



*CHIEF MAGISTRATE'S CHAMBERS  
MAGISTRATES COURT  
ADELAIDE*

12 July 2018

Dr Sean Turner  
Acting Committee Secretary  
Legal and Constitutional Affairs Legislation Committee  
[legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au).

Dear Dr Turner

I refer to your email dated 29 June 2018 on behalf of the Legal and Constitutional Affairs Legislation Committee seeking submissions on the *Unexplained Wealth Legislation Amendment Bill 2018*.

Schedules 2 and 3 of the Bill will allow unexplained wealth restraining orders (s 20A) and unexplained wealth orders (s 179E) under the *Proceeds of Crime Act 2002* (Cth) to be made in respect of relevant offences of a participating state. It is unclear what the projected lodgments will be. However, as the Magistrates Court have a jurisdictional limit of \$100,000 for civil claims and the POC Act is directed at indictable offences this change is more likely to have an impact on the Higher Courts. Schedule 4 will allow State law enforcement to apply to a magistrate for a production order. It is impossible to predict how many of these applications the Magistrates Court will receive. The Magistrates Court currently have jurisdiction to issue production orders in relation to property tracking documents under Part 3-2 of the POC Act and production orders under s 15 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*. Whilst production orders are not new and we could replicate existing processes there will be an impact as these provisions have rarely been utilised. Furthermore, there are differences between the orders including who the applicants are and the documents that can be retained.

In order to accommodate the reform there would need to be amendments to the Rules of Court and Court Forms. The Magistrates Court would need to review and update our procedures. To ensure staff are aware of the changes, a communication plan and training program will need to be developed. There would also be an IT enhancement required. We would need to develop a new application form, new application type and document type and order outcomes. The CAA is building a new case management system (ECMS). Legislative reform has significant potential impacts on the ECMS implementation process. This legislative reform is likely to be beyond the scope of the ECMS requirements which have already been specified and costed. Changes to the project scope are likely to attract a significant cost. There is also a likely to be an impact on the judiciary as under the transitional provisions these applications may be brought in relation to conduct occurring before the commencement of the scheme.

Participating states will need to report on the use of production orders. Whilst this obligation is on the Commissioner or head of the Police if statistics were required from the Magistrates Court to validate the figures provided by Police we would need to make changes to our Data Warehouse to enable reporting.

If South Australia passes legislation to become a participating state this Bill will have an impact on the Magistrates Court. Further consideration and analysis will need to be given to implementation of this Bill if South Australia joins the national scheme. We would request at least 4 weeks to comment on any draft Bill South Australia is considering enacting. To be ready for implementation we would need approximately 6 months from the date the bill is passed given our new IT system.

Yours sincerely

JUDGE MARY-LOUISE HRIBAL  
CHIEF MAGISTRATE