




Speech By
Hon. Jarrod Bleijie

MEMBER FOR KAWANA

**CRIMINAL PROCEEDS CONFISCATION (UNEXPLAINED WEALTH AND
SERIOUS DRUG OFFENDER CONFISCATION ORDER) AMENDMENT BILL**

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (3.32 pm): I move—

That the bill be now read a second time.

I thank the Legal Affairs and Community Safety Committee for its consideration of the Criminal Proceeds Confiscation (Unexplained Wealth and Serious Drug Offender Confiscation Order) Amendment Bill 2012. I note that the committee tabled its report of the bill on 8 April 2013, recommending that the bill be passed. The committee made no other recommendation. So I thank the committee for its report and, of course, the government wholeheartedly accepts this recommendation.

I will briefly address the statement of reservation of the honourable member for Rockhampton. Firstly, the honourable member notes that, while consultation on this bill was undertaken with key stakeholders by way of correspondence advising of the framework for the proposed amendments, stakeholders did not have the full benefit of commenting on a draft of the bill. The member for Rockhampton outlines in his statement that he sees no need for urgent passage of the bill and that, as such, stakeholders could have been afforded the opportunity to consider a draft bill.

The introduction of tough new laws to target the ill-gotten gains of criminals was a pre-election commitment of this government. That commitment was reiterated by our six-month action plan of July to December 2012. This government has made a pledge to the people of Queensland that we will get tough on crime and make Queensland a safer place to live. This pledge, taken with regard to the development and introduction of this bill, has allowed the government to meet the community's expectations that such law reform would be introduced in a timely fashion. Consultation with legal stakeholders occurred on the proposed framework of the amendments and stakeholders were afforded the opportunity to consult on the bill during the committee process.

The second issue raised by the member for Rockhampton concerns the resourcing of the Crime and Misconduct Commission to properly utilise the new provisions contained in the bill. The honourable member calls on me to explain how I will ensure the adequate resourcing of the CMC. As mentioned by the member for Rockhampton, the government recently responded to the Parliamentary Crime and Misconduct Committee's recommendation that the CMC should be allocated greater resources to the CMC's proceeds of crime function. Such recommendation was made in the context of the PCMC's three-yearly review of the CMC. I reiterate the position that the government has stated in that response—

In the current fiscal environment, any requirement for a greater allocation of resources will need to be funded from within existing agency resources; including possible reallocation of resources.

Of course, if at some point in the future when the new provisions have been implemented and utilised the CMC asserts that additional resources are required, then I would give any submission made to me on that due consideration. For completeness, I note, however, that the expert advisory

panel constituted by the Hon. Ian Callinan AC and Professor Nicholas Aroney in its publicly released recommendations suggested that, save for urgent applications in pending matters, the powers of the Director of Public Prosecutions under the Criminal Proceeds Confiscation Act for the criminal proceeds confiscation regime—which the director does not wish to retain—ought, subject to particular conditions, vest in the CMC. Furthermore, however, the expert panel was also of the view that the CMC should use some of its current budget allocations more effectively. I will certainly be monitoring this closely in the future and I am currently considering all recommendations made not only by the expert panel but also by the PCMC.

The members opposite should take note particularly of the Callinan report but, more importantly, particularly of the independent Parliamentary Crime and Misconduct Committee report with respect to resources of the CMC. The PCMC report may enlighten them on some of those issues. Members also may like to be aware that there has been recent media reports in relation to CMC resources and allocations and CMC spending upwards of \$50,000 to survey its staff. So I think there is opportunity in the CMC to certainly look at reallocating some of its resources, possibly from the things that it is doing that it ought not be doing or should not be doing. I think the PCMC and the Callinan report and the latest media reports that we have been reading certainly advise of that.

The third issue raised by the member for Rockhampton concerns the CMC's reporting on the use of new unexplained wealth provisions. The honourable member suggests that the bill should specifically require the CMC to report on the use of the new provisions annually in its annual report. The CMC is a statutory body within the Financial Accountability Act 2009 and as such must prepare an annual report that complies with the annual report requirements for Queensland government agencies. Further, section 260 of the Crime and Misconduct Act enables me as the minister responsible for the act to require the CMC to provide certain information. In that regard I am satisfied that an amendment to the bill is not required.

The fourth issue raised by the member for Rockhampton concerns whether the bill provides adequate oversight of the new provisions. Under the new provisions the CMC is the entity empowered to make applications to the Supreme Court. The CMC must report annually on the performance of its functions. The Parliamentary Crime and Misconduct Committee—the PCMC—monitors and reviews the performance of the CMC's functions. In its publicly released recommendations, the Hon. Ian Callinan AC and Professor Nicholas Aroney called for more openness in how the PCMC performs its oversight role. Although the government is considering the recommendations of the expert advisory panel, I am not of the view that an alternative oversight structure is required for the CMC's use of the new schemes introduced by this bill.

The final issue raised by the member for Rockhampton concerns the hardship order provisions in the bill. The hardship order provisions allow innocent dependants of persons against whom certain unexplained wealth or serious drug offender confiscation orders are made to make application to the Supreme Court for a hardship order with respect to special property. The honourable member queries why similar hardship order provisions are not proposed for chapter 3 of the act. Chapter 3 of the Criminal Proceeds Confiscation Act 2002 enables proceedings to be started against a person to recover property and benefits derived from or used in the commission of a confiscation offence after the person has been charged with or convicted of the offence. Such property is referred to as tainted property.

Given that the property in question in chapter 3 is property directly derived from the offence or property used in the commission of the offence, it is not appropriate to apply hardship order provisions to that chapter. The unexplained wealth scheme and the serious drug offender confiscation order scheme proposed in the bill are concerned with a much broader class of property, that being under the effective control of an offender, and as such it is fair and just to allow innocent dependants to apply to exclude certain assets on the basis of hardship. However, I do note that under chapter 3, in determining whether to make a forfeiture order with regard to tainted property, the court may have regard to any hardship that may reasonably be expected to be caused to anyone by the order.

In closing, I again thank the Legal Affairs and Community Safety Committee for its consideration of the bill and acknowledge the contribution of those who have made submissions on this bill to the committee. The bill targets not only the ill-gotten gains of criminals but also their legally obtained assets. If enacted, these new schemes will significantly increase the personal risk to persons who become involved in serious criminal activity. While such criminals may be willing to risk imprisonment, they must now contemplate the risk of being stripped of all of their assets. This was a pre-election government commitment. It is about going after the Mr Bigs of the crime world, going to the heart of the assets, going to the heart of the problems. On that note I commend the bill to the House.