

**Legislative Statement
for the
Criminal Proceeds (Recovery) Amendment Bill**

First 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) and the KiwiSaver Act 2006 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, due to the considerable amounts of time and resource required for Police to use existing CPRA powers, these groups may reinvest or otherwise use illicit profits before Police can carry out seizure.

Provisions of the Criminal Proceeds Acts Amendment Bill

- 5 The Bill amends CPRA and the KiwiSaver Act 2006 to provide:
 - a) a new disclosure of source order requiring respondents who are overseas to provide information on the source of restrained property within 2 months, or else the court may presume the property was tainted;
 - b) authorisation for the Official Assignee to hold seized property beyond 28 days if awaiting determination of an application for a restraining order;
 - c) new restraint and forfeiture orders where a person is associated with a member of an organised criminal group and their legitimate property is deemed insufficient to have acquired the specific property subject to the order; and
 - d) an exception in accordance with the KiwiSaver Act 2006 to allow funds in KiwiSaver schemes to also be subject to CPRA orders.
- 6 Under the current regime, leaders and facilitators of organised crime can financially benefit from criminal activity while insulating themselves from liability by avoiding direct knowledge of and involvement in that activity. These amendments will better respond to leaders and facilitators by providing new criteria for 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 amends CPRA and the KiwiSaver Act to improve the law's effectiveness 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.