers, responsibilities or activities of an agent, employee or officer;

(ii) if the second entity were a body corporate and the first entity were an individual or a body corporate, a reasonable person would consider that the first entity was an agent, employee or officer of the second entity acting within the actual or apparent scope of employment by the second entity or within the actual or apparent authority of the second entity.
Section 16

16 Vicarious criminal liability

(1) Subject to subsection (2), an offence against this Act that would otherwise be committed by an entity listed in column 1 of the following table, including by reason of this subsection, is taken to have been committed by the entity, or each entity, listed in column 2.

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>a partnership</td>
<td>each partner</td>
</tr>
<tr>
<td>2</td>
<td>an unincorporated association or body of persons other than a partnership</td>
<td>each member of the association’s or body’s committee of management</td>
</tr>
<tr>
<td>3</td>
<td>a trust</td>
<td>(a) if the trust has a single trustee—the trustee; and (b) if the trust has 2 or more trustees—each trustee</td>
</tr>
<tr>
<td>4</td>
<td>a superannuation fund</td>
<td>(a) if the fund has a single trustee—the trustee; and (b) if the fund has 2 or more trustees—each trustee; and (c) if the fund does not have a trustee—the entity or entities that manage the fund</td>
</tr>
</tbody>
</table>

Defence to vicarious criminal liability

(2) An entity does not commit an offence because of subsection (1) if the entity:

(a) did not aid, abet, counsel or procure the relevant act or omission; and
(b) was not in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the entity).

Note: A defendant bears an evidential burden in relation to the matters in subsection (2): see subsection 13.3(3) of the Criminal Code.
17 Recovery of fines

(1) This section applies in relation to a person who has been convicted of an offence under this Act as a result of the operation of section 16.

(2) A fine for the offence may be recovered from the assets of the relevant entity referred to in column 1 of the table to subsection 16(1).

Note: See section 15A of the Crimes Act 1914 for the enforcement of fines.

(3) Subject to subsection (4), before imposing a fine on a person for an offence under this Act that can be recovered from the assets of an entity mentioned in column 1 of the table in subsection 16(1), a court must take into account the financial circumstances of the entity, including its assets, in addition to any other matters that the court is required or permitted to take into account.

(4) Nothing in subsection (3) prevents a court from imposing a fine on a person because the financial circumstances of the entity cannot be ascertained by the court.

(5) Subsection (3) does not affect subsection 16C(1) of the Crimes Act 1914.

18 Saving of other laws

This Act is not intended to exclude or limit the operation of any other law of the Commonwealth or any law of a State or Territory.

19 Additional constitutional operation

In addition to its effect apart from this section, this Act has the effect it would have if a reference to a payment were expressly confined to a payment that:

(a) is or includes an amount of cash that is currency, coinage or legal tender for the purposes of section 51(xii) of the Constitution; or
Part 3  Miscellaneous

Section 20

(b) is or includes an amount of cash that is digital currency created or used by means of a service to which section 51(v) of the Constitution refers; or

(c) is made or accepted by means of a service to which section 51(v) of the Constitution refers.

20 Rules

(1) The Minister may, by legislative instrument, make rules prescribing matters:
   (a) required or permitted by this Act to be prescribed by the rules; or
   (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) To avoid doubt, the rules may not do the following:
   (a) create an offence or civil penalty;
   (b) provide powers of:
       (i) arrest or detention; or
       (ii) entry, search or seizure;
   (c) impose a tax;
   (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
   (e) directly amend the text of this Act.