

**INQUIRY INTO THE CRIMES LEGISLATION AMENDMENT (PROCEEDS OF CRIME AND OTHER
MEASURES) BILL 2015**

SUBMISSION BY THE DIRECTOR OF PUBLIC PROSECUTIONS, STATE OF VICTORIA

The observations made in this submission concern those provisions of the *Crimes Legislation Amendment (Proceeds Of Crime And Other Measures) Bill 2015* ("Bill") which impact upon proceeds of crime applications (Schedule 1). The Victorian Director of Public Prosecutions, by virtue of jurisdiction, has limited exposure to the Commonwealth proceeds of crime scheme, although there are areas of overlap or concurrent proceeds of crime activity between the two jurisdictions.

We understand that the measures in the Bill, inter alia, will make amendments to the *Proceeds Of Crime Act 2002* ("POC Act") in response to the following two cases:

- *Commissioner of the Australian Federal Police v Zhao* [2015] HCA 5, and
- *Commissioner of the Australian Federal Police v Zhang* [2015] VSC 390.

Schedule 1 of the Bill contains amendments that will:

- clarify the principles a court may consider when granting an application for a stay of proceedings under the POC Act including providing grounds on which a stay is not to be granted, allowing for concurrent criminal and civil proceedings in certain circumstances with adequate protections put in place;
- strengthen protections against disclosure and use of material related to the confiscation proceedings in subsequent criminal proceedings, and
- clarify that, where an exclusion application has been made pursuant to Division 3 of Part 2-1 (dealing with restraining orders) of the POC Act, this application must be heard and finalised prior to the hearing of a forfeiture application.

This Office supports the measures in so far as they strengthen the Commonwealth Proceeds of Crimes regime.