

Legislative Statement
for the
Criminal Proceeds (Recovery) Amendment Bill

Second Reading

Presented to the House of Representatives

In accordance with Standing Order 272

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Introduction

1. The Criminal Proceeds (Recovery) Amendment Bill (the Bill) amends the Criminal Proceeds (Recovery) Act 2009 (CPRA) to improve the law's effectiveness at restraining and forfeiting property derived from significant criminal activity.
2. The Bill contributes to the government's election manifesto commitment to respond to organised crime by ensuring enforcement agencies have the appropriate powers to seize the proceeds of crime, disrupt organised criminal offending, and hold its ringleaders to account.

Background

3. CPRA establishes a civil regime for restraining and forfeiting property derived from significant criminal activity. The regime proposes to eliminate the chance for persons to profit from significant criminal activity, deter profit-driven criminal conduct, and limit the expansion of the criminal enterprise.
4. However, there are limitations to how effectively CPRA can achieve these objectives. Organised criminal groups have been able to exploit inefficiencies in the regime and structure their affairs in a manner that avoids civil forfeiture. For example, in some circumstances, the considerable amount of time and resources required for Police to use existing CPRA powers may allow these groups to reinvest or otherwise use illicit profits before Police can carry out seizure.

Summary of the Bill

5. The Bill amends CPRA to provide:
 - 5.1. new restraint and forfeiture orders where a person is associated with an organised criminal group and their legitimate property would not be enough to have acquired the specific property subject to the order;
 - 5.2. a new disclosure of source order requiring overseas respondents to provide information on the source of restrained property within two months, or else the court may presume the property is tainted;
 - 5.3. an exception to allow funds in KiwiSaver schemes to be subject to civil forfeiture orders; and
 - 5.4. authorisation for the Official Assignee to hold seized property beyond 28 days if an application for a restraining order has been made to the court.
6. Under the current regime, leaders and facilitators of organised crime can financially benefit from criminal activity while insulating themselves from liability. These leaders and facilitators are associated with the members of the organised criminal group, but avoid knowledge of or involvement in specific offending. These amendments respond providing a new type of restraint and forfeiture orders that focus on association and the sufficiency of a person's legitimate property, rather than their level of involvement.

7. The new powers are designed to strike a balance between upholding the rule of law (by enabling the seizure of illicit assets) and safeguarding human rights (including the rights to a fair hearing and freedom from unreasonable seizure).

Conclusion

8. The Bill addresses inefficiencies and gaps in New Zealand's existing civil forfeiture regime to better deter organised crime. It improves CPRA's success and efficiency at restraining and forfeiting property derived from significant criminal activity.
9. The Bill supports the Government's commitment to address organised crime and ensure enforcement agencies have the appropriate powers to seize the proceeds of crime, disrupt organised criminal offending, and hold its ringleaders to account.