

FACT SHEET

Crime (Confiscation of Profits) Amendment Bill 2018

The *Crime (Confiscation of Profits) Amendment Bill 2018* amends Part 9 of the *Crime (Confiscation of Profits) Act 1993*. Part 9 of the Act provides for non-conviction based unexplained wealth forfeiture laws. It commenced on 1 March 2014 and an independent review of this Part was undertaken in 2017.

The Bill implements the majority of the recommendations from the *Report of the Independent Reviewer* and provides for the following matters.

- Amends section 80 of the Act to clarify that where a requirement is made or obligation is held by a body of persons, such as an incorporated or unincorporated club or association, it is also held by each person who is a member of that body given their actual or apparent authority within that body.
- Amends section 87 of the Act by clarifying that the Director of Public Prosecutions may by written notice require financial organisations to provide any record, information, material or thing that may be relevant to unexplained wealth proceedings or persons specified in a notice. A number of additional minor amendments are made to section 87 to give effect to this requirement.
- Extends the operation of examination orders to allow for a person to be examined about whether his or her own wealth is lawfully acquired.
- Provides that a person may be examined about the nature, location and source of property that forms or may form part of the wealth, liabilities, income and expenditure of a person who is suspected of having unexplained wealth, and may also be examined about the identity of any person who may have the possession, control, custody or management of particular wealth, liabilities, income and expenditure and property-tracking documents.
- Amends section 97 to clarify that document production orders may also apply to the subject of unexplained wealth proceedings.
- Extends the provisions relating to the admissibility of evidence to allow for statements and disclosures that have been made by persons, including the subject of unexplained wealth proceedings to be used for proceedings under the Act that may lead the forfeiture of property.
- Extends the provisions relating to the admissibility of evidence to allow for information contained in a property tracking document or statement or disclosure made by a person in complying with a document production order to be used for proceedings under the Act that may lead the forfeiture of property.
- Provides that the Supreme Court may only make a wealth restraining order if satisfied that the Director of Public Prosecutions intends to make an unexplained wealth declaration application within a reasonable period that is not less than 21 days, but the

Supreme Court may refuse to make the order if the Director of Public Prosecutions refuses or fails to give to the Court such undertakings that the Court considers appropriate in relation to the payment of damages or costs, or both.

- Provides that an interim wealth-restraining order lasts for 3 days, excluding Saturdays, Sundays or statutory holidays or for a further period as the Court specifies. It further provides that the Court may refuse to make the order, if the Director of Public Prosecutions refuses or fails to give such undertakings as the Court considers appropriate in relation to the payment of damages or costs, or both.
- Amends the *Crime (Confiscation of Profits) Regulations 2014* and section 169 of the Act to clarify that the Public Trustee may be reimbursed for any reasonable costs or expenses incurred as a result of having control or management of property under Part 9.