



Unexplained wealth – asset confiscation by the Commonwealth Government

The legislation

CRIMES LEGISLATION AMENDMENT (SERIOUS AND ORGANISED CRIME) ACT 2010

What is the objective of the legislation?

The legislation is intended to implement the Commonwealth's commitment to combat organised crime by strengthening criminal asset confiscation, including the introduction of unexplained wealth provisions.

How does the legislation operate

The Act amends the Proceeds of Crime Act 2002 to strengthen the Commonwealth criminal assets confiscation regime by introducing unexplained wealth orders. Unexplained wealth orders target wealth that a person cannot demonstrate that he or she has lawfully acquired.

Although the Proceeds of Crime Act 2002 contains existing confiscation mechanisms, these are not always effective in relation to those who remain at arm's length from the commission of offences, as most of the other confiscation mechanisms require a link to the commission of an offence.

Unexplained wealth

Senior organised crime figures who fund and support organised crime, but seldom carry out the physical elements of crimes, are not always able to be directly linked to specific offences.

The unexplained wealth provisions provide that once a court is satisfied that an authorised officer has reasonable grounds to suspect that a person's total wealth exceeds the value of that person's wealth that was lawfully acquired, the court can compel the person to attend court and prove, on the balance of probabilities, that their wealth was not derived from offences with a connection to Commonwealth power. If a person cannot demonstrate this, the court must order them to pay to the Commonwealth the difference between their total wealth and their legitimate wealth (the unexplained wealth amount).

The Northern Territory and Western Australia have unexplained wealth schemes and it is estimated that more than \$40 million in alleged criminal assets have been seized under unexplained wealth provisions since 2003.

The Bill is prefaced upon existing Northern Territory and Western Australia legislation. The main differences between the Commonwealth Bill and the Northern Territory and Western Australia legislation is that the Commonwealth is limited to confiscating unexplained wealth derived from offences within its constitutional powers.

How can Polemic Forensic assist with regards to unexplained wealth assessments

Polemic Forensic can review and analyse unexplained wealth assessments and conduct investigations and prepare reports which detail the source of a person's assets.

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