

TASMANIA

CRIME (CONFISCATION OF PROFITS) AMENDMENT (UNEXPLAINED WEALTH) BILL 2013

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**CRIME (CONFISCATION OF PROFITS)
AMENDMENT (UNEXPLAINED WEALTH) BILL
2013**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
22 August 2013

*(Brought in by the Minister for Justice, the Honourable Brian
Neal Wightman)*

A BILL FOR

An Act to amend the *Crime (Confiscation of Profits) Act 1993*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Crime
(Confiscation of Profits) Amendment
(Unexplained Wealth) Act 2013*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

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Wealth) Act 2013*
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3. Principal Act

In this Act, the *Crime (Confiscation of Profits) Act 1993** is referred to as the Principal Act.

4. Section 4 amended (Interpretation)

Section 4(1) of the Principal Act is amended as follows:

- (a) by omitting “Director of Public Prosecutions” twice occurring from paragraph (a) of the definition of *authorized officer* and substituting “DPP”;
- (b) by omitting the definition of *commercial benefit* and substituting the following definitions:

commercial benefit – see section 4B;

commercial exploitation includes exploitation by any of the following means:

- (a) publishing any material in written or electronic form;
- (b) the use of media from which visual images, words or sounds can be produced;

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(c) any live entertainment,
representation or
interview;

- (c) by inserting the following definition after
the definition of *director*:

DPP means the person for the time
being holding, or acting in, the
office of the Director of Public
Prosecutions established by
section 3(1) of the *Director of*
Public Prosecutions Act 1973;

- (d) by omitting the definition of *monitoring*
order and substituting the following
definitions:

land has the same meaning as in the
Land Titles Act 1980;

literary proceeds – see section 4C;

- (e) by omitting the definition of *property-*
tracking document and substituting the
following definition:

property-tracking document – see
section 4A;

- (f) by inserting the following definitions
after the definition of *telephone*:

unexplained wealth – see section 139;

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unexplained wealth declaration

means a declaration under
section 142;

- (g) by omitting “Commonwealth.” from paragraph (c) of the definition of *unlawful activity* and substituting “Commonwealth;”;
- (h) by inserting the following definition after the definition of *unlawful activity*:

wealth – see section 138.

5. Sections 4A, 4B and 4C inserted

After section 4 of the Principal Act, the following sections are inserted in Part 1:

4A. Meaning of *property-tracking document*

For the purposes of this Act, a ***property-tracking document*** is a document relevant to –

- (a) identifying, locating or quantifying the property of a person who committed an offence; or
- (b) identifying or locating a document relating to the transfer of the property of a person who committed an offence; or

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- (c) identifying, locating or quantifying tainted property in relation to an offence; or
- (d) identifying or locating a document relating to the transfer of tainted property in relation to an offence; or
- (e) identifying, locating or quantifying the constituents of commercial benefits derived by a person in respect of an offence; or
- (f) identifying or locating a document relating to the transfer of the constituents of commercial benefits derived by a person in respect of an offence; or
- (g) identifying, locating or quantifying the constituents of a person's wealth; or
- (h) identifying or locating a document relating to the transfer of the constituents of a person's wealth; or
- (i) identifying or locating a document relating to the transfer of property that may be used to satisfy an unexplained wealth declaration or a proposed unexplained wealth declaration.

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4B. Meaning of *commercial benefit*

For the purposes of this Act, *commercial benefits* include –

- (a) benefits obtained from the publication or prospective publication of material in relation to the commission of an offence; and
- (b) benefits obtained from the commercial exploitation in any other way of notoriety gained by any person from the commission of an offence; and
- (c) literary proceeds within the meaning of section 4C.

4C. Meaning of *literary proceeds*

- (1) For the purposes of this Act, *literary proceeds* are any benefits that a person derives from the commercial exploitation of –
 - (a) the notoriety of the person as a result, either directly or indirectly, of the person committing an offence; or
 - (b) the notoriety of the person as a result of his or her involvement, whether directly or indirectly, in

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the commission of an offence by
another person.

- (2) In determining whether or not a person has derived literary proceeds, or determining the value of literary proceeds that a person has derived, an appropriate court may treat as the property of the person any property that, in the court's opinion –
- (a) is subject to the person's effective control; or
 - (b) was not received by the person, but was transferred or paid to another person –
 - (i) at the direction of the first-mentioned person; or
 - (ii) as a result of a transaction involving the first-mentioned person; or
 - (iii) as payment for an act or omission of the first-mentioned person.

6. Section 5A inserted

After section 5 of the Principal Act, the following section is inserted in Part 1:

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5A. Person may be dealt with as if convicted in certain circumstances

For the purposes of this Act, an authorized officer or appropriate court may deal with a person under this Act as if the person has been convicted of a serious offence if the person –

- (a) has been convicted of an offence in respect of the same events that were the basis of another person being convicted of a serious offence; and
- (b) derived literary proceeds in respect of either offence.

7. Section 8 amended (Effective control of property)

Section 8(1) of the Principal Act is amended by omitting “Act” and substituting “Act, other than Part 9,”.

8. Section 27 amended (Grounds for making restraining orders)

Section 27(7) of the Principal Act is amended by omitting “Director of Public Prosecutions” and substituting “DPP”.

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9. Section 55A inserted

Before section 56 of the Principal Act, the following section is inserted in Division 4:

55A. Interpretation

In this Division –

monitoring order means an order under section 56(1).

10. Part 8: Heading amended

Part 8 of the Principal Act is amended by omitting “**MISCELLANEOUS**” from the heading to that Part and substituting “**GENERAL LEGAL MATTERS**”.

11. Section 79 amended (Crime (Confiscation of Profits) Account)

Section 79 of the Principal Act is amended as follows:

- (a) by inserting “or the Commonwealth” after “another State” in paragraph (a) of the definition of *equitable sharing arrangement* in subsection (1);
- (b) by inserting in subsection (6)(b) “other than Part 9” after “Act”.

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12. Sections 80 and 83 substituted

Sections 80 and 83 of the Principal Act are repealed and the following Parts are substituted:

PART 9 – UNEXPLAINED WEALTH
Division 1 – Interpretation of Part

80. Interpretation

(1) In this Part –

at risk of forfeiture, in relation to property – see section 82(1);

document production order means an order under section 97;

effective control, of property – see section 81;

examination order means an order under section 92;

financial organisation includes –

- (a) a financial institution; and
- (b) a person who carries on State banking within the meaning of section 51(xiii) of the Constitution of the Commonwealth; and

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(c) a body corporate that is, or had it been incorporated in Australia would be, a trading corporation within the meaning of section 51 (xx) of the Constitution of the Commonwealth; and

(d) a person who, as part of his or her business, holds property in trust for another person;

forfeitable property declaration means a declaration under section 151(1);

forfeited property means property that –

(a) is transferred to the State under section 146(1) to satisfy an unexplained wealth declaration; or

(b) is the subject of a wealth forfeiture order;

give, in relation to property, includes transfer for consideration that is significantly less than the market value of the property at the time of transfer;

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interim wealth-restraining order
means an order under
section 116(3);

lawfully acquired – see section 84;

monitoring order means an order
under section 103;

proceeds, in relation to the sale of
property, means the value of the
property calculated in accordance
with section 158;

Recorder has the same meaning as in
the *Land Titles Act 1980*;

Register has the same meaning as in
the *Land Titles Act 1980*;

respondent, in respect of an
unexplained wealth declaration,
means the person against whom
the declaration is made;

restrained property means property
that is subject to a wealth-
restraining order;

specified restraining order means an
interim wealth-restraining order
or a wealth-restraining order;

suspension order means an order
under section 105;

unexplained wealth liability – see section 143;

unexplained wealth proceedings means any proceedings under this Part;

wealth forfeiture order means an order under section 152;

wealth-restraining order means an order under section 118.

- (2) In this Part, a reference to reasonable living and business expenses does not include a reference to any legal expenses mentioned in section 193.

81. Meaning of *effective control*

- (1) For the purposes of this Part, a person has effective control of property if, although the person may not have a legal interest in the property, the property is –
- (a) directly or indirectly subject to the control of the person; or
 - (b) held for the ultimate benefit of the person.
- (2) Without limiting subsection (1), when determining whether or not a person has effective control of any property, the following matters may be taken into account:

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- (a) any shareholdings in, debentures over or directorships of any corporation that has a direct or indirect interest in the property;
- (b) any trust that has a relationship to the property;
- (c) family, domestic and business relationships between persons having an interest in –
 - (i) the property; or
 - (ii) a corporation that has a direct or indirect interest in the property; or
 - (iii) a trust that has a relationship to the property;
- (d) any other relevant matters.

82. When property is at risk of forfeiture or taken to be property of a person

- (1) For the purposes of this Part, property is at risk of forfeiture under this Part if the property is owned or effectively controlled, or has at any time been given away, by a person who has unexplained wealth.
- (2) For the purposes of this Part, property is taken to be the property of a person if the

property is owned or effectively controlled by the person.

83. Dealing with land under this Part

- (1) A notice, declaration, order or instrument made under this Part in respect of land is taken to be a dealing, within the meaning of the *Land Titles Act 1980*, in respect of that land.
- (2) Any dealing lodged under the *Land Titles Act 1980* in respect of land for the purposes of this Part (an ***unexplained wealth dealing***) has priority over any other dealing lodged or registered under that Act in respect of the land regardless of whether or not the other dealing was lodged, or registered, before the unexplained wealth dealing.
- (3) The Recorder may determine the form or content of any thing lodged with the Recorder under this Part.

84. Meaning of *lawfully acquired*

- (1) For the purposes of this Part, property or a benefit is lawfully acquired only if –
 - (a) the property or benefit was acquired in a legal manner; and
 - (b) the property or benefit, or each part of the property or benefit,

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was lawfully acquired property in
the hands of the person from
whom it was acquired; and

(c) any consideration given for the
property or benefit was lawfully
acquired; and

(d) any obligation in relation to the
acquisition of the property or
benefit is, or has been, satisfied
by lawfully acquired means.

(2) For the purposes of this Part, property
that is given to a person as a gift, or has
been bequeathed to a person, is only
lawfully acquired property of the
recipient if it was lawfully acquired
property of the donor.

**85. Presumption that wealth is not lawfully
acquired**

For the purposes of this Part, any
property or benefit that is a constituent of
a person's wealth is presumed not to
have been lawfully acquired by the
person unless the person proves
otherwise.

Division 2 – Investigation and search
Subdivision 1 – Preliminary inquiries into unexplained wealth

86. Information volunteered by financial organisations

A financial organisation may provide information to the DPP about a transaction that involves the organisation if the organisation suspects, on reasonable grounds, that the information may be of assistance, at any time –

- (a) to the DPP in commencing or investigating unexplained wealth proceedings in respect of a person; or
- (b) to the Supreme Court in deciding whether or not to make an unexplained wealth declaration; or
- (c) in any unexplained wealth proceedings.

87. Notice to financial organisations to provide information

- (1) The DPP, by written notice, may require a financial organisation, or an officer of a financial organisation, to do one or more of the following in respect of

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unexplained wealth proceedings or to assist in deciding whether or not to apply for any order, declaration or warrant in relation to unexplained wealth under this Act:

- (a) provide all information the organisation has about whether or not a person specified in the notice holds an account with the organisation;
- (b) provide all information the organisation has about whether or not an account, or deposit box, described in the notice is held with the organisation;
- (c) identify each account, or deposit box, held with the organisation, if any, that may be relevant to unexplained wealth proceedings, or persons, specified in the notice;
- (d) identify the holder of an account or deposit box, specified or described in the notice, held with the organisation;
- (e) provide all information the organisation has about the existence of any other kind of transaction between the

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organisation and a person
specified in the notice;

- (f) provide all information the
organisation has about whether or
not a person described in the
notice has applied to the
organisation to open an account,
borrow money or enter into any
other type of transaction or
arrangement with the
organisation;
 - (g) if a transaction or arrangement
mentioned in paragraph (e) or (f)
has taken place, is taking place or
is to take place, give the
particulars, as specified in the
notice, in respect of the
transaction or arrangement.
- (2) In complying with a notice under
subsection (1), a financial organisation
must –
- (a) provide the details in writing; and
 - (b) indicate the balance of any
relevant account and whether the
account is current or closed.
- (3) Service of a notice under subsection (1)
on the financial organisation may be
effected personally, by post, by facsimile
transmission, by electronic means or by
any other prescribed means.

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- (4) Any record, information, material or thing obtained by the DPP under this section may be used for the purposes of unexplained wealth proceedings or to assist in deciding whether or not to apply for any order, declaration or warrant in relation to unexplained wealth under this Act.
- (5) A financial organisation must comply with a requirement of a notice under subsection (1) within –
 - (a) 7 days of receipt of the notice; or
 - (b) such longer period as is specified in the notice.

Penalty: Fine not exceeding 5 000 penalty units.

88. Notice to other organisations to provide information

- (1) In this section, a reference to an organisation is a reference to –
 - (a) a Government Business Enterprise within the meaning of the *Government Business Enterprises Act 1995*; or
 - (b) an organisation that has a legislative requirement to comply with Treasurer's Instructions

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issued under section 114 of the
Government Business Enterprises
Act 1995; or

- (c) any other organisation, or class of organisations, prescribed for the purposes of this section.
- (2) The DPP, by written notice, may require an organisation, or an officer of an organisation, to do one or more of the following in respect of unexplained wealth proceedings or to assist in deciding whether or not to apply for any order, declaration or warrant in relation to unexplained wealth under this Act:
- (a) provide the DPP with any information or explanation the DPP requests;
 - (b) monitor any interaction between the organisation and a person, or any dealing with a thing, specified in the notice, and provide the DPP with all information in respect of that interaction or dealing as soon as practicable after a person with knowledge of the notice becomes aware of the interaction or dealing;
 - (c) produce to the DPP any record, information, material or thing in

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the custody or possession, or
under the control, of the
organisation.

(3) Under subsection (2), the DPP may
require –

(a) information, an explanation or an
answer to a question to be given
orally or in writing, as the DPP
requires; and

(b) an officer of the organisation to –

(i) verify the information,
explanation or answer to a
question; or

(ii) give an oath or
affirmation that the
information, explanation
or answer is true.

(4) In respect of any record, information,
material or thing produced under
subsection (2), the DPP may –

(a) inspect and take copies of, or take
extracts from, any such record,
information, material or thing;
and

(b) require or direct any person to
give such assistance as may be
required.

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- (5) Service of the notice on the organisation may be effected personally, by post, by facsimile transmission, by electronic means or by any other prescribed means.
- (6) Any record, information, material or thing obtained by the DPP under this section may be used for the purposes of unexplained wealth proceedings or to assist in deciding whether or not to apply for any order, declaration or warrant in relation to unexplained wealth under this Act.
- (7) An organisation must comply with a requirement of a notice under subsection (2) within –
 - (a) 7 days of receipt of the notice; or
 - (b) such longer period as is specified in the notice.

Penalty: Fine not exceeding 5 000 penalty units.

89. Protection for organisations that provide information, &c.

- (1) This section applies to the following organisations:
 - (a) a financial organisation –
 - (i) providing information under section 86; or

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- (ii) complying with a notice under section 87;
 - (b) an organisation complying with a notice under section 88.
- (2) To the extent that an organisation to which this section applies, or an officer of such an organisation, provides information, or complies with a notice, in good faith –
 - (a) the organisation, or the officer of the organisation, does not incur any civil or criminal liability in respect of the provision of the information or compliance with the notice; and
 - (b) the organisation, or the officer of the organisation, cannot be held to have done any of the following in respect of the provision of the information or compliance with the notice:
 - (i) breached any code of professional etiquette or ethics;
 - (ii) departed from any accepted standard of professional conduct;
 - (iii) contravened any Act.

90. Giving false or misleading information

- (1) An organisation, or an officer of an organisation, must not knowingly –
- (a) provide false or misleading information under section 86; or
 - (b) provide false or misleading information in purported compliance with a notice under section 87; or
 - (c) provide false or misleading records, information, materials or things in purported compliance with a notice under section 88.

Penalty: Fine not exceeding 5 000 penalty units.

- (2) Subsection (1) does not apply to an organisation, or an officer of an organisation, if, at the time the organisation or officer provides the information, record, material or thing, or as soon as practicable after becoming aware that the information, record, material or thing is false or misleading, the organisation or officer –
- (a) informs the DPP that the information, record, material or thing is false or misleading; and

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- (b) indicates the respects in which it is false or misleading; and
- (c) provides the DPP with any correct information, record, material or thing that is in the possession or control of the organisation or officer; and
- (d) provides the DPP with any information the organisation or officer has concerning who had access to the information, record, material or thing that is false or misleading.

Subdivision 2 – Examinations

91. Applications for examination orders

- (1) The DPP may apply to the Supreme Court for an order for the examination of a person under this Subdivision.
- (2) An application under subsection (1) may be made ex parte.

92. Examination orders

- (1) On hearing an application under section 91, the Supreme Court may make an order for a person to be examined under this Subdivision if satisfied that the examination is relevant to assessing

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whether or not another person's wealth is lawfully acquired.

- (2) An examination order may specify that the person to be examined under the examination order (the *person to be examined*) must submit to an examination about one or more of the following:
- (a) the wealth, liabilities, income and expenditure of another person who has, or is suspected on reasonable grounds of having, wealth that is not lawfully acquired;
 - (b) the nature, location and source of any property-tracking documents;
 - (c) any ancillary matters, including the wealth, liabilities, income and expenditure of the person to be examined, if relevant to assessing whether or not another person's wealth is lawfully acquired or the extent of another person's wealth.
- (3) An examination order may specify one or more of the following:
- (a) that the person to be examined is to give to the Supreme Court any documents (including property-tracking documents) or information, in his or her

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possession or control, about property specified or described in the examination order;

- (b) that the person to be examined is to give to the Supreme Court any documents (including property-tracking documents) or information, in his or her possession or control, about the wealth, liabilities, income or expenditure of another person specified or described in the examination order;
- (c) that the person to be examined is to give to the Supreme Court any documents (including property-tracking documents) or information, in his or her possession or control, about his or her wealth, liabilities, income or expenditure if relevant to assessing whether or not another person's wealth is lawfully acquired or the extent of another person's wealth;
- (d) that the person to be examined is to give to the Supreme Court any information in his or her possession or control that may help to locate, identify or quantify any –

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- (i) property, or property of a class, specified or described in the examination order; or
 - (ii) property-tracking documents, or other documents or information, specified or described in the examination order;
 - (e) that the person to be examined is to do either or both of the following:
 - (i) give any information, required under the examination order, by affidavit;
 - (ii) attend the Supreme Court for the examination;
 - (f) any directions, or ancillary orders, that are necessary or convenient for giving effect to the examination order or for ensuring compliance with the examination order.
- (4) Before an examination is conducted under an examination order, or in the course of the examination, the Supreme Court may do anything it considers necessary or expedient to give effect to

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the examination order, or to ensure compliance with the examination order, while having regard to the purpose of the examination.

93. Service of examination orders

- (1) The DPP must arrange for a copy of an examination order to be served personally on the person to be examined under the examination order.
- (2) Unless the Supreme Court specifies otherwise, a copy of the examination order is not to be served on anyone except the person to be examined under the examination order.

94. Complying with examination orders

- (1) If an owner of restrained property is to be examined under an examination order, the owner must comply with –
 - (a) the examination order; and
 - (b) any requirements made as part of an examination held under the examination order.

Penalty: Fine not exceeding 1 000 penalty units or an amount equal to the value of the property, whichever is greater, or imprisonment for a

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term not exceeding 5 years, or both.

- (2) In addition to subsection (1), if an owner of restrained property is to be examined under an examination order and fails to comply with the examination order, or any requirements made as part of an examination held under the examination order –
 - (a) the owner is not entitled to file under Division 4 an objection to the restraint of the property; and
 - (b) if the owner has already filed an objection under Division 4, the objection is of no effect.
- (3) A person to be examined under an examination order, other than a person to whom subsection (1) applies, must comply with –
 - (a) the examination order; and
 - (b) any requirements made as part of an examination held under the examination order.

Penalty: Fine not exceeding 500 penalty units or imprisonment for a term not exceeding 2 years, or both.

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- (4) Without limiting the generality of subsection (1), (2) or (3), a person fails to comply with the examination order if –
 - (a) the person fails to disclose material information that the person was aware, or could reasonably have been expected to have been aware, was material; or
 - (b) the person gives information or a document that is false or misleading, in purported compliance with the examination order, that the person was aware, or could reasonably have been expected to have been aware, was false or misleading.
- (5) Subsection (4)(b) does not apply to a person if, at the time the person gives the information or a document or as soon as practicable after becoming aware that the information or document given is false or misleading, the person –
 - (a) informs the DPP that the information or document is false or misleading; and
 - (b) indicates the respects in which it is false or misleading; and
 - (c) gives the DPP any correct information that is in the person's possession or control; and

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- (d) provides the DPP with any information the person has concerning who had access to the information or document that is false or misleading.
- (6) A person is not excused from complying with an examination order, or any requirements made as part of an examination held under the examination order, on the grounds that complying –
 - (a) would tend to incriminate the person or expose him or her to a penalty; or
 - (b) may result in the forfeiture of property; or
 - (c) would be in breach of an obligation on the person not to disclose information, or not to disclose the existence or contents of a document, whether the obligation arose under an Act or otherwise.
- (7) A statement or disclosure made by a person in the course of complying with an examination order is only admissible as evidence against the person in any of the following proceedings:
 - (a) a proceeding against the person for an offence against this section;

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- (b) any civil proceeding;
 - (c) any proceeding under this Act that may lead to the forfeiture of property owned, effectively controlled or given away by the person, but only for the purpose of facilitating the identification of such property.
- (8) Despite subsection (7), the transcript of an examination of a person under an examination order is admissible in any proceedings under this Act or under any other law in force in the State as evidence of a statement or disclosure made by the person in the course of complying with the examination order.

95. Conduct of examinations

- (1) In this section –

judicial officer means a person having authority by law to hear and determine any question or matter, or to hold any inquiry, necessary for proceedings in the Supreme Court.

- (2) An examination under an examination order is to be held as a proceeding before a judge in chambers or another judicial officer otherwise specified in the examination order.

- (3) A person to be examined under an examination order must attend the examination and answer any questions asked during the examination personally but is entitled to have an Australian legal practitioner present to give legal advice during the examination.

Subdivision 3 – Production of documents

96. Application for document production orders

- (1) The DPP may apply to the Supreme Court for a production order for a property-tracking document.
- (2) An application under subsection (1) –
 - (a) is to identify –
 - (i) the property-tracking document sought; and
 - (ii) the person or persons who the DPP suspects has possession or control of the document; and
 - (b) may be made ex parte.

97. Document production orders

- (1) On hearing an application under section 96, the Supreme Court is to make an order in relation to the person or

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persons to whom the application relates
if satisfied that –

- (a) the property-tracking document is relevant to assessing whether or not another person's wealth is lawfully acquired; and
 - (b) there are reasonable grounds for suspecting that the document is in the possession or control of a person (the ***order recipient***) specified in the application.
- (2) A document production order may –
 - (a) require the order recipient to produce the property-tracking document specified in the order; or
 - (b) direct the order recipient –
 - (i) to give the property-tracking document to the DPP; or
 - (ii) to make the property-tracking document available to the DPP for inspection.
- (3) An order under subsection (1) is to specify the time and place for the document to be produced, given or made available.

98. Inspection of property-tracking documents

- (1) If a property-tracking document is given to the DPP in accordance with a direction under section 97(2)(b)(i), the DPP may do one or more of the following:
 - (a) inspect the document;
 - (b) take extracts from the document;
 - (c) make copies of the document;
 - (d) retain the document for as long as its retention is reasonably required for the purposes of this Part.
- (2) If the DPP retains the property-tracking document under subsection (1)(d), the DPP must, on the request of the person who gave the document to the DPP –
 - (a) permit the person to inspect the document, take extracts from it or make copies of it; or
 - (b) give the person a copy of the document certified by the DPP in writing to be a true copy of the document.
- (3) If a property-tracking document is made available to the DPP for inspection in accordance with a direction under

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section 97(2)(b)(ii), the DPP may do one or more of the following:

- (a) inspect the document;
- (b) take extracts from the document;
- (c) make copies of the document.

99. Complying with document production orders

- (1) A person must not, without reasonable excuse, fail to comply with a document production order.

Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (2) A person must not knowingly produce, or make available to the DPP, a document that is false or misleading in a material particular when complying with a document production order.

Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (3) Subsection (2) does not apply to a person if, at the time the document is produced or as soon as practicable after becoming aware that a document produced is false or misleading, the person –

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- (a) informs the DPP that the document is false or misleading; and
 - (b) indicates the respects in which it is false or misleading; and
 - (c) gives the DPP any correct information about the document that is in the person's possession or control; and
 - (d) provides the DPP with any information the person has concerning who had access to the document that is false or misleading.
- (4) A person is not excused from complying with a document production order on the grounds that complying with the document production order would –
 - (a) tend to incriminate the person or expose him or her to a penalty; or
 - (b) be in breach of an obligation of the person to not disclose the existence or contents of the document, whether the obligation arose under an Act or otherwise.
- (5) Any information contained in a property-tracking document produced under a document production order, or any statement or disclosure made by a person

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in the course of complying with a document production order, is only admissible in evidence against the person in any of the following proceedings:

- (a) a proceeding against the person for an offence against this section;
- (b) any civil proceeding;
- (c) any proceeding under this Act that may lead to the forfeiture of property owned, effectively controlled or given away by the person, but only for the purpose of facilitating the identification of such property.

100. Variation of document production orders

- (1) If a document production order requires a person to give a property-tracking document to the DPP, the person may apply to the Supreme Court to vary the document production order so that it requires the person to make the document available to the DPP for inspection.
- (2) The Supreme Court may vary the document production order accordingly if it finds that the document is essential to the lawful business activities of the person.

101. Compliance with document production orders not admissible as evidence in certain circumstances

If a person produces a document, or makes a document available, under a document production order –

- (a) the production or making available of the document; and
- (b) any information, document or anything else acquired by the DPP as a direct or indirect consequence of the person's compliance with the document production order –

is not admissible against the person in evidence in any criminal proceedings except proceedings for an offence under section 99.

Subdivision 4 – Monitoring financial transactions

102. Applications for monitoring orders

- (1) The DPP may apply to the Supreme Court for a monitoring order.
- (2) An application under subsection (1) –
 - (a) is to specify each of the following to which the application relates:

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- (i) the account to be monitored under the monitoring order;
- (ii) the person whose transactions are to be monitored under the monitoring order;
- (iii) the financial organisation in respect of which the monitoring order is to be made; and

(b) may be made ex parte.

103. Monitoring orders

On hearing an application under section 102, the Supreme Court may make a monitoring order, in relation to a financial organisation specified in the application, that requires that financial organisation to give to the DPP information about transactions carried out through an account –

- (a) specified in the order; or
- (b) held with the organisation by a person specified in the order.

104. Application for suspension orders

- (1) The DPP may apply to the Supreme Court for a suspension order.
- (2) An application under subsection (1) –
 - (a) is to specify each of the following to which the application relates:
 - (i) the account or transaction to be suspended under the order;
 - (ii) the person whose transactions are to be suspended under the order;
 - (iii) the financial organisation in respect of which the suspension order is to be made; and
 - (b) may be made ex parte.

105. Suspension orders

On hearing an application under section 104, the Supreme Court may make a suspension order, in relation to a financial organisation specified in the application, that requires that financial organisation to do one or more of the following:

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- (a) to notify the DPP immediately of any transaction that has been initiated in connection with an account –
 - (i) specified in the order; or
 - (ii) held with the organisation by a person specified in the order;
- (b) to notify the DPP immediately if there are reasonable grounds for suspecting that a transaction is about to be initiated in connection with an account –
 - (i) specified in the order; or
 - (ii) held with the organisation by a person specified in the order;
- (c) to refrain from completing or effecting a transaction referred to in paragraph (a) or (b) for 48 hours.

106. Monitoring orders and suspension orders generally

- (1) The Supreme Court may only make a monitoring order, or suspension order, if satisfied that there are reasonable grounds for suspecting –

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- (a) if a person is to be specified in the order, that the person –
 - (i) has unexplained wealth or is about to be the subject of an unexplained wealth declaration; or
 - (ii) is, or is about to be, the person named in a specified restraining order; or
- (b) if an account is to be specified in the order, that the account directly, or indirectly, relates to a person who –
 - (i) has unexplained wealth or is about to be the subject of an unexplained wealth declaration; or
 - (ii) is, or is about to be, the person named in a specified restraining order.
- (2) A monitoring order or suspension order applies to all transactions carried out or to be carried out through –
 - (a) an account held with the organisation by a person specified in the order; or

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- (b) an account specified in the order –

during the monitoring period, or suspension period, specified in the order.
- (3) A monitoring order or suspension order is to specify –
 - (a) the financial organisation to which the order applies; and
 - (b) the name or names in which the account is believed to be held; and
 - (c) the class or type of information that the organisation is required to give; and
 - (d) the manner in which the information is to be given to the DPP; and
 - (e) the period of monitoring, or suspension, in accordance with subsection (4) that does not exceed 3 months.
- (4) A period of monitoring under a monitoring order or a period of suspension under a suspension order is to commence –
 - (a) on such a day as is specified in the relevant order, being a day

after the day on which a copy of the relevant order is served on the financial organisation; or

- (b) if no such day is specified in the order, on the day on which a copy of the relevant order is served on the financial organisation.
- (5) Despite subsection (3)(e), the Supreme Court may –
- (a) extend a period of monitoring or suspension on as many occasions as the Supreme Court sees fit; and
 - (b) in extending the period under paragraph (a), enable the period of monitoring or suspension to exceed 3 months from the commencement of the monitoring order or suspension order.

107. Compliance with monitoring orders or suspension orders

- (1) A financial organisation must not knowingly –
- (a) fail to comply with a monitoring order or suspension order; or
 - (b) provide false or misleading information in purported compliance with the order.

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Penalty: Fine not exceeding 5 000 penalty
units.

- (2) Subsection (1)(b) does not apply to an organisation if, at the time the information is provided or as soon as practicable after becoming aware that some or all of the information provided is false or misleading, the organisation –
- (a) informs the DPP that the information is false or misleading; and
 - (b) indicates the respects in which it is false or misleading; and
 - (c) gives the DPP any correct or relevant information that is in the organisation's possession or control; and
 - (d) provides the DPP with any information the organisation has concerning who had access to the information that is false or misleading.

Subdivision 5 – Secrecy requirements

108. Disclosure not permitted

- (1) A person must not, except as permitted under section 109, disclose to another person –

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- (a) the fact that a financial organisation, or an officer of the organisation, intends to give or has given information to the DPP under section 86; or
- (b) the nature of any information given under section 86; or
- (c) the fact that a requirement has been or is to be made by notice, or that an organisation or officer of the organisation has complied, or is to comply, with the notice, under section 87; or
- (d) the content of a notice, or response made to a notice, under section 87; or
- (e) the fact that a requirement has been or is to be made by notice, or that an organisation or officer of the organisation has complied, or is to comply, with the notice, under section 88; or
- (f) the content of a notice, or response made to a notice, under section 88; or
- (g) the fact that the person disclosing the information has been subject to a document production order, examination order, monitoring order or suspension order, in

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relation to another person's
wealth, liabilities, income or
expenditure; or

- (h) the fact that a person other than
the person disclosing the
information is or has been subject
to, or the subject of, a document
production order, examination
order, monitoring order or
suspension order; or
- (i) the contents of any document
production order, examination
order, monitoring order or
suspension order; or
- (j) any information obtained under
this Part, or that came to the
disclosing person's knowledge
during, or as a result of, an
investigation under this Part.

Penalty: Fine not exceeding 1 000 penalty
units or imprisonment for a term
not exceeding 5 years, or both.

- (2) Without limiting subsection (1), a person
discloses information in contravention of
that subsection if the person –
 - (a) discloses information to another
person from which the other
person could reasonably be
expected to infer information the

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disclosure of which would
contravene subsection (1); or

- (b) makes or keeps a record of any information about a notice, or response, under section 87, or a requirement or response under section 88, other than a copy for the person's own records of the notice or the information provided in response to the notice; or
- (c) makes or keeps a record of any information about the existence or operation of a document production order, examination order, monitoring order or suspension order, other than a copy for the person's own records of –
 - (i) an order directed to the person; or
 - (ii) the information provided by the person in response to the order.

109. Disclosing information

- (1) An organisation, or an officer of an organisation, may disclose information to any one or more of the following without contravening section 108:

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- (a) the DPP, a police officer or a member of the Australian Crime Commission;
- (b) an officer of the organisation, for the purposes of giving information under section 86 or section 88;
- (c) an officer of the organisation, for the purposes of ensuring that –
 - (i) a requirement of a notice under section 87 is complied with; or
 - (ii) a notice under section 88 is complied with;
- (d) an Australian legal practitioner, for the purposes of obtaining legal advice in relation to –
 - (i) giving information under section 86; or
 - (ii) complying with a notice under section 87; or
 - (iii) complying with a notice under section 88;
- (e) an officer of the organisation, for the purposes of ensuring that a document production order, examination order, monitoring

order or suspension order is
complied with;

- (f) an Australian legal practitioner,
for the purposes of obtaining
legal advice in relation to a
document production order,
examination order, monitoring
order or suspension order.
- (2) An individual who is not acting in the
capacity of an officer of an organisation,
or in the capacity of an Australian legal
practitioner, may disclose information to
any one or more of the following without
contravening section 108:
- (a) the DPP, a police officer or a
member of the Australian Crime
Commission;
 - (b) an Australian legal practitioner,
for the purposes of obtaining
legal advice in relation to a
document production order,
examination order, monitoring
order or suspension order.
- (3) An Australian legal practitioner to whom
information is disclosed under
subsection (1) or (2) may disclose the
information, without contravening
section 108, to a person to whom it may
have been disclosed under that

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subsection for the purpose of giving legal advice in relation to the matter disclosed.

- (4) Subject to subsection (5), a person (except an Australian legal practitioner) to whom information is disclosed under subsection (1) or (2) may disclose the information to another person to whom it might have been disclosed under that subsection.
- (5) If information about a particular matter may only be disclosed under subsection (1) or (2) in particular circumstances or for a particular purpose, a person must not disclose the information under subsection (4) except in those circumstances or for that purpose.
- (6) A person to whom information about a particular matter is disclosed under this section must not disclose the information to anyone, other than a police officer, the DPP or a member of the Australian Crime Commission, if the person ceases to be a person of a kind to whom the information may be disclosed.

Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 5 years, or both.

Subdivision 6 – Detention, search and retention

110. Power to detain persons

- (1) A police officer may at any time stop or detain a person if there are reasonable grounds for suspecting that the person has in his or her possession –
 - (a) property that is not lawfully acquired; or
 - (b) property of a person that is named in a specified restraining order; or
 - (c) property that is at risk of forfeiture; or
 - (d) property-tracking documents relating to wealth.
- (2) In addition to subsection (1), a police officer may at any time stop or detain a person (the *detainee*) if there are reasonable grounds for suspecting that another person is holding, on behalf of the detainee –
 - (a) property that is at risk of forfeiture; or
 - (b) property-tracking documents.
- (3) A police officer may, for the purposes of exercising a power under subsection (1)

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or (2), stop or detain any thing being used as a means of transportation.

- (4) If a police officer stops or detains a person under subsection (1) or (2), the police officer may –
 - (a) search the person in accordance with this Part; and
 - (b) search any baggage, package, electronic device, animal, vehicle or any other property apparently in the possession or under the control of the person.
- (5) When exercising his or her powers under this section, a police officer may use any reasonable force and any assistance the police officer thinks reasonable.
- (6) In this section, a power to stop or detain includes the power to stop and detain.

111. Search warrants

- (1) A police officer may apply to a magistrate or judge for a search warrant authorising a search of any premises or property.
- (2) An application for a search warrant under this section may be made by telephone or other electronic means and section 15 of the *Search Warrants Act 1997* applies,

with the necessary modifications, in respect of a warrant that is issued on such an application.

- (3) A magistrate or judge may issue a search warrant if satisfied, by information on oath, that there are reasonable grounds for suspecting that any property that is suspected of not being lawfully acquired or any property-tracking document –
 - (a) is in or on the premises, or property, that is the subject of the search warrant; or
 - (b) will be in or on the premises, or property, within the next 72 hours.
- (4) A search warrant issued under this section may authorise a police officer to do one or more of the following, using any reasonable force and with any assistance the police officer thinks reasonable:
 - (a) enter the premises, or property, described in the warrant;
 - (b) search the premises or property;
 - (c) search any baggage, package, electronic device, animal, vehicle or any other property found in or on the premises or property;

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- (d) detain any person in or on the premises or property and search the person in accordance with this Part.
- (5) A search warrant issued under this section –
 - (a) may be executed at any time of night or day; and
 - (b) subject to section 113, continues in force for 30 days from the day on which it was issued.
- (6) If, in the course of executing a search warrant issued under this section –
 - (a) a police officer finds any property that the police officer believes on reasonable grounds to be property that is at risk of forfeiture; and
 - (b) the police officer believes on reasonable grounds that it is necessary to seize that property to prevent its concealment, loss or destruction –

the search warrant is taken as authorising the police officer to seize that property.
- (7) Schedule 1 applies, with the necessary modifications, to a search warrant issued under this section to the extent that the

Schedule is not inconsistent with this section.

- (8) Nothing in this Part limits any other statutory law relating to search warrants.

112. Additional powers

- (1) If a police officer exercises any of his or her powers under section 110 or under a search warrant issued under section 111, the police officer may do one or more of the following:
- (a) seize and retain any documents found in the course of exercising those powers if there are reasonable grounds for suspecting that the documents are property-tracking documents;
 - (b) take extracts from or make copies of, or download or print out, any property-tracking documents found in the course of exercising those powers;
 - (c) require a person who has control of any property-tracking documents found in the course of exercising those powers to make copies of, or download or print out, any property-tracking documents found in the course of exercising those powers;

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- (d) require a person to give to the police officer any information within the person's knowledge or control that is relevant to locating property that is reasonably suspected of being at risk of forfeiture under this Part;
 - (e) require a person to give to the police officer any information within the person's knowledge or control that is relevant to assessing whether or not property is at risk of forfeiture under this Part;
 - (f) require a person to give the police officer, or arrange for the police officer to be given, any translation, codes, passwords or other information necessary to gain access to or to interpret and understand any property-tracking documents or information located or obtained in the course of exercising the police officer's powers under the warrant.
- (2) A person must comply with a requirement imposed on him or her under subsection (1).

Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 5 years, or both.

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- (3) Without limiting subsection (2), a person fails to comply with a requirement under subsection (1) if the person –
- (a) does not disclose material information of which the person has knowledge, or gives false information, or a false document, in purported compliance with the requirement; and
 - (b) is aware, or could reasonably be expected to be aware, that the information is material or that the information or document is false; and
 - (c) in the case of false information or documents, does not inform the police officer that the information or document is false or is reasonably likely to be false –
 - (i) at the time of giving the information or document; or
 - (ii) as soon as reasonably practicable after becoming aware that the information or document was false or was reasonably likely to be false.

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- (4) A person is not excused from complying with a requirement under subsection (1) on the grounds that complying with the requirement would tend to incriminate the person or expose him or her to a penalty.
- (5) Any evidence, information, document or thing obtained as a direct or indirect consequence of complying with a requirement under subsection (1) is not admissible in evidence in proceedings against the person for any offence except an offence against subsection (2).

113. Later-produced documents

If –

- (a) a search warrant issued under section 111 enables action to be taken in relation to a document that was in existence at the time that the warrant was issued; but
- (b) at the time that the search warrant was executed it was physically impossible for the document to be produced –

a police officer may take the action in respect of the document when the document becomes available even if the search warrant has by then expired.

Division 3 – Restraining of property
Subdivision 1 – Retention of property generally and interim wealth-restraining order

114. Removal of seized or retained property generally

A police officer may, at any time, remove property seized under this Division from the place at which it was seized and retain it at another location.

115. Retention of property not subject to an order under this Division

If there is no specified restraining order in place in respect of property, a police officer may seize, retain or guard property he or she suspects is not lawfully acquired, or arrange for such property to be secured by any other means, for not more than 72 hours.

116. Interim wealth-restraining orders

- (1) The DPP may apply for an interim wealth-restraining order to be made –
 - (a) in respect of the property of a person named in the application;
or
 - (b) in respect of the property specified in the application.

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- (2) An application under subsection (1) may be made –
 - (a) to the Magistrates Court or the Supreme Court; and
 - (b) in chambers, by telephone or by electronic means; and
 - (c) ex parte.
- (3) On hearing an application under subsection (1), the Magistrates Court or the Supreme Court may make an order specifying –
 - (a) that the property of a person named in the order may be seized, retained or guarded under the order; or
 - (b) that property specified in the order may be seized, retained or guarded under the order.
- (4) The Magistrates Court or Supreme Court may only make an interim wealth-restraining order under subsection (3) if satisfied that –
 - (a) an application is to be made for a wealth-restraining order, in relation to the property of the person named in the application for the interim wealth-restraining

order, as soon as reasonably practicable; and

- (b) the circumstances justify the making of the interim wealth-restraining order before the application for the wealth-restraining order can be heard.
- (5) The Magistrates Court may make an interim wealth-restraining order under subsection (3) even though the value of the property specified in, or affected by, the interim wealth-restraining order exceeds the jurisdictional money limit set for the Magistrates Court under the *Magistrates Court (Civil Division) Act 1992*.
- (6) An interim wealth-restraining order has effect until the expiration of 3 days after it was made, excluding any Saturdays, Sundays or statutory holidays as defined in the *Statutory Holidays Act 2000*.
- (7) An interim wealth-restraining order authorises the DPP to seize, retain or guard property affected by the interim wealth-restraining order, or for the property to be secured by other means, for the duration of the interim wealth-restraining order.

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***Subdivision 2 – Wealth-restraining orders in relation to
property***

117. Applications for wealth-restraining orders

- (1) The DPP may apply to the Supreme Court for a wealth-restraining order to be made in relation to the property of a person named in the application.
- (2) An application under subsection (1) may be made ex parte.

118. Wealth-restraining orders

- (1) On hearing an application under section 117(1), the Supreme Court may make an order in relation to the property of a person named in the application.
- (2) The Supreme Court may only make a wealth-restraining order in relation to the property of a person named in an application if satisfied that –
 - (a) an unexplained wealth declaration has been made against the person; or
 - (b) an application has been made for –
 - (i) an unexplained wealth declaration to be made against the person; or

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- (ii) a document production order that is likely to result in the disclosure of a document that is evidence that the person owns or effectively controls the property; or
 - (c) the Supreme Court is satisfied that the DPP intends to make an application referred to in paragraph (b) within 21 days after the wealth-restraining order is made.
- (3) A wealth-restraining order may specify that it applies –
 - (a) to all or any property, or class of property, that is owned or effectively controlled by a person named in the wealth-restraining order at the time of the application, whether or not the property is described or identified in the application; and
 - (b) to all or any property or class of property acquired, after the wealth-restraining order is made, by –
 - (i) a person named in the wealth-restraining order; or

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- (ii) another person at the request or direction of a person named in the wealth-restraining order; and
- (c) to all or any property that –
 - (i) is retained under section 115 or is the subject of an interim wealth-restraining order; and
 - (ii) is the property of a person named in the wealth-restraining order.

119. Wealth-restraining orders to specify grounds

If an application is made under section 117 for a wealth-restraining order, the Supreme Court is to –

- (a) consider each matter that is alleged by the DPP, either in the application or in the hearing of the application, as a ground for making the wealth-restraining order; and
- (b) if the wealth-restraining order is made, set out in the wealth-restraining order each ground that the Supreme Court finds is a

ground on which the wealth-restraining order may be made.

120. Non-disclosure of information

Despite section 119, the Supreme Court is not to include information in a wealth-restraining order, if the Court is satisfied that the release of the information may materially prejudice an ongoing investigation by the DPP.

121. Scope of wealth-restraining orders

As part of proceedings for a wealth-restraining order, the Supreme Court may do any one or more of the following in respect of property that is affected by the wealth-restraining order:

- (a) if the property is moveable, direct that the property is not to be moved except in accordance with the wealth-restraining order;
- (b) appoint the Public Trustee or another person to manage the property while the wealth-restraining order is in force;
- (c) give any directions necessary to provide for the security and management of the property

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while the wealth-restraining order
is in force;

- (d) provide for the reasonable living
and business expenses of the
owner of the property to be met
while the wealth-restraining order
is in force.

122. Service of wealth-restraining orders

- (1) As soon as practicable after a wealth-
restraining order is made, the DPP must
arrange for a copy of the wealth-
restraining order and a notice that
complies with subsection (2) to be served
personally on each of the following
persons:
 - (a) the person named in the wealth-
restraining order;
 - (b) if, under the authority of the
wealth-restraining order, property
is, or has been, taken from a
person or is in the custody of a
person, that person;
 - (c) any person known to the DPP at
the time the wealth-restraining
order was made who has, may
have or claims to have an interest
in property affected by the
wealth-restraining order.

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- (2) The notice referred to in subsection (1) must –
- (a) summarise the effect of the wealth-restraining order, including the period for which it applies; and
 - (b) advise the person on whom the wealth-restraining order and the notice are served –
 - (i) that the property affected by the wealth-restraining order may be forfeited under this Part; and
 - (ii) that, within 28 days after being served with the copy of the wealth-restraining order, the person may file in the Supreme Court an objection to the restraint of the property; and
 - (iii) that the person is required to make and lodge a statutory declaration in accordance with section 123.
- (3) If, as a result of a statutory declaration made in accordance with section 123, the DPP becomes aware of another person who has, may have or claims to have an

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interest in the property affected by the wealth-restraining order, the DPP must arrange for personal service of a copy of the wealth-restraining order and notice, in accordance with subsection (2), on that other person as soon as practicable.

- (4) Subsections (1) and (3) do not prevent the DPP from serving, at any time, a copy of the wealth-restraining order and a notice on any other person of whom the DPP becomes aware who has, may have or claims to have an interest in the property.
- (5) The DPP must ensure that –
 - (a) an affidavit of service is endorsed on a copy of each copy of the wealth-restraining order that is served; and
 - (b) each endorsed copy is filed in the registry of the Supreme Court.

123. Statutory declaration required from persons served with wealth-restraining orders

- (1) A person who is served under section 122(1) or (3) with a copy of a wealth-restraining order must –
 - (a) make a statutory declaration as to the matters set out in subsection (2); and

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- (b) file the declaration in the Supreme Court within 7 days after being served with the copy.

Penalty: Fine not exceeding 2 000 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (2) A statutory declaration under subsection (1) is to include –

- (a) the name and, if known, the address of any other person of whom the declarant is aware who has, may have or claims to have an interest in property affected by the wealth-restraining order; or

- (b) if the declarant is not aware of another such person, a statement to that effect.

124. Effect of wealth-restraining orders

- (1) While a wealth-restraining order is in effect in relation to property –

- (a) subject to Subdivision 3, a person is not entitled to deal with the property; and

- (b) subject to section 121(a), the DPP may arrange for a police officer to seize, retain or guard the property, or for the property to be

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secured by other means, for the duration of the wealth-restraining order; and

- (c) the DPP may apply under this Part to the Supreme Court for an order that all or some of the property, or a class of property, be forfeited to the State under Subdivision 3 of Division 6.
- (2) Income or other property that is derived from restrained property is taken to be part of the restrained property.
- (3) The owner, or the person with effective control, of restrained property may apply to the Supreme Court for the release of all or some of the restrained property to meet reasonable living and business expenses of the applicant.

125. Co-owned restrained property

If property is, or is to be, restrained property and the person named in the wealth-restraining order is one of the co-owners of the property, the Supreme Court is to order that the whole of the property is restrained property unless –

- (a) the property is divisible; or
- (b) it is otherwise practicable for only the share of the person

named in the wealth-restraining order to be restrained.

126. Duration of wealth-restraining orders

- (1) Subject to this Part, a wealth-restraining order has effect for the period specified in it.
- (2) On application, the Supreme Court may extend the duration of the wealth-restraining order on as many occasions as the Supreme Court sees fit.
- (3) If the period of a wealth-restraining order is extended under this section, the DPP must serve a notice of the extension on each person on whom a copy of the wealth-restraining order was served under section 122.

127. Wealth-restraining orders cease to have effect

- (1) If a wealth-restraining order has been made on the ground that an application had been made, or was to be made, for a document production order or an unexplained wealth declaration, the wealth-restraining order ceases to have effect if –
 - (a) within 21 days from the making of the wealth-restraining order, an

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- application has not been made for the document production order or the unexplained wealth declaration; or
- (b) the application for the document production order or the unexplained wealth declaration is withdrawn for any reason; or
 - (c) the application for the document production order or unexplained wealth declaration is finally determined but a document production order or unexplained wealth declaration is not made as a result of the application; or
 - (d) in the case where an unexplained wealth declaration is made, the respondent has satisfied his or her unexplained wealth liability under the unexplained wealth declaration, whether or not all or any of the restrained property was transferred to, or vested in, the State to satisfy the liability.
- (2) A wealth-restraining order also ceases to have effect in respect of property –
- (a) if the wealth-restraining order is set aside under Division 4; or

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- (b) if that property is forfeited to the State under Subdivision 3 of Division 6.
- (3) If a wealth-restraining order ceases to have effect, the DPP is to ensure that –
 - (a) notice that the wealth-restraining order has ceased to have effect is served personally, as soon as practicable, on each person on whom a copy of the wealth-restraining order was served under section 122; and
 - (b) any property that is being retained under section 115 is returned to the person from whom it was taken unless it is to be otherwise dealt with under this Act or another Act; and
 - (c) any property that is being guarded under section 115 is released from guard unless it is guarded for another reason under this Act or another Act; and
 - (d) if the DPP is aware that the person to whom property is to be returned under paragraph (b) is not the owner of the property, the owner is notified, where practicable, of the setting aside of

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the wealth-restraining order and
the return of the property.

**128. Land restrained under wealth-restraining
order**

- (1) If land is to be restrained property under a wealth-restraining order –
 - (a) the DPP must lodge with the Recorder a sealed copy of the wealth-restraining order; and
 - (b) if the land is not registered under the *Land Titles Act 1980*, the Recorder is to –
 - (i) bring the land under the *Land Titles Act 1980* as if an application had been made under section 11 of that Act; and
 - (ii) register the wealth-restraining order against the relevant folio of the Register; and
 - (c) if the land is registered under the *Land Titles Act 1980*, the Recorder is to register the wealth-restraining order against the relevant folio of the Register.

- (2) Land only becomes restrained property under a wealth-restraining order once the wealth-restraining order is registered under subsection (1)(b)(ii) or (1)(c).
- (3) If, in accordance with section 127, a wealth-restraining order registered under subsection (1) ceases to have effect and restrained property under the wealth-restraining order includes land –
 - (a) the DPP must lodge notification with the Recorder that the wealth-restraining order has ceased to have effect; and
 - (b) the Recorder is to register the notification against the relevant folio of the Register.
- (4) A wealth-restraining order registered under subsection (1) ceases to have effect in relation to the restrained property that is land when evidence that the wealth-restraining order has ceased to have effect is registered under subsection (3)(b).

129. Property may be restrained under more than one order

- (1) A restraining order, and a specified restraining order, may both apply to restrained property at the same time on the same, or different, grounds.

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- (2) If a restraining order and a specified restraining order both apply to property, the fact that one of the orders ceases to have effect in respect of the property does not affect any other order still in effect in respect of the property.

Subdivision 3 – Dealing with restrained property

130. Dealing with property

- (1) In addition to section 7, a reference in this Part to dealing with property includes a reference to doing or attempting to do any of the following:
- (a) sell the property or give it away;
 - (b) dispose of the property in any other way;
 - (c) move or exhaust the property;
 - (d) accept the property as a gift;
 - (e) take any profit, benefit or proceeds from the property;
 - (f) create, increase or alter any legal or equitable right or obligation in relation to the property;
 - (g) effect a change in the effective control of the property.

- (2) In subsection (1), a reference to dealing with property does not include reasonable and necessary use for the ordinary daily requirements of living.

131. Permitted dealings in respect of mortgaged or leased property

- (1) If property that is mortgaged is subject to a specified restraining order, this Part does not prevent –
 - (a) the mortgagor from making payments to the mortgagee in accordance with the mortgage if the payments are made with money that is not subject to a specified restraining order; or
 - (b) the mortgagee from accepting payments from the mortgagor in accordance with the mortgage; or
 - (c) the issue of a notice of default by a mortgagee, and the exercise of the mortgagee's rights, under the terms of the mortgage or as specified in legislation.
- (2) If property that is leased is subject to a specified restraining order, this Part does not prevent –
 - (a) the tenant from making payments to the landlord in accordance with

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the lease if the payments are made with money that is not subject to a specified restraining order; or

- (b) the landlord from accepting payments from the tenant in accordance with the lease; or
- (c) the renewal of a pre-existing lease agreement over land; or
- (d) the issue of a notice of default by a landlord, and the exercise of the landlord's rights, under the terms of the lease or as specified in legislation.

132. Persons must not deal with restrained property

- (1) A person must not, in any way, deal with –

- (a) restrained property; or
- (b) property that is subject to an interim wealth-restraining order.

Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (2) Subsection (1) does not apply to –

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- (a) the forfeiture of the property under this Part; or
 - (b) a person acting in accordance with the specified restraining order under which the property is restrained; or
 - (c) a person acting in accordance with an order under section 121(b), 162(2) or 164(2); or
 - (d) a person acting in accordance with a demand of the Public Trustee under section 161.
- (3) It is a defence to a prosecution for an offence under subsection (1) if the person establishes that he or she did not know, and could not reasonably be expected to have known, that a specified restraining order was in force when dealing with the property.
- (4) Subsection (1) does not prevent a person from being found guilty of contempt of court for a contravention of the specified restraining order under which the property is restrained, but the person is not punishable for both contempt and an offence under subsection (1) arising from the same contravention of the specified restraining order.

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133. Effect of dealing with properties subject to wealth-restraining orders

Despite any other Act, any dealing with property that contravenes section 132 has no effect, whether at law, in equity or otherwise, on the rights of the State under this Part.

Division 4 – Objections to restraint of property

134. Objections to restraining of property

- (1) A person may file an objection in the Supreme Court to property, owned or effectively controlled by the person, being restrained property.
- (2) An objection is to identify –
 - (a) the property to which the objection relates; and
 - (b) the grounds for objection against the property being restrained property.

135. Time for filing objections

- (1) If the person who intends to file an objection under section 134(1) was served with a copy of the order under section 122, the objection is to be filed within 28 days from the day on which the copy was served on the person.

- (2) If the person who intends to file an objection under section 134(1) was not served with a copy of the order under section 122, the objection is to be filed within 28 days from the day on which the person becomes aware, or could reasonably be expected to have become aware, that the property has been restrained.
- (3) The Supreme Court may, if it thinks fit, hear an objection under subsection (1) or (2) that is filed outside of the time frame specified in the relevant subsection.

136. Parties to objection proceedings

The State is a party to proceedings on the filing of an objection under section 134.

137. Setting aside or varying restraining orders

- (1) On hearing an objection under this Division to property being restrained property under a wealth-restraining order, the Supreme Court may set aside or vary all, or any part, of the wealth-restraining order as it applies to the restrained property, or class of restrained property, specified in the application.
- (2) The Supreme Court may only set aside or vary the wealth-restraining order as it applies to the restrained property if

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satisfied that it is more likely than not that the person who is, or will be, the subject of an unexplained wealth declaration does not own or effectively control the property.

- (3) If the Supreme Court sets aside or varies a specified restraining order under this Division, the Supreme Court may make any necessary or convenient ancillary orders.

Division 5 – Unexplained wealth declaration

138. What constitutes a person's wealth

For the purposes of this Act, the following property and benefits constitute a person's wealth:

- (a) all property that the person owns, whether the property was acquired before or after the commencement of this Part;
- (b) all property that the person effectively controls, whether the person acquired effective control of the property before or after the commencement of this Part;
- (c) all property that the person has given away at any time, whether before or after the commencement of this Part;

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- (d) all other property acquired by the person at any time, whether before or after the commencement of this Part, including consumer goods and consumer durables that have been consumed or discarded (but not including necessary food, clothing and other items reasonably necessary for the ordinary daily requirements of living);
- (e) all benefits, including commercial benefits, that the person has acquired at any time, whether before or after the commencement of this Part;
- (f) all property and benefits acquired, at the request or direction of the person, by another person at any time, whether before or after the commencement of this Part, including consumer goods and consumer durables that have been consumed or discarded (but not including necessary food, clothing and other items reasonably necessary for the ordinary daily requirements of living).

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139. Unexplained wealth

- (1) For the purposes of this Act, a person may have unexplained wealth if the value of the person's total wealth as described in subsection (2) is greater than the value of the person's lawfully acquired wealth as described in subsection (3).
- (2) The value of the person's total wealth is the total value of all the items of property and benefits that together constitute the person's wealth.
- (3) The value of the person's lawfully acquired wealth is the total value of all the items of property and benefits that –
 - (a) constitute the person's wealth;
and
 - (b) were lawfully acquired.

140. Assessing the value of unexplained wealth

- (1) A person's unexplained wealth is the difference in value between –
 - (a) the value of a person's total wealth; and
 - (b) the value of a person's lawfully acquired wealth.
- (2) When assessing the value of a person's wealth –

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- (a) the value of any property or benefit that is a constituent of the person's wealth is taken to be the greater of –
 - (i) its value at the time that it was acquired; or
 - (ii) its value on the day that the application for the unexplained wealth declaration was made; and
- (b) the value of any property or benefit that was a constituent of the person's wealth but has been given away, used, consumed or discarded, or that is for any other reason no longer available, is taken to be an outgoing at the greater of –
 - (i) its value at the time that it was acquired; or
 - (ii) its value immediately before it was given away, or was used, consumed or discarded, or ceased being available; and
- (c) the Supreme Court is not to take account of –

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- (i) any property that has been forfeited under this Act or any other Act; or
- (ii) any property or benefit that was taken into account in making an earlier unexplained wealth declaration against the person; or
- (iii) any property or benefit in relation to which a pecuniary penalty order has been made.

141. Application for unexplained wealth declaration

- (1) The DPP may apply to the Supreme Court for an unexplained wealth declaration to be made against a person.
- (2) An application under subsection (1) may be made –
 - (a) in conjunction with an application under Part 2 of this Act; or
 - (b) in proceedings, under Division 4, for the hearing of an objection to the application of a specified restraining order in respect of property; or

(c) at any other time.

142. Unexplained wealth declaration

- (1) On hearing an application under section 141, the Supreme Court may make an unexplained wealth declaration against a person named in the application.
- (2) The Supreme Court must make an unexplained wealth declaration if satisfied that it is more likely than not that the value of the person's total wealth is greater than the value of his or her lawfully acquired wealth.
- (3) Without limiting the matters to which the Supreme Court may have regard in determining the value of a respondent's total wealth, the Supreme Court may have regard to the amount of the respondent's income and outgoings at any time or at all times.
- (4) On making an unexplained wealth declaration against a respondent, the Supreme Court –
 - (a) is to specify in the declaration the assessed value of the respondent's unexplained wealth as determined by the Court; and

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- (b) is to order, in the declaration, that the respondent pay to the State the amount specified in the declaration as the value of his or her unexplained wealth; and
- (c) may make any necessary or convenient ancillary orders, including awarding costs as it sees fit.

143. Unexplained wealth liability

The unexplained wealth liability of a respondent is the total of –

- (a) the amount the respondent is ordered to pay under section 142(4)(b) in respect of an unexplained wealth declaration; and
- (b) any costs awarded under section 142(4)(c) in respect of the unexplained wealth declaration or the respondent.

144. Unexplained wealth payable to State

- (1) If the Supreme Court makes an unexplained wealth declaration, the respondent to the declaration must pay to the State the respondent's unexplained wealth liability.

- (2) An unexplained wealth liability may be satisfied, wholly or in part, by forfeiture under Division 6 of restrained property.

Division 6 – Satisfaction of unexplained wealth liability to State
Subdivision 1 – General

145. Recovery of amount payable to State

- (1) A respondent must pay his or her unexplained wealth liability –
- (a) before the date specified in the unexplained wealth declaration, being a date that is at least 31 days after the day on which that declaration was made; or
 - (b) if no such date is specified, within 31 days after the day on which that declaration was made.
- (2) If all, or part, of an unexplained wealth liability is not paid within the relevant time specified in subsection (1), the DPP may refer the unpaid amount for collection under section 41 of the *Monetary Penalties Enforcement Act 2005* as if –
- (a) the DPP were a court; and
 - (b) the unexplained wealth declaration, that resulted in the

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unexplained wealth liability, were
an order imposing a fine.

- (3) This section does not affect any other means, under this Part, by which the State may recover any unpaid amount of an unexplained wealth liability.

**146. Use of restrained property to meet
unexplained wealth liability**

- (1) To satisfy an unexplained wealth liability wholly or in part, the person who has the liability may transfer to the State any property wholly owned, or effectively controlled solely, by the person, whether or not the property is restrained property.
- (2) Nothing in subsection (1) authorises a person to transfer property other than in accordance with this Act or any other Act.
- (3) If a person who has an unexplained wealth liability has not satisfied the liability under subsection (1) within the relevant time specified in section 145(1), any property of the person that is subject to a specified restraining order and is wholly owned, or effectively controlled solely, by the person may –
- (a) be used by the respondent to satisfy his or her liability under section 144; or

- (b) be forfeited to the State under this Part to satisfy his or her liability under section 144.

147. Proceeds from sale of restrained property

If property of a person named in a specified restraining order is restrained property and is sold under this Part, the proceeds of the sale –

- (a) are the property of that person; and
- (b) are restrained property; and
- (c) are available and may be used, or are at risk of forfeiture, under this Act to satisfy the unexplained wealth liability of that person.

148. Nexus between restraint and forfeiture not necessary

Restrained property, that is owned or effectively controlled by a respondent, is at risk of forfeiture under a wealth forfeiture order to satisfy an unexplained wealth declaration against the respondent despite the grounds for the wealth forfeiture order being different from the grounds for the wealth-restraining order that affects the property.

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***Subdivision 2 – Use of effectively controlled property or gift
to meet unexplained wealth liability***

149. Limitation on use of effectively controlled property

Property that is the subject of –

- (a) a forfeitable property declaration made on the basis of the property being effectively controlled, or given away, by a respondent; or
- (b) a wealth-restraining order made on the basis of the property being effectively controlled by a respondent –

is only to be called upon to satisfy the respondent's unexplained wealth liability if property owned by the respondent is not available or is insufficient to satisfy the liability.

150. Property not owned by respondent at risk of forfeiture

- (1) The DPP may apply to the Supreme Court for a forfeitable property declaration to be made in relation to property specified in the application.
- (2) An application under subsection (1) may only be made in respect of property that –

- (a) is not owned, but the DPP suspects is effectively controlled or was given away, by a respondent to an unexplained wealth declaration; and
 - (b) is not restrained property.
- (3) An application under subsection (1) may be made –
 - (a) in the course of proceedings under Division 5 for an unexplained wealth declaration; or
 - (b) at any other time.

151. Forfeitable property declarations

- (1) On hearing an application under section 150 or 157(1)(a), the Supreme Court may make a forfeitable property declaration in respect of property specified in the application.
- (2) The Supreme Court may only make a forfeitable property declaration in relation to property if satisfied that it is more likely than not that –
 - (a) the respondent to an unexplained wealth declaration effectively controlled all or part of the property at the time that the

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application was made under Division 5 for the unexplained wealth declaration made against the respondent; or

(b) before an application was made under Division 5 for an unexplained wealth declaration against the respondent, the respondent to the unexplained wealth declaration –

(i) owned or effectively controlled the property; and

(ii) gave the property away.

(3) For the purposes of making a forfeitable property declaration under subsection (2), the Supreme Court may presume the property specified in the application for the declaration was –

(a) at the relevant time, effectively controlled by the respondent to the relevant unexplained wealth declaration; or

(b) before the relevant time, given away by the respondent to the relevant unexplained wealth declaration –

unless the respondent, or another person, proves otherwise.

- (4) A forfeitable property declaration enables the Supreme Court to make a wealth forfeiture order in respect of the property specified in the forfeitable property declaration.
- (5) If the Supreme Court makes a forfeitable property declaration under this section, it may make any necessary or convenient ancillary orders.

Subdivision 3 – Forfeiture of property

152. Wealth forfeiture orders

- (1) The DPP may apply to the Supreme Court for a wealth forfeiture order to be made in respect of property that –
 - (a) is restrained property; or
 - (b) subject to section 149, is specified in a forfeitable property declaration.
- (2) On hearing an application under subsection (1) or section 157(1)(b), the Supreme Court may make an order declaring that property specified in the order is forfeit to the State.
- (3) The Supreme Court may only make an order under subsection (2) in relation to property if satisfied that the forfeiture of the property to the State is necessary to

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satisfy an unexplained wealth
declaration.

153. Co-owned forfeited property

- (1) If property is, or is to be, forfeited property and the respondent to the unexplained wealth declaration in respect of which the property is, or is to be, forfeited is one of the co-owners of the property, the Supreme Court is to order that the whole of the property is forfeited property unless –
 - (a) the property is divisible; or
 - (b) another co-owner pays out the proportion that the Court finds to be the respondent's share of the property; or
 - (c) it is otherwise practical for only the respondent's share to be forfeited.
- (2) Property used to make a payment under subsection (1)(b) is taken to be forfeited property on the same terms as the forfeited property, the share of which was paid out.

154. Forfeiture of land under this Act

- (1) If the Supreme Court makes a wealth forfeiture order in relation to land –

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- (a) the land vests in the State; and
 - (b) the DPP is to lodge a sealed copy of the wealth forfeiture order with the Recorder.
- (2) On receipt of a sealed copy of the wealth forfeiture order under subsection (1)(b) –
 - (a) in respect of land that is not registered under the *Land Titles Act 1980*, the Recorder is to –
 - (i) bring the land under the *Land Titles Act 1980* as if an application had been made in relation to the land under section 11 of that Act; and
 - (ii) register the wealth forfeiture order against the relevant folio of the Register; and
 - (b) in respect of land that is registered under the *Land Titles Act 1980*, the Recorder is to register the wealth forfeiture order against the relevant folio of the Register.

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155. Forfeiture of other registrable property

If the Supreme Court makes a wealth forfeiture order in relation to property, other than land, that is registrable under an Act, the DPP must lodge with the appropriate registrar –

- (a) a copy of the wealth forfeiture order; and
- (b) a notice giving particulars of the forfeiture of the property.

156. Person must deliver up property subject to a wealth forfeiture order

A person who has possession or control of property must, if the property is the subject of a wealth forfeiture order –

- (a) deliver up the property to the State on demand; and
- (b) permit the State to take possession of the property.

Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 5 years, or both.

Subdivision 4 – Miscellaneous

157. Variation of forfeitable property declarations and wealth forfeiture orders

(1) The DPP may at any time apply to the Supreme Court –

(a) for –

(i) a variation of a forfeitable property declaration; or

(ii) a further forfeitable property declaration –

to give effect, or to give better effect, to a previous forfeitable property declaration; or

(b) for –

(i) a variation of a wealth forfeiture order; or

(ii) for a further wealth forfeiture order –

to give effect, or to give better effect, to a previous wealth forfeiture order.

(2) On hearing an application under subsection (1), the Supreme Court may –

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- (a) vary the forfeitable property declaration or wealth forfeiture order in any manner the Court thinks appropriate; or
 - (b) make a further forfeitable property declaration under section 151; or
 - (c) make a further wealth forfeiture order under section 152.
- (3) A variation of a wealth forfeiture order or forfeitable property declaration under this section is to be made, registered, and otherwise dealt with, in the same manner as the wealth forfeiture order or forfeitable property declaration it varies.

***Division 7 – Value of property used to satisfy unexplained
wealth declaration***

158. Value of property sold by State

- (1) Forfeited property has no value in respect of satisfying an unexplained wealth liability until it is sold by or on behalf of the State.
- (2) If forfeited property is sold by or on behalf of the State, the value of the property is taken to be the remainder (if any) of the proceeds of the sale after the proceeds are applied to the following:

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- (a) firstly, any payment under section 172 in respect of the property, unless the value of such a payment has been removed or deducted from the property in some other way;
- (b) secondly, the costs, charges and expenses arising from the sale of the property;
- (c) thirdly, if a specified restraining order is or was in force for the property, expenses incurred in respect of the property by –
 - (i) the State, the DPP, the Commissioner of Police or police officers while the specified restraining order was in force; or
 - (ii) a person appointed under this Part to manage the property while the specified restraining order was in force;
- (d) fourthly, any expenses incurred in respect of the property by –
 - (i) the State, the DPP, the Commissioner of Police or police officers after the property was forfeited; or

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- (ii) a person appointed to manage the property after it was forfeited;
 - (e) fifthly, any *bona fide* charges or other encumbrances on the property.
- (3) If the property is security for a mortgage that is also secured by other property then, despite any other Act and any inconsistent term of the mortgage, the extent of the security in relation to the sold property is the proportion that the value of the sold property bore to the total value of all the properties securing the mortgage at the time when the mortgage was entered into.
- (4) The value of forfeited property calculated under subsection (2) is –
 - (a) taken to be the value of the forfeited property; and
 - (b) to be deducted from the unexplained wealth liability of the respondent in respect of which the property was forfeited.
- (5) For the avoidance of doubt, the conversion of foreign currency is taken to be the sale of that currency.

***Division 8 – Management of restrained property or forfeited
property***

Subdivision 1 – Control and management of property

159. Management of property

The Commissioner of Police has responsibility for the control and management of property retained or seized as a consequence of a search warrant issued under section 111.

160. Management of restrained property or forfeited property

- (1) The Public Trustee has responsibility for the control and management of –
 - (a) restrained property, unless the Supreme Court otherwise orders under section 121(b) or section 162(2); and
 - (b) forfeited property until it is disposed of.
- (2) The Public Trustee may appoint a person to manage property that the Public Trustee has control or management of by virtue of this section.

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161. Financial organisation to transfer restrained funds to Public Trustee

- (1) The Public Trustee may demand that a financial organisation transfer to the Public Trustee any funds that are restrained property.
- (2) A financial organisation is to comply with a demand made by the Public Trustee under subsection (1).
- (3) The Public Trustee must hold on trust any funds received under this section and deal with the funds in accordance with the *Public Trustee Act 1930*.

162. Applications by owner for control and management of property

- (1) An owner of restrained property may apply to the Supreme Court for an order to be made under subsection (2) in relation to the property.
- (2) On hearing an application under subsection (1), the Supreme Court may, if it thinks fit, by order appoint the applicant –
 - (a) to control and manage the property while the wealth-restraining order is in force; or
 - (b) to sell or destroy the property.

- (3) If restrained property is sold in accordance with an order under subsection (2), the proceeds of the sale –
 - (a) are taken to be property that is affected by the wealth-restraining order that was in effect in respect of the sold property; and
 - (b) must be transferred to the Public Trustee.

163. Duties of person responsible for restrained property or forfeited property

A person who has responsibility for the control or management of property under this Part, or under an order made under this Part, must take reasonable steps to ensure that the property is appropriately stored or managed, and that it is appropriately maintained, until one of the following happens in accordance with this Part:

- (a) the property is returned to the person from whom it was seized or to a person who owns it;
- (b) another person becomes responsible for the control and management of the property;
- (c) the property is sold or destroyed;

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- (d) the property is otherwise disposed of.

***Subdivision 2 – Disposal of undesirable or deteriorating
property***

164. Destruction of property on grounds of public interest

- (1) A person may apply to the Supreme Court for an order to be made under subsection (2) that restrained property, or forfeited property, be destroyed, if the person –
 - (a) has responsibility for the control or management of the restrained property; or
 - (b) has responsibility for the control or management of the forfeited property for and on behalf of the State.
- (2) On hearing an application under subsection (1), the Supreme Court may order that the property be destroyed if satisfied that it would not be in the public interest to preserve the property.

165. Sale of deteriorating property

- (1) A person who has control or management of restrained property may apply to the Supreme Court for an order

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to be made under subsection (2) that the property be sold.

- (2) On hearing an application under subsection (1), the Supreme Court may order that the property be sold if satisfied that it is more likely than not that –
 - (a) the property is or will be subject to substantial waste or loss of value if it is retained until it is dealt with under another provision of this Part; or
 - (b) the cost of managing, maintaining or protecting the property will exceed the value of the property if it is retained until it is dealt with under another provision of this Part; or
 - (c) despite the market value of the property not diminishing, interest charges or the like are resulting in or are likely to result in a diminishing realisable equity in the property.
- (3) The Public Trustee may sell the property for and on behalf of the State in the circumstances mentioned in subsection (2) without obtaining an order under that subsection if –
 - (a) the property –

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- (i) is subject to a wealth-restraining order; and
 - (ii) is not land; and
 - (b) the Minister approves the sale in the circumstances.
- (4) If restrained property is sold under an order under subsection (2) or under Ministerial approval under subsection (3), the proceeds of the sale are taken to be property that is subject to the wealth-restraining order that was in effect in respect of the sold property.
- (5) If land that is restrained property is sold under an order under subsection (2) –
- (a) a sealed copy of the order is to be lodged with the Recorder by the applicant for the order; and
 - (b) the Recorder is to make such recordings, cancellations and corrections in the Register as he or she considers necessary to give effect to the order and to register the person who purchased the land under the order as proprietor of the land.

166. Valuation and inventory of restrained property

A person who has the control or management of restrained property under this Part –

- (a) may do either or both of the following:
 - (i) arrange for the property to be valued by an appropriately qualified person;
 - (ii) arrange for an inventory to be taken of any fittings, fixtures or moveable goods in, on or comprising the property; and
- (b) must, if an inventory is taken under paragraph (a)(ii), arrange for a copy of the inventory to be served on each person on whom a copy of the wealth-restraining order was served under section 122.

167. Compensation

- (1) A person may apply to the Supreme Court for an order to be made in respect

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of compensation in respect of restrained property or forfeited property that –

- (a) was owned or effectively controlled by the applicant; and
 - (b) was destroyed or sold under this Subdivision; and
 - (c) the applicant was entitled under this Part to have returned to him or her if the property had not been so destroyed or sold.
- (2) In considering an application under subsection (1), the Supreme Court is to consider the following circumstances:
- (a) whether the application for the relevant wealth-restraining order, or wealth forfeiture order, was made in good faith;
 - (b) whether the evidence as a whole would support the unexplained wealth declaration to which the specified restraining order, or forfeiture order, relates but the unexplained wealth declaration has not been made under this Part due to a technicality;
 - (c) whether the applicant was found not to have unexplained wealth;

- (d) any other circumstances the Supreme Court thinks relevant.
- (3) The Supreme Court may order that the State is liable to pay the applicant an amount, as specified in the order, that does not exceed an amount equal to –
 - (a) if the property was destroyed, the market value of the property less the costs of destroying the property; or
 - (b) if the property was sold, the proceeds of the sale.
- (4) For the purposes of subsection (3)(a), the market value of property is the market value of the property at the time the property was restrained or forfeited.

Subdivision 3 – Management of property by Public Trustee

168. Public Trustee’s power to appoint manager

If the Public Trustee has responsibility under this Part for the control or management of property, the Public Trustee may appoint a person to perform all or any of the Public Trustee’s functions in relation to the property.

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**169. Application of Act to property held by
Public Trustee under this Part**

- (1) Section 35 applies to the exercise of the Public Trustee's powers under this Part and the performance of the Public Trustee's duties under this Part, as if the reference in that section to a restraining order were a reference to this Part.
- (2) Section 36 applies to restrained property or forfeited property as if the reference in that section –
 - (a) to a restraining order were a reference to this Part; and
 - (b) to the date of the restraining order were a reference to the date the Public Trustee took custody and control of the property under this Part.
- (3) Section 37 applies to any costs incurred in respect of the exercise of the Public Trustee's powers and the performance of the Public Trustee's duties under this Part, as if the reference in that section to a restraining order were a reference to this Part.
- (4) Section 65 applies to an interstate restraining order that relates to unexplained wealth, as if a reference in that section to an interstate restraining order were a reference to an interstate

restraining order in respect of
unexplained wealth.

Division 9 – Return of forfeited property

170. Application for return of forfeited property

- (1) A person may apply to the Supreme Court for forfeited property to be returned to the applicant.
- (2) The application must be made within 28 days after the person becomes aware, or could reasonably be expected to have become aware, that the property has become forfeited property.
- (3) The Supreme Court may, if it thinks fit, hear an application under this section that is filed outside of the time frame specified in subsection (2).

171. Parties to proceedings

The State is a party to proceedings on an application under section 170.

172. Order to return forfeited property

- (1) On hearing an application under section 170, the Supreme Court may order the return to the applicant of his or her share of any forfeited property if the

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applicant establishes to the satisfaction of the Court that –

- (a) immediately before the property was forfeited, the applicant was the owner of the property or was one of the owners of the property; and
 - (b) the share of the property was not effectively controlled by the person whose unexplained wealth liability the property had been forfeited to satisfy; and
 - (c) the applicant was not aware and could not reasonably be expected to have become aware, until after the property was forfeited, that the property may become subject to a wealth forfeiture order under Subdivision 3 of Division 6.
- (2) If the Supreme Court orders the return of property under this section –
- (a) if the property is money, the money is to be paid to the applicant; and
 - (b) if the property is land, the property is to be transferred under the *Land Titles Act 1980* to the applicant if –

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- (i) the Court has ordered the return of the land in its entirety; and
 - (ii) the land has not been disposed of; and
 - (c) if the property is not money or land and has not been disposed of, the property is to be given to the applicant; and
 - (d) if the property is not money and has been sold, the proceeds of the sale are to be paid to the applicant.
- (3) If the applicant is one of the owners of the property, the Supreme Court may –
- (a) order the return of the applicant's share of the property; and
 - (b) order the return of another owner's share of the property if that owner is not the person whose unexplained wealth liability the property had been forfeited to satisfy.
- (4) In an order under subsection (3), the Supreme Court is to specify –
- (a) the proportion that it finds to be the applicant's share of the property; and

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- (b) if the Supreme Court makes an order under subsection (3)(b), the proportion that it finds to be the other owner's share of the property; and
 - (c) the proportion that it finds to be the share of the person whose unexplained wealth liability the property had been forfeited to satisfy.
- (5) If the Supreme Court makes an order under subsection (3) but has not made an order under subsection (6), the applicant is to receive –
 - (a) if the property is money, the applicant's share of the money; and
 - (b) if the property is not money, has not been disposed of and is divisible, the applicant's share of the property; and
 - (c) if the property is –
 - (i) not money; and
 - (ii) is not divisible or has been disposed of –

the amount of money that represents the applicant's share of

the proceeds from the sale of the property (when sold).

- (6) If the applicant is entitled to the return of a share of forfeited property under subsection (5)(c) that has not been disposed of, the Supreme Court may order that the property is to be given to the applicant if the Court also orders that the applicant pay to the State the value of the share of the property that the Court does not order under subsection (3) to be returned to the applicant or another owner.
- (7) If the Supreme Court makes an order under this section, it may make any necessary or convenient ancillary orders.

Division 10 – Mutual recognition of restraining orders and forfeiture orders

Subdivision 1 – Registration of State orders in other jurisdictions

173. Interstate registration of restraining orders, forfeiture order &c.

- (1) If a corresponding law of another State provides for the registration and enforcement in that State of a wealth-restraining order, wealth forfeiture order or other order under this Part, the order may be expressed to apply to property in that State.

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- (2) An order expressed in accordance with subsection (1) to apply to property in another State may be registered under the law of that State.
- (3) An order registered in accordance with subsection (2) has effect in that State to the extent provided by the law of that State.
- (4) If the property to which an order referred to in subsection (1) relates is movable property, the order has effect in the other State to the extent that –
 - (a) the property was located in that State when the order was registered; and
 - (b) the property –
 - (i) remains located in that State; or
 - (ii) having been moved from that State, is once again located in that State.

Subdivision 2 – Recognition of interstate orders

174. Registration of interstate orders relating to unexplained wealth

- (1) If an interstate restraining order, or interstate forfeiture order, in respect of unexplained wealth is registered under

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section 58 and relates to land in Tasmania –

- (a) the person who made the application under that section must lodge with the Recorder a sealed copy of that order with an application for the order to be registered; and
 - (b) if the land is not registered under the *Land Titles Act 1980*, the Recorder is to –
 - (i) bring the land under the *Land Titles Act 1980* as if an application had been made in relation to the land under section 11 of that Act; and
 - (ii) register that order against the relevant folio of the Register; and
 - (c) if the land is registered under the *Land Titles Act 1980*, the Recorder is to register that order against the relevant folio of the Register.
- (2) An interstate restraining order, or interstate forfeiture order, takes effect in relation to the land when the order is registered under subsection (1)(b)(ii) or (1)(c).

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175. Effect of registration of interstate restraining orders relating to unexplained wealth

- (1) Despite section 60, an interstate restraining order that is registered under section 58 and relates to unexplained wealth may be enforced in Tasmania as if the order had been made under section 118 at the time it was registered.
- (2) This Part (except sections 117 and 122) applies to an interstate restraining order enforced under subsection (1) as if it were a wealth-restraining order under section 118.

176. Effect of registration of interstate forfeiture orders relating to unexplained wealth

- (1) Despite section 59, an interstate forfeiture order that is registered under section 58 and relates to unexplained wealth may be enforced in Tasmania as if the property to which it relates were forfeited property.
- (2) If an interstate forfeiture order is enforced in the State under this Act, the forfeited property vests in the State.
- (3) Property cannot vest in the State under subsection (2) if the property subject to the interstate forfeiture order has already, by reason of the order, vested in the

Commonwealth, in another State or in some other person or entity.

177. Duration of registration of interstate orders relating to unexplained wealth

Unless its registration is cancelled under section 178, an interstate restraining order, or interstate forfeiture order, that is registered under section 58 and relates to unexplained wealth is enforceable in the State under this Act despite the order having already ceased to be in force under the law of the Commonwealth, or of the State, under which the order was made.

178. Cancellation of registration of interstate orders relating to unexplained wealth

- (1) The Supreme Court is to cancel the registration under section 58 of an interstate restraining order, or interstate forfeiture order, that relates to unexplained wealth if registration of the order was improperly obtained.
- (2) The Supreme Court may cancel the registration under section 58 of an interstate restraining order, or interstate forfeiture order, that relates to unexplained wealth if the order ceases to be in force under the law of the

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Commonwealth, or of the State, under which the order was made.

- (3) An application under this section for the cancellation of the registration of an order may only be made by the person who applied for the registration, by the DPP or by a person affected by the order.
- (4) If the registration of an interstate restraining order, or interstate forfeiture order, is cancelled under subsection (1) or (2) and the order relates wholly or in part to land –
 - (a) the applicant under subsection (3) must lodge with the Recorder a certified copy of the order cancelling the registration of the interstate restraining order or interstate forfeiture order; and
 - (b) the Recorder is to register the certified copy of the order cancelling the registration against the relevant folio of the Register.
- (5) The registration under section 58 of an interstate restraining order, or interstate forfeiture order, ceases to have effect in relation to land when a certified copy of an order cancelling the registration of the interstate restraining order, or interstate forfeiture order, is registered under subsection (4)(b).

Division 11 – Interests in registrable property

179. Registration of interest in land

- (1) Subsection (2) applies to the registration of the following under the *Land Titles Act 1980*:
 - (a) a document transferring land for the purpose of section 146;
 - (b) a sealed copy of the wealth forfeiture order under section 154(1);
 - (c) a sealed copy of a registered interstate forfeiture order under section 58.
- (2) On lodgement of a document or sealed copy under subsection (1), the Recorder must –
 - (a) register the instrument against the relevant folio of the Register; and
 - (b) register the State as the proprietor of the property in the relevant folio of the Register.
- (3) To the extent that a provision of this Part relating to land is inconsistent with the *Land Titles Act 1980*, the provision of this Part prevails, but this Part does not otherwise affect the operation of the

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Land Titles Act 1980 in relation to land
dealt with under this Part.

- (4) This Part does not prevent –
- (a) a person from lodging with the Recorder –
 - (i) a caveat relating to land that is restrained property; or
 - (ii) an instrument relating to a dealing or purported dealing in land that is restrained property at the time when the instrument is lodged; or
 - (iii) an instrument relating to a dealing or purported dealing in land that was restrained property at the time when the dealing or purported dealing was carried out; or
 - (b) the Recorder from –
 - (i) giving notice to any person that a caveat has been lodged in relation to land that is restrained property; or

(ii) accepting an instrument relating to a dealing or purported dealing in land that is restrained property at the time when the instrument is lodged; or

(iii) accepting an instrument relating to a dealing or purported dealing in land that was restrained property at the time when the dealing or purported dealing was carried out –

but the Recorder must not register a dealing in the Register in relation to land while the land is restrained property.

180. Registration of interests in other property

If –

(a) property is registered under an Act other than the *Land Titles Act 1980* or the *Registration of Deeds Act 1935*; and

(b) the relevant registering authority under that Act is notified in accordance with this Part that –

(i) a wealth-restraining order for the property has been made, or has ceased to be

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in force, in respect of the
property; or

- (ii) that the property has been
forfeited under this Part –

the relevant registering authority must
make such amendments to the register as
the case requires.

**181. Imputation of knowledge that property is
restrained**

- (1) If a wealth-restraining order in relation to
land has been registered on the relevant
folio under this Part, any person who
deals with the land is taken to have
notice, for all purposes, that the land is
restrained property.
- (2) If particulars of a wealth-restraining
order for property other than land have
been entered in an appropriate register
under section 180, any person who deals
with the property while the wealth-
restraining order is in force is taken, for
all purposes, to have notice that the
property is restrained property.

Division 12 – Court jurisdiction and evidentiary matters

182. Courts' jurisdiction

- (1) The Supreme Court has jurisdiction in
any proceedings under this Part.

- (2) In addition to subsection (1), the Magistrates Court also has jurisdiction in respect of interim wealth-restraining orders and search warrants.
- (3) A declaration, order, finding or decision of a court under this Part in relation to property is not invalid only because the value of the property exceeds the maximum value permitted to be dealt with by the court that made the declaration, order, finding or decision.
- (4) This section does not affect the jurisdiction of a court in criminal proceedings under this Part.

183. Proceedings under this Part

- (1) Proceedings on an application under this Part are taken to be civil proceedings for all purposes.
- (2) A court dealing with proceedings under this Part may do one or more of the following:
 - (a) order that the whole or any part of the proceedings is to be heard in closed court;
 - (b) order that only persons, or classes of persons, specified by the court may be present during the whole or any part of the proceedings;

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- (c) order that the publication of a report of the whole or any part of the proceedings, or of any information derived from the proceedings, is prohibited.
- (3) Except in relation to an offence under this Part –
 - (a) a rule of construction that is applicable only in relation to the criminal law does not apply in the interpretation of this Part; and
 - (b) the rules of evidence applicable in civil proceedings apply in proceedings under this Part; and
 - (c) the rules of evidence applicable only in criminal proceedings do not apply in proceedings under this Part; and
 - (d) a question of fact to be decided by a court in proceedings on an application under this Part is to be decided on the balance of probabilities.
- (4) A decision under this Part, except under Division 4, about the existence of grounds for doing or suspecting anything may be based on hearsay evidence or hearsay information.

184. Appearance by Attorney-General

The Attorney-General may appear in any proceedings under this Part in which the State has an interest, whether or not the DPP or the State is also a party to the proceedings.

185. Stay or adjournment of proceedings

Proceedings under this Part are not to be stayed or adjourned for the purpose of awaiting the outcome of any criminal proceedings that have commenced, or are to commence, involving a person whose property is, or may be, affected by the proceedings under this Part.

186. Consent orders

In any proceedings under this Part, a court may at any time make an order that is agreed to by the parties.

187. Enforcing compliance with Part or court order

- (1) If a person fails to take any action necessary to comply with, or give effect to, this Part or an order under this Part –
 - (a) at the direction of the Supreme Court or a judge, the Assistant Judge or a Registrar of the

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Supreme Court may take the necessary action; and

- (b) the action of the Assistant Judge or Registrar has effect for all purposes as if it had been done by the person.
- (2) The person who failed to take an action referred to in subsection (1) is liable to pay any costs incurred as a result of the Assistant Judge or Registrar taking that action and the costs are recoverable by the State as a debt due and payable.

Division 13 – Miscellaneous matters

188. Certain money to be paid into Consolidated Fund

- (1) In this section –

equitable sharing arrangement means an arrangement under which either or both of the following happen:

- (a) this State pays to another State or the Commonwealth a proportion of any unexplained wealth liability recovered by this State under this Act by reason of a contribution

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made by the other State or the Commonwealth, as the case may be, to the investigation, securing or recovery of that unexplained wealth;

- (b) another State or the Commonwealth pays to this State a proportion of any unexplained wealth liability recovered by the other State or the Commonwealth, as the case may be, by reason of a contribution made by this State to the investigation, securing or recovery of that unexplained wealth.

- (2) The following sums of money are to be paid into the Consolidated Fund:

- (a) all money forfeited to the State under this Part;
- (b) all proceeds of forfeited property sold under this Part;
- (c) all money received by the State in relation to this Part under the equitable sharing arrangement.

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189. Public Trustee common fund

- (1) The following are to be paid into the common fund of the Public Trustee created under the *Public Trustee Act 1930*:
 - (a) funds that are restrained under this Part and are transferred to the Public Trustee in accordance with section 161;
 - (b) income from a business or property managed by the Public Trustee in accordance with this Part;
 - (c) the proceeds of sale under section 162 or 165 of restrained property.
- (2) Money that has been paid into the common fund in accordance with subsection (1) may be paid out of the common fund by the Public Trustee –
 - (a) to cover any costs of storing or managing restrained property or forfeited property that are incurred by the Public Trustee or a person appointed under this Part to manage the property; or
 - (b) as fees payable to the Public Trustee for the management of

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- property or performance of functions under this Part; or
- (c) under an order of a court as restrained property that is to be returned; or
 - (d) to a *bona fide* mortgagee or encumbrancee of property sold under this Part; or
 - (e) if the money is proceeds from the sale of property under a registered interstate forfeiture order, to the State that made the interstate order; or
 - (f) as a co-owner's share of property sold under this Part; or
 - (g) in any circumstances provided for by the *Public Trustee Act 1930*; or
 - (h) to the State, including money that becomes forfeited property; or
 - (i) as otherwise prescribed.
- (3) Money required to be paid out by the Public Trustee under this Part is to be paid out as soon as practicable after the Public Trustee becomes aware that payment is due.

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190. Exemption from stamp duty and other costs

The following dealings by which property is transferred to, or vested in, the State (or is agreed to be transferred to or vested in the State) are exempt from stamp duty under the *Duties Act 2001* and fees that, but for this section, would be payable under the *Land Titles Act 1980*:

- (a) dealings under section 146;
- (b) dealings in accordance with a wealth forfeiture order under Subdivision 3 of Division 6;
- (c) dealings in accordance with a registered interstate forfeiture order.

191. Property protected from restraint or forfeiture

- (1) The following kinds of property are not to be made subject to a wealth-restraining order or wealth forfeiture order:

- (a) family photographs;
- (b) family portraits;
- (c) necessary food;
- (d) necessary clothing.

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- (2) Subject to subsection (3), the following kinds of property are not to be made subject to a wealth-restraining order or wealth forfeiture order:
 - (a) ordinary tools of trade;
 - (b) professional instruments;
 - (c) reference books.
- (3) For the purposes of subsection (2) –
 - (a) a maximum value of property to be protected under that subsection may be prescribed per person, per order, or as otherwise prescribed; and
 - (b) property is protected under that subsection only to the extent that the aggregate value of that property does not exceed the prescribed amount.
- (4) Property that, under this section, is not to be made subject to a wealth-restraining order or wealth forfeiture order –
 - (a) is not to be retained or guarded under this Part or under a search warrant issued under this Part; and
 - (b) is not to be restrained; and

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- (c) is not available for the purpose of satisfying a person's unexplained wealth liability; and
- (d) cannot be forfeited under Subdivision 3 of Division 6.

192. Transfer of property for value

For the purposes of this Part –

- (a) property transferred under a will or administration of an intestate estate is not taken to be transferred for value; and
- (b) property transferred in the course of proceedings in the Family Court of Western Australia or the Family Court of Australia is taken to be transferred for value.

193. Restrained property not available to meet legal costs

- (1) Restrained property –
 - (a) is not to be released to meet the legal expenses of a person, whether the expenses are in relation to proceedings under this Part, that relate to the forfeiture of the property or to any other civil or criminal proceedings; and

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- (b) is not to be taken into account for the purposes of an application by the person for legal aid.

(2) If –

- (a) the Tasmanian Legal Aid Commission or another legal aid organisation provides a person with legal aid in respect of proceedings under this Act or any other civil or criminal proceedings; and
- (b) property of the person that was restrained property is no longer restrained –
 - (i) in whole; or
 - (ii) in part as surplus to an amount forfeited to the State (and any order for costs) –

the person is liable to the Commission or other organisation for his or her legal costs and the property released is charged as security for those costs.

(3) A charge under subsection (2) –

- (a) is subject to any prior encumbrances on the property that take priority; and

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(b) if the property is land, takes effect when the charge is registered in accordance with the *Land Titles Act 1980*.

(4) If –

(a) legal aid is granted to a person whose property is restrained under this Act; and

(b) the restrained property is forfeited –

the Commission or other organisation may apply to the Minister for reimbursement of the legal costs incurred in providing legal aid to the person.

(5) On application by the Commission or other organisation, the Minister may reimburse the Commission or organisation out of funds realised from the forfeited property, having regard to –

(a) the value of the property forfeited; and

(b) the legal costs incurred by the Commission or organisation in the matter; and

(c) the state of the legal aid fund.

194. Liability for carrying out functions under this Part

A person on whom this Part confers a function is not personally liable in civil proceedings, and the State is not liable, for anything done or any default made by the person in good faith for the purpose of carrying this Part into effect.

195. Later applications, orders or findings

Subject to this Part, the fact that an application, order or finding has been made under this Part in relation to any property or person does not prevent another such application, order or finding, or a different application, order or finding, from being made under this Act in relation to the property or the person.

196. Orders relating to sham transactions

- (1) For the purposes of this section, a person carries out a sham transaction if he or she carries out, makes, gives or designs, for the purpose of directly or indirectly defeating, avoiding, preventing or impeding the operation of this Part in any respect –

- (a) any agreement, arrangement, understanding, promise or

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- undertaking, whether express or implied and whether enforceable, or intended to be enforceable, by legal proceedings; or
- (b) any scheme, plan, proposal, action, course of action or course of conduct.
- (2) If the DPP suspects that a person has carried out, is carrying out or may carry out a sham transaction, the DPP may apply to the Supreme Court for an order to be made under subsection (3).
- (3) On hearing an application under subsection (2) and in order to promote justice, the Supreme Court may make an order –
 - (a) declaring that the transaction is void in whole or in part; or
 - (b) preventing the transaction from being carried out; or
 - (c) varying the operation of the transaction in whole or in part.
- (4) The Supreme Court may only make an order under subsection (2) if satisfied that a person named in the application has carried out, is carrying out or may carry out a sham transaction.

- (5) If the Supreme Court makes an order under this section, it may make any ancillary orders that are necessary or convenient in the circumstances for or in respect of any consequential or related matter, including orders relating to –
- (a) dealing with property; and
 - (b) disposing of any proceeds from the sale of property; and
 - (c) making payments of money; and
 - (d) creating a charge on property in favour of any person and the enforcement of the charge.

197. Proceedings against corporations

- (1) If a corporation commits an offence against this Part and it is proved that the offence occurred with the knowledge and consent of an officer of the corporation, or a person purporting to act as an officer of the corporation, that person, as well as the corporation, commits the offence.
- (2) If the affairs of a corporation are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were an officer of the corporation.

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198. Substituted service

If personal service is specified in any proceedings under this Part, the court that requires service may, on application, if satisfied that the person to be served is avoiding service –

- (a) make an order for substituted service (and stipulate the method of service); or
- (b) order that service or any notice requirements be dispensed with.

199. Delegation by DPP

The DPP may delegate, in writing, any of his or her functions or powers under this Part, other than this power of delegation.

200. Effect of person's death

- (1) A reference in this Part to property of a person includes a reference to the property of a deceased person where the property was owned or effectively controlled by the person immediately before his or her death or given away by the person at any time before his or her death.
- (2) An order may be applied for and made under this Part –

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- (a) in respect of property that is or was owned or effectively controlled or given away by a person who died before the application or order is made; and
 - (b) on the basis of the activities of a person who died before the application or order is made.
- (3) If a person who owns restrained property dies, this Part continues to apply to the property in all respects as if the person had not died.
- (4) Without limiting this section, if a person who is a joint tenant of restrained property dies –
 - (a) the person's death does not operate to vest the property in the surviving joint tenant or tenants; and
 - (b) the wealth-restraining order continues to apply to the property as if the person had not died.

201. Obstructing a police officer

- (1) A person commits an offence if the person wilfully delays or obstructs a police officer in the performance of the police officer's functions under this Part, or wilfully delays or obstructs a person

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assisting a police officer in the performance of those functions.

Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (2) A person must not knowingly or wilfully fail to produce any property to, or conceal or attempt to conceal any property from, a police officer in the performance of the officer's functions under this Part or a person assisting a police officer in the performance of those functions.

Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 5 years, or both.

202. Legal professional privilege

For the avoidance of doubt, the common law rules (including the exceptions) relating to legal professional privilege apply in relation to proceedings under this Part.

203. Regulations relating to unexplained wealth declarations

- (1) Regulations under section 205 may prescribe matters –

- (a) required or permitted by this Part to be prescribed; or
 - (b) necessary or convenient to be prescribed for giving effect to this Part.
- (2) Without limiting subsection (1), the regulations may –
 - (a) provide for carrying out the destruction of property under an order under section 164; and
 - (b) provide for carrying out the sale of deteriorating property under an order under section 165; and
 - (c) provide for obtaining possession of forfeited property; and
 - (d) provide for the storage and management of forfeited property; and
 - (e) provide for the disposal of forfeited property that has vested in the State.

204. Review of Part

- (1) The Minister is to cause an independent review of the operation of this Part to be undertaken as soon as practicable after the third anniversary of its commencement.

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- (2) The Minister is to cause a report on the outcome of the review to be tabled in each House of Parliament within 10 sitting-days of that House after the review is completed.

PART 10 – MISCELLANEOUS

205. Regulations generally

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may be made so as to –
 - (a) apply generally or be limited in their application by reference to specified exceptions or factors; or
 - (b) apply differently according to different factors of a specified kind.
- (3) Regulations declaring a kind of order to be within a definition may do so by reference to the interstate serious offences involved.
- (4) Regulations declaring a law to be a corresponding law may provide that the declaration applies only in respect of prescribed provisions of this Act.

13. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.