

CHAPTER 1

Overview of the inquiry process

Background

1.1 On 13 July 2011, the Parliamentary Joint Committee on Law Enforcement (the committee) initiated an inquiry into Commonwealth unexplained wealth legislation and arrangements with the terms of reference set out below

1.2 The committee has examined unexplained wealth provisions in the course of two previous inquiries. The committee reported in September 2007 on its inquiry into the future impact of serious and organised crime on Australian society, making 22 recommendations including that:

- the recommendations of the Sherman report into the *Proceeds of Crime Act 2002*, where appropriate, be implemented without delay; and
- Commonwealth, state and territory governments enact complementary and harmonised legislation for dealing with the activities of organised crime as a matter of priority.

1.3 The committee also inquired into legislative arrangements to outlaw serious and organised crime groups in 2009. The committee collected evidence from international and state police agencies that suggested the effectiveness of combating serious and organised crime could be enhanced through the pursuit of criminal assets. The committee recommended the introduction of unexplained wealth provisions in Commonwealth legislation, in part leading to the establishment of the current Commonwealth scheme, described in detail in Chapter 2.

Terms of reference

1.4 Pursuant to the committee's functions set out in paragraph 7(1)(g) of the *Parliamentary Joint Committee on Law Enforcement Act 2010*:

(g) to examine trends and changes in criminal activities, practices and methods and report to both Houses of the Parliament any change which the Committee thinks desirable to the functions, structure, powers and procedures of the ACC or the AFP.

1.5 The committee is examining law enforcement legislation and administrative arrangements that target unexplained wealth in connection with serious and organised crime, through bodies including the Australian Federal Police, the Australian Crime Commission and the Criminal Assets Confiscation Taskforce. In particular the committee is examining:

- (a) the effectiveness and operation of current Commonwealth unexplained wealth legislation and associated administrative arrangements and

- whether they are working as intended in countering serious and organised crime;
- (b) the likely effectiveness of proposed relevant Commonwealth legislation;
 - (c) the effectiveness of and potential changes to unexplained wealth legislation and associated administrative arrangements in other countries.
 - (d) the extent and effectiveness of international agreements and arrangements for law enforcement activities in relation to unexplained wealth;
 - (e) the interaction of Commonwealth, state and territory legislation and law enforcement activity in relation to the targeting of criminal assets of serious and organised criminal networks; and
 - (f) the need for any further unexplained wealth legislative or administrative reform.

Conduct of the inquiry

1.6 The committee advertised the inquiry in *The Australian* newspaper and on the committee's website. In addition, the committee wrote to a range of organisations and individuals inviting submissions.

1.7 The committee received 12 submissions, of which one was confidential, and a further six supplementary submissions. Public submissions were published on the committee's website. A list of submissions is included at Appendix 1.

1.8 In addition, the committee held public hearings in Canberra and Perth and an *in-camera* hearing in Sydney. The witnesses who appeared before the committee at the public hearings are listed at Appendix 2.

1.9 On 30 November 2011, the committee released a discussion paper containing the evidence it had received up to that point, and preliminary observations which it circulated for comment. The committee thanks those who provided comment on the paper for their further contribution to the inquiry.

Structure of the report

1.10 The chapters of this report are organised around the key themes which emerged during this inquiry and therefore do not directly mirror the terms of reference.

1.11 Chapter 2 describes approaches to confiscating criminal assets and existing legislation and arrangements in the Commonwealth, states and territories and internationally.

1.12 Chapter 3 deals with resolving issues relating to Commonwealth unexplained wealth laws, including Constitutional requirements, unexplained wealth investigations and proceedings.

1.13 Chapter 4 focuses on harmonisation of Commonwealth, state and territory unexplained wealth laws.

Acknowledgements

1.14 The committee wishes to express its appreciation to all parties that contributed to the conduct of this inquiry, whether by making a written submission or through attendance at a hearing, or in many cases, both.

Note on references

1.15 References to the committee *Hansard* are to the proof *Hansard*: page numbers may vary between the proof and the official *Hansard*.

