1. The Member for Southern Downs and Deputy Leader of the Opposition, Mr Lawrence Springborg MP, introduced the Criminal Proceeds Confiscation (Serious and Organised Crime Unexplained Wealth) Amendment Bill 2010 as a Private Member’s Bill on 24 November 2010.
2. The Bill amends the *Criminal Proceeds Confiscation Act 2002* (CPC Act) and the *Drugs Misuse Act 1986* and allows the State to seek an unexplained wealth declaration and/or a drug trafficking declaration against a person in order to confiscate their property.
3. The civil-based confiscation scheme in the CPC Act contains unexplained wealth provisions in the form of proceeds assessment orders. These provisions allow the Supreme Court to make an order if it is more probable than not that the total value of the respondent’s wealth is greater than the total value of the respondent’s lawfully acquired wealth; with the onus being on the respondent to prove that their wealth was lawfully acquired. However, in Queensland and in all other jurisdictions except Western Australia and the Northern Territory, investigating authorities must relate the confiscation process to the respondent’s involvement in criminal activity. For example, in Queensland and New South Wales, the applicant must satisfy the Supreme Court that it is more probable than not that, at any time within a six year period, the person engaged in a serious crime related activity.
4. Pursuant to the Bill, there is no requirement for the applicant to prove, to the civil standard, any link to criminal activity. The only knowledge that authorities may have of the respondent is their greatly inflated and apparently unaccountable new-found wealth.
5. The unexplained wealth scheme proposed in the Bill is inconsistent with the objectives of the CPC Act, which is concerned with removing the financial gain and increasing the financial loss associated with *illegal activity*.
6. The Bill also provides for drug trafficking declarations which would strip a person of all property owned or effectively controlled by the ‘drug trafficker’ within six years before the declaration was made, as well as all property that the person gave away. All property is forfeited to the State, even lawfully acquired property. Where a person is convicted of trafficking in dangerous drugs, the convicting court must, on the application of the Director of Public Prosecutions, declare the person to be a drug trafficker.
7. The enactment of drug trafficking declarations may have implications for the criminal justice system as they provide a clear disincentive for people to plead guilty to drug trafficking offences and such trials, due to the nature of the evidence, are often lengthy.
8. Cabinet decided to oppose the Criminal Proceeds Confiscation (Serious and Organised Crime Unexplained Wealth) Amendment Bill 2010.
9. *Attachments*
* [Criminal Proceeds Confiscation (Serious and Organised Crime Unexplained Wealth) Bill 2010](Attachments/Att%201%20Criminal%20Proceeds%20Confiscation%20%28Serious%20and%20Organised%20Crime%20Unexplained%20Wealth%29%20Amendment%20Bill%202010.pdf)
* [Explanatory Notes](Attachments/Att%202%20Criminal%20Proceeds%20Confiscation%20%28Serious%20and%20Organised%20Crime%20Unexplained%20Wealth%29%20Amendment%20Bill%202010%20%20Explanatory%20Note.pdf)