

2020

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Confiscation of Criminal Assets (Unexplained Wealth) Amendment Bill 2020

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Purposes of Act	
New section 3 (da)	2
5 General overview	
Section 9, note 1	3
6 Section 9, new note	3
7 New sections 11A to 11C	3

J2019-701

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Contents

	Page	
8	Meaning of <i>offence</i> and of particular kinds of offences Section 13 (2), definition of <i>serious offence</i>	5
9	New section 13 (4)	6
10	Meaning of <i>effective control</i> of property Section 14 (3) (b), except notes	6
11	Meaning of <i>restraining order</i> Section 19	7
12	New section 21A	7
13	Restraining orders—purposes Section 22, note	7
14	Restraining orders over other property—application Section 26 (6) (d)	8
15	New section 26A	8
16	Restraining orders—time for making certain applications New section 27 (1) (c)	9
17	New section 29A	9
18	New section 32A	10
19	Payment of living and business expenses from restrained property Section 37 (1), new note	11
20	Section 37 (2)	11
21	Section 37 (3) (a)	13
22	Section 37 (5)	13
23	Payment of certain legal expenses from restrained property Section 38 (2) (c) (iv)	13
24	New section 38 (2) (d)	13
25	New section 38 (2A)	14
26	New section 48A	14
27	New part 7A	15
28	Payments into trust fund New section 131 (1) (da)	24
29	Interstate restraining and forfeiture orders etc—registration New section 137 (1) (d)	25
30	Interstate restraining and forfeiture orders etc—interim registration Section 138 (1)	25

Contents

	Page
31	Interstate restraining and forfeiture orders etc—effect of registration New section 139 (4A) 25
32	Interstate restraining and forfeiture orders etc—ending of registration Section 140 26
33	Interstate restraining and forfeiture orders etc—cancellation of registration Section 141 (1) 26
34	Section 141 (2) 26
35	Meaning of <i>confiscation proceeding</i> New section 236 (1) (ha) 27
36	New section 258A 27
37	Dictionary, new definition of <i>dependant</i> 27
38	Dictionary, definition of <i>fully satisfied</i> 28
39	Dictionary, new definition of <i>interstate unexplained wealth order</i> 28
40	Dictionary, new definition of <i>serious criminal activity</i> 28
41	Dictionary, new definition of <i>total wealth</i> 28
42	Dictionary, new definitions 29
43	Dictionary, new definition of <i>wealth</i> 29

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(Attorney-General)

Confiscation of Criminal Assets (Unexplained Wealth) Amendment Bill 2020

A Bill for

An Act to amend the *Confiscation of Criminal Assets Act 2003*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2019-701

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **1 Name of Act**
2 This Act is the *Confiscation of Criminal Assets (Unexplained Wealth)*
3 *Amendment Act 2020*.

4 **2 Commencement**
5 This Act commences on a day fixed by the Minister by written notice.
6 *Note 1* The naming and commencement provisions automatically commence on
7 the notification day (see [Legislation Act](#), s 75 (1)).
8 *Note 2* A single day or time may be fixed, or different days or times may be
9 fixed, for the commencement of different provisions (see [Legislation Act](#),
10 s 77 (1)).
11 *Note 3* If a provision has not commenced within 6 months beginning on the
12 notification day, it automatically commences on the first day after that
13 period (see [Legislation Act](#), s 79).

14 **3 Legislation amended**
15 This Act amends the *Confiscation of Criminal Assets Act 2003*.

16 **4 Purposes of Act**
17 **New section 3 (da)**
18 *insert*
19 (da) to deprive a person of any unexplained wealth derived from
20 serious criminal activity;

1 **5 General overview**
2 **Section 9, note 1**

3 *substitute*

4 *Note 1 Restraining orders*

5 A court may make an order (a *restraining order*) preventing the disposal or other
6 dealing with property. A restraining order may also be made to secure a property
7 for payment of an amount that is the value of the person's unexplained wealth (see
8 note 3A) or the payment of a penalty order (see note 4).

9 Property may be restrained even though it is not the offender's property.

10 **6 Section 9, new note**

11 *insert*

12 *Note 3A Unexplained wealth orders*

13 A court may, if the court is not satisfied that all or part of a person's wealth is not
14 derived from serious criminal activity, make an order (an *unexplained wealth order*)
15 ordering the payment to the Territory of an amount assessed by the court as the
16 value of the person's unexplained wealth.

17 **7 New sections 11A to 11C**

18 *insert*

19 **11A Meaning of *total wealth***

20 (1) In this Act:

21 *total wealth*, of a person to whom a proceeding for an unexplained
22 wealth order relates, is the sum of all of the values of the person's
23 wealth.

24 (2) In deciding the *values* of a person's wealth—

25 (a) the value of property expended, consumed, disposed of, or for
26 any other reason no longer available is the greater of—

27 (i) the value of the property at the time it was acquired; and

- 1 (ii) the value of the property immediately before expended,
2 consumed, disposed of, or becoming unavailable; and
- 3 (b) the value of any other property is the greater of—
- 4 (i) the value of the property at the time it was acquired; and
- 5 (ii) the value of the property on the day that the application for
6 the unexplained wealth order was made.

7 **11B Meaning of *wealth***

8 In this Act:

9 ***wealth***, of a person—

- 10 (a) means property that is or at any time was—
- 11 (i) owned by the person; or
- 12 (ii) under the effective control of the person; or
- 13 (iii) expended, consumed or disposed of by the person; and
- 14 **Examples—property disposed of by the person**
- 15 1 property sold or traded
- 16 2 property transferred as a gift
- 17 3 money spent
- 18 (b) includes property owned, effectively controlled, expended,
19 consumed or disposed of by the person before the
20 commencement of this section and whether in or outside the
21 ACT.

1 **11C Meaning of *serious criminal activity***

2 (1) In this Act:

3 *serious criminal activity* means conduct by any person which, at the
4 time of the conduct, was a serious offence.

5 (2) To remove any doubt, conduct is *serious criminal activity*—

6 (a) whether or not charges for a serious offence have been laid
7 against a person for the conduct; or

8 (b) if charges for a serious offence have been laid against a person—
9 whether or not the person—

10 (i) has been tried for the offence; or

11 (ii) has been acquitted, found guilty or convicted of the
12 offences; or

13 (iii) has had a conviction for the offences quashed.

14 **8 Meaning of *offence* and of particular kinds of offences**
15 **Section 13 (2), definition of *serious offence***

16 *substitute*

17 *serious offence*—

18 (a) generally—means any of the following:

19 (i) an offence punishable by imprisonment for 5 years or
20 longer;

21 (ii) an offence against the *Work Health and Safety Act 2011*,
22 section 31 (1);

23 (iii) any other offence prescribed by regulation; and

1 (b) for an unexplained wealth provision—includes a schedule
2 offence and any Commonwealth or State offence that
3 corresponds to a schedule offence.

4 *Note* *State* includes the Northern Territory (see [Legislation Act](#), dict,
5 pt 1).

6 **9 New section 13 (4)**

7 *insert*

8 (4) In this section:

9 *schedule offence*—see the [Crimes \(Sentencing\) Act 2005](#),
10 section 61B.

11 **10 Meaning of *effective control* of property**
12 **Section 14 (3) (b), except notes**

13 *substitute*

14 (b) the person disposed of the property without sufficient
15 consideration to someone else—

16 (i) if the property is the subject of an application for an
17 unexplained wealth restraining order or an unexplained
18 wealth order—at any time; or

19 (ii) if the property is associated with any other confiscation
20 proceeding—within 6 years before or after the commission
21 of the offence to which the application relates.

1 **11** **Meaning of *restraining order***
2 **Section 19**

3 *omit*

4 or section 31 (Restraining orders over other property—making)

5 *substitute*

6 , section 31 (Restraining orders over other property—making) or
7 section 32A (Unexplained wealth restraining orders—making)

8 **12** **New section 21A**

9 *insert*

10 **21A** **Meaning of *unexplained wealth restraining order***

11 In this Act:

12 *unexplained wealth restraining order* means a restraining order
13 made under section 32A.

14 **13** **Restraining orders—purposes**
15 **Section 22, note**

16 *substitute*

17 (e) to satisfy an unexplained wealth order.

18 *Note* Pt 5 deals with forfeiture, pt 7 deals with penalty orders and pt 7A deals
19 with unexplained wealth orders.

1 **14 Restraining orders over other property—application**
2 **Section 26 (6) (d)**

3 *substitute*

- 4 (d) this section does not apply to an application for—
5 (i) a restraining order over unclaimed tainted property; or
6 (ii) an unexplained wealth restraining order.

7 **15 New section 26A**

8 *insert*

9 **26A Unexplained wealth restraining orders—application**

- 10 (1) The DPP may apply to a relevant court for an unexplained wealth
11 restraining order over any of the following:
12 (a) stated property of a person;
13 (b) stated property of a person and all other property of the person
14 (including property acquired after the making of the order);
15 (c) all property of a person (including property acquired after the
16 making of the order);
17 (d) all property of a person (including property acquired after the
18 making of the order) other than stated property.
19 (2) The application must state the following:
20 (a) that the application is for an unexplained wealth restraining
21 order;
22 (b) the person in relation to whom the order is sought;

- 1 (c) any other person whose property the application relates to;
- 2 (d) the property sought to be restrained (including whether it is the
- 3 property of that person or someone else).
- 4 (3) The application must be supported by an affidavit under section 29A.

5 **16 Restraining orders—time for making certain applications**

6 **New section 27 (1) (c)**

7 *insert*

- 8 (c) an unexplained wealth restraining order.

9 **17 New section 29A**

10 *insert*

11 **29A Unexplained wealth restraining order—affidavit**

12 **supporting application**

- 13 (1) An affidavit by a police officer supporting an application under
- 14 section 26A for an unexplained wealth restraining order must state
- 15 that the police officer suspects that—
- 16 (a) a person's total wealth exceeds the value of the person's wealth
- 17 that was lawfully acquired; and
- 18 (b) the whole or any part of the person's wealth was derived from
- 19 serious criminal activity.

20 *Note* **Derived** includes realised (see s 12).

- 21 (2) Subsection (1) (b) does not require the police officer to specify in the
- 22 affidavit a particular offence for serious criminal activity, and it is
- 23 sufficient if the police officer suspects and the affidavit describes the
- 24 nature of the activity in general terms.

- 1 (3) The affidavit must state, for the property mentioned in the
2 application, or for each stated part of the property—
- 3 (a) that the officer suspects that the property is either the property
4 of the person in relation to whom the order is sought or the
5 property of someone else; and
- 6 (b) for property that the officer suspects is the property of someone
7 else—
- 8 (i) that the officer suspects that the property is tainted
9 property; or
- 10 (ii) that the officer suspects that the property is subject to the
11 effective control of the person in relation to whom the
12 order is sought.
- 13 (4) The affidavit must state that the police officer believes that the
14 property sought to be restrained may be required to satisfy an
15 unexplained wealth order.
- 16 (5) The affidavit must state the grounds for each belief or suspicion of
17 the police officer stated in the affidavit.

18 **18 New section 32A**

19 *insert*

20 **32A Unexplained wealth restraining order—making**

- 21 (1) This section applies if an application is made under section 26A to a
22 relevant court for an unexplained wealth restraining order.
- 23 (2) The relevant court must make an unexplained wealth restraining order
24 over the property to which the application relates if, having regard to
25 the police officer's affidavit supporting the application and any other
26 evidence before the court, the court is satisfied there are reasonable
27 grounds for the officer's suspicions stated in the affidavit.

- 1 (3) The restraining order may direct the public trustee and guardian to
2 take control of the restrained property.

3 **19 Payment of living and business expenses from restrained**
4 **property**
5 **Section 37 (1), new note**

6 *insert*

7 *Note 2* For the meaning of *dependant*, see dict.

8 **20 Section 37 (2)**

9 *substitute*

- 10 (2) However, the court must not allow expenses to be met out of
11 restrained property unless—
- 12 (a) the person satisfies the court that—
- 13 (i) the expenses are reasonable; and
- 14 (ii) the expenses are necessary to avoid undue hardship to the
15 person or the person's dependants; and
- 16 (iii) the expenses cannot be met out of property of the person
17 not subject to a restraining order; and
- 18 (b) the court is satisfied that any property to be released from
19 restraint for the expenses does not have evidentiary value in any
20 criminal proceeding; and
- 21 (c) if the restrained property includes tainted property—the court is
22 satisfied that—
- 23 (i) the tainted property is not required to meet the expenses;
24 or
- 25 (ii) if the tainted property is required to meet the expenses—it
26 is just and equitable for the tainted property to meet the
27 expenses.

- 1 (2A) When deciding whether expenses are reasonable, or necessary to
2 avoid undue hardship, the court must take into account that—
- 3 (a) a person should be able to—
- 4 (i) satisfy the person’s essential physical and psychological
5 needs; and
- 6 (ii) have a minimum standard of living that is neither meagre
7 nor luxurious; and
- 8 (iii) participate in the life of the person’s community; and
- 9 (iv) have nutritious food, access to transport or personal
10 transportation, appropriate clothing for the place where the
11 person lives, furniture and essential appliances; and
- 12 (v) have equipment to participate in ordinary leisure activities;
13 and
- 14 (b) the purpose of allowing living and business expenses is not to
15 avoid every hardship but only undue hardship to the person or
16 the person’s dependants.
- 17 (2B) When determining undue hardship, the court must as far as
18 practicable having regard to the minimum standard of living
19 mentioned in subsection (2A) (a) (ii), not take into account hardship
20 arising from the loss of a previous standard of living to the extent that
21 the previous standard of living was likely to have been the result of
22 the commission of an offence, a material advantage derived from an
23 offence or unexplained wealth.
- 24 (2C) For subsection (2) (b), the court must assume the property does not
25 have evidentiary value unless the contrary is proved.

1 **21 Section 37 (3) (a)**

2 *omit*

3 subsection (2) (a) or (b)

4 *substitute*

5 subsection (2) (a) (i) or (ii)

6 **22 Section 37 (5)**

7 *omit*

8 **23 Payment of certain legal expenses from restrained**
9 **property**
10 **Section 38 (2) (c) (iv)**

11 *substitute*

12 (iv) any property to be released from restraint for the expenses
13 does not have evidentiary value in any criminal
14 proceeding; and

15 **24 New section 38 (2) (d)**

16 *insert*

17 (d) if the restrained property includes tainted property—the court is
18 satisfied that—

19 (i) the tainted property is not required to meet the legal
20 expenses; or

21 (ii) if the tainted property is required to meet the expenses—it
22 is just and equitable for the tainted property to meet the
23 expenses.

1 **25 New section 38 (2A)**

2 *insert*

3 (2A) For subsection (2) (c) (iv), the court must assume the property does
4 not have evidentiary value unless the contrary is proved.

5 **26 New section 48A**

6 *insert*

7 **48A When unexplained wealth restraining order ends**

8 (1) An unexplained wealth restraining order ends if—

9 (a) no application for an unexplained wealth order has been made
10 in relation to the person to whom the restraining order relates
11 within 6 weeks after the restraining order was made; or

12 (b) an unexplained wealth order was applied for, the court refused
13 to make the order and 1 of the following applies:

14 (i) the time for an appeal against the refusal has ended without
15 an appeal being lodged;

16 (ii) an appeal against the refusal has lapsed;

17 (iii) an appeal against the refusal has been dismissed and
18 finally disposed of.

19 (2) An unexplained wealth restraining order also ends if—

20 (a) an application for an unexplained wealth order was made within
21 6 weeks after the restraining order was made; and

22 (b) the court made the unexplained wealth order; and

- 1 (c) either—
2 (i) the unexplained wealth order has been complied with; or
3 (ii) an appeal against the unexplained wealth order has been
4 upheld and finally disposed of.

5 **27 New part 7A**

6 *insert*

7 **Part 7A Unexplained wealth orders**

8 **Division 7A.1 General**

9 **98A Meaning of *unexplained wealth order***

10 In this Act:

11 *unexplained wealth order* means an order under this part for the
12 payment by a person of an amount assessed by a court, in accordance
13 with section 98E, as the value of the person's unexplained wealth.

14 **Division 7A.2 Making unexplained wealth orders**

15 **98B Unexplained wealth orders—application**

16 The DPP may apply to a relevant court for an unexplained wealth
17 order in relation to a person.

- 1 **98C Unexplained wealth order—affidavit supporting**
2 **application**
- 3 (1) If an unexplained wealth restraining order has not been made in
4 relation to a person the subject of an application under section 98B,
5 an affidavit by a police officer supporting the application for an
6 unexplained wealth order against the person must state that the police
7 officer suspects that—
- 8 (a) a person’s total wealth exceeds the value of the person’s wealth
9 that was lawfully acquired; and
- 10 (b) the whole or any part of the person’s wealth was derived from
11 serious criminal activity.
- 12 *Note Derived* includes realised (see s 12).
- 13 (2) Subsection (1) (b) does not require the police officer to specify in the
14 affidavit a particular offence for serious criminal activity, and it is
15 sufficient if the police officer suspects and the affidavit describes the
16 nature of the activity in general terms.
- 17 (3) The affidavit must state, for the property mentioned in the
18 application, or for each stated part of the property—
- 19 (a) that the officer suspects that the property is either the property
20 of the person in relation to whom the order is sought or the
21 property of someone else; and
- 22 (b) for property that the officer suspects is the property of someone
23 else—
- 24 (i) that the officer suspects that the property is tainted
25 property; or
- 26 (ii) that the officer suspects that the property is subject to the
27 effective control of the person in relation to whom the
28 order is sought.

- 1 (4) The affidavit must state the grounds for each belief or suspicion of
2 the police officer stated in the affidavit.

3 **98D Unexplained wealth orders—making**

- 4 (1) On application under section 98B, the relevant court must make an
5 unexplained wealth order against a person if the court is not satisfied
6 that the whole or any part of the person's wealth was not derived from
7 serious criminal activity.

- 8 (2) However, the court may refuse to make an unexplained wealth order
9 or may reduce the amount that would otherwise be payable as
10 assessed, if the court, having regard to the purposes of this Act, thinks
11 it is in the public interest to do so.

- 12 (3) A decision of the court to refuse to make an unexplained wealth order
13 or to reduce an amount that would otherwise be payable as assessed
14 is not in the public interest if based only on 1 or more of the following:

15 (a) a specific serious offence has not been particularised or proved
16 to be associated with the person's unexplained wealth;

17 (b) the person or the person's dependants will not have the same
18 standard of living as a result of the order or reduction.

- 19 (4) For subsection (1), wealth may be derived before the commencement
20 of this section.

- 21 (5) In making an unexplained wealth order, the relevant court must not
22 order the person to pay the Territory an amount that is more than the
23 person's unexplained wealth assessed under section 98E.

24 *Note* **Derived** includes realised (see s 12).

- 1 **98E Unexplained wealth orders—assessment of unexplained**
2 **wealth**
- 3 (1) This section applies for the purpose of making an assessment of the
4 unexplained wealth of a person against whom an unexplained wealth
5 order is made.
- 6 (2) The *unexplained wealth*, of a person, is the amount that in the opinion
7 of a relevant court is—
- 8 (a) the difference between—
- 9 (i) the person’s total wealth; and
- 10 (ii) the sum of the values of the property that the court is
11 satisfied, on the balance of probabilities, was not derived
12 from serious criminal activity; and
- 13 (b) less an amount equal to whichever of the following applies to
14 the person:
- 15 (i) the value of any property the person forfeited under a
16 forfeiture order;
- 17 *Note* A registered interstate forfeiture order is taken to be a
18 forfeiture order under this Act (see s 139).
- 19 (ii) the sum of any amounts payable by the person under a
20 penalty order or an interstate penalty order.
- 21 (3) In a proceeding against a person for an unexplained wealth order, the
22 burden of proof is on the person to prove that—
- 23 (a) the person’s wealth was not derived from serious criminal
24 activity; and
- 25 (b) an order mentioned in subsection (2) (b) applies to the person.

- 1 (4) When working out the value of property for this section, the value
2 is—
- 3 (a) for wealth that has been consumed or otherwise disposed of—
4 the greater of—
- 5 (i) the value at the time the wealth was acquired; and
6 (ii) the value immediately before the wealth was consumed or
7 disposed of; or
- 8 (b) in any other case—the greater of—
- 9 (i) the value at the time the wealth was acquired; and
10 (ii) the value at the time the application for the unexplained
11 wealth order was made.
- 12 (5) In assessing the unexplained wealth of a person, the relevant court is
13 not required to consider any wealth of which the DPP has not
14 provided evidence.

15 **98F Unexplained wealth orders—hardship relief**

- 16 (1) A relevant court making an unexplained wealth order in relation to a
17 person may make another order directing the Territory, once the
18 unexplained wealth order is fully satisfied, to pay an amount (a *relief*
19 *amount*) decided by the court to a dependant of the person if the court
20 is satisfied that—
- 21 (a) the unexplained wealth order would cause undue hardship to the
22 dependant; and
- 23 (b) the amount would relieve the hardship; and
- 24 (c) if the dependant is at least 18 years old—the dependant had no
25 knowledge of the person’s conduct that is the subject of the
26 unexplained wealth order.

- 1 (2) When deciding the relief amount, the court—
- 2 (a) must only allow an amount to assist the dependant to avoid
- 3 undue hardship for a period in which the dependant could not
- 4 reasonably be expected to meet the dependant’s reasonable
- 5 living expenses; and
- 6 (b) must as far as practicable, having regard to the minimum
- 7 standard of living mentioned in section 37 (2A) (a) (ii), when
- 8 determining undue hardship not take into account hardship
- 9 arising from the loss of a previous standard of living of the
- 10 dependant to the extent that the previous standard of living was
- 11 likely to have been the result of unexplained wealth.
- 12 (3) An amount decided by the court must not be more than the value of
- 13 the person’s unexplained wealth.
- 14 (4) An order under this section may relate to more than 1 of the person’s
- 15 dependants.
- 16 *Note* For the meaning of *dependant*, see dict.

1 **Division 7A.3 Satisfaction of unexplained wealth**
2 **order**

3 **98G Creation of unexplained wealth charge over restrained**
4 **property**

- 5 (1) This section applies if, in relation to a person—
6 (a) a restraining order is made; and
7 (b) an unexplained wealth order is made.
8 (2) On the making of the later of the orders, all of the restrained property
9 is automatically charged to secure the payment to the Territory of the
10 amount of the unexplained wealth order.

11 *Note 1* An interstate unexplained wealth order is taken to be an unexplained
12 wealth order under this Act (see s 139).

13 *Note 2* If an unexplained wealth order is over restrained property that may be
14 recorded in a statutory property register, details of the restraining order
15 may be recorded in the register under s 50.

- 16 (3) If the restraining order is varied after the unexplained wealth order is
17 made to add more property, the additional property is also
18 automatically charged to secure payment to the Territory of the
19 amount of the unexplained wealth order.
20 (4) A charge on property created by this section (an *unexplained wealth*
21 *charge*)—
22 (a) is subject to every encumbrance on the property that came into
23 existence before the charge and that would have priority over
24 the charge if this subsection had not been enacted; and
25 (b) has priority over all other encumbrances; and

- 1 (c) is a statutory interest of a kind to which the *Personal Property*
2 *Securities Act 2009* (Cwlth), section 73 (2) applies; and
- 3 (d) is not affected by any change in the ownership of the property
4 unless the change in ownership ends the unexplained wealth
5 charge under section 98H (c) or (d).

6 **98H When unexplained wealth charge over property ends**

7 An unexplained wealth charge over property ends when the earliest
8 of the following events happens:

- 9 (a) the unexplained wealth order for which the charge was created
10 ends;

11 *Note* For when an unexplained wealth order ends, see s 98L.

- 12 (b) the restraining order over the property ends;

13 *Note* For when restraining orders end, see s 48A.

- 14 (c) the property is sold, or otherwise disposed of, with the consent
15 of—

16 (i) the relevant court that made the unexplained wealth order;
17 or

18 (ii) if a trustee (including the public trustee and guardian)
19 controls the property—the trustee;

- 20 (d) the property is sold to a purchaser who—

21 (i) buys the property honestly and for sufficient
22 consideration; and

23 (ii) at the time of the purchase, has no notice of the charge.

1 **98I Unexplained wealth orders—enforceable as judgment**
2 **debt**

3 The amount ordered to be paid by a relevant court under an
4 unexplained wealth order is a judgment debt owing to the Territory.

5 *Note* Any restrained property is automatically charged with the amount of the
6 unexplained wealth order, and may be sold to satisfy the order (see
7 s 98G).

8 **98J Power to satisfy unexplained wealth order**

- 9 (1) An unexplained wealth order authorises the public trustee and
10 guardian to satisfy the order out of any property restrained for the
11 order (including any property that becomes restrained after the order
12 is made).

13 *Note 1* An amount received by the public trustee and guardian to satisfy the
14 unexplained wealth order must be paid into the confiscated assets trust
15 fund (see s 131).

16 *Note 2* An interstate unexplained wealth order is taken to be an unexplained
17 wealth order under this Act (see s 139).

- 18 (2) To satisfy the unexplained wealth order, the public trustee and
19 guardian may sell or otherwise dispose of restrained property that is
20 not money in any way the public trustee and guardian considers
21 appropriate.

22 *Note* The money realised by the public trustee and guardian from the disposal
23 of property must be paid into the confiscated assets trust fund (see s 131
24 and dict, def **fully satisfied**, par (b)).

- 25 (3) However, the public trustee and guardian must not sell or otherwise
26 dispose of restrained property to satisfy the order until all confiscation
27 proceedings, including forfeiture proceedings, in relation to the
28 property have been finalised.

29 *Note 1* For the meaning of **confiscation proceedings**, see s 236.

30 *Note 2* For when confiscation and criminal proceedings are finalised, see s 18.

- 1 (4) The unexplained wealth order also authorises the public trustee and
2 guardian or anyone else named in the order (an *authorised agent*) to
3 sign any instrument necessary or convenient for the disposal of
4 restrained property.
- 5 (5) An instrument signed by an authorised agent has the same effect as if
6 it were signed by the person who owned the property before it was
7 disposed of.

8 **98K Public trustee and guardian to repay any amount surplus**
9 **to satisfying unexplained wealth order**

10 If the amounts paid into the trust fund to satisfy an unexplained wealth
11 order are more than is required to fully satisfy the order, the public
12 trustee and guardian must pay the surplus amount to the person
13 against whom the order was made.

14 **Division 7A.4 End of unexplained wealth order**

15 **98L When unexplained wealth order ends**

16 An unexplained wealth order ends if—

- 17 (a) the order is reversed or set aside on appeal; or
18 (b) the order is fully satisfied.

19 *Note* For the meaning of *fully satisfied*, see dict.

20 **28 Payments into trust fund**
21 **New section 131 (1) (da)**

22 *insert*

- 23 (da) amounts received, or amounts raised from the sale of property,
24 to satisfy unexplained wealth orders, including any income
25 earned from those amounts;

1 **29 Interstate restraining and forfeiture orders etc—**
2 **registration**
3 **New section 137 (1) (d)**

4 *insert*

5 (d) an interstate unexplained wealth order expressly applies to
6 property in the ACT.

7 **30 Interstate restraining and forfeiture orders etc—interim**
8 **registration**
9 **Section 138 (1)**

10 *omit*

11 , interstate automatic forfeiture decision or interstate forfeiture order
12 or

13 *substitute*

14 , interstate automatic forfeiture decision, interstate forfeiture order,
15 interstate unexplained wealth order or

16 **31 Interstate restraining and forfeiture orders etc—effect of**
17 **registration**
18 **New section 139 (4A)**

19 *insert*

20 (4A) For this Act, a registered interstate unexplained wealth order is taken
21 to be an unexplained wealth order under this Act.

1 **32 Interstate restraining and forfeiture orders etc—ending of**
2 **registration**
3 **Section 140**

4 *omit*

5 , automatic forfeiture decision or forfeiture order

6 *substitute*

7 , automatic forfeiture decision, forfeiture order or unexplained wealth
8 order

9 **33 Interstate restraining and forfeiture orders etc—**
10 **cancellation of registration**
11 **Section 141 (1)**

12 *omit*

13 , interstate automatic forfeiture decision or interstate forfeiture order

14 *substitute*

15 , interstate automatic forfeiture decision, interstate forfeiture order or
16 interstate unexplained wealth order

17 **34 Section 141 (2)**

18 *omit*

19 , interstate automatic forfeiture decision or interstate forfeiture order

20 *substitute*

21 , interstate automatic forfeiture decision, interstate forfeiture order or
22 interstate unexplained wealth order

1 **35** **Meaning of *confiscation proceeding***
2 **New section 236 (1) (ha)**

3 *insert*

4 (ha) an unexplained wealth order;

5 **36** **New section 258A**

6 *insert*

7 **258A** **Review of unexplained wealth provisions**

8 (1) The Minister must—

9 (a) review the operation and effectiveness of the unexplained
10 wealth provisions of this Act and any other territory law relating
11 to the provisions, as soon as practicable after the end of 1 year
12 after this section commences; and

13 (b) present a report of the review to the Legislative Assembly before
14 the end of the section's 2nd year of operation.

15 (2) This section expires 3 years after the day it commences.

16 *Note* For the meaning of *unexplained wealth provision*, see dict.

17 **37** **Dictionary, new definition of *dependant***

18 *insert*

19 *dependant*, of a person, means—

20 (a) the person's domestic partner; or

21 (b) the person's child, or a member of the person's household, who
22 depends on the person for support.

1 **38 Dictionary, definition of *fully satisfied***

2 *substitute*

3 *fully satisfied*—a forfeiture order, penalty order, unexplained wealth
4 order or an automatic forfeiture of property, is *fully satisfied* when—

5 (a) for an automatic forfeiture of property or a forfeiture order—the
6 property that is the subject of the automatic forfeiture or order
7 has vested in law in the Territory and the public trustee and
8 guardian has taken control of the property; and

9 (b) for a penalty order or unexplained wealth order—the amount of
10 the order has been paid to, or recovered by, the Territory or
11 realised by the public trustee and guardian from the disposal of
12 property.

13 **39 Dictionary, new definition of *interstate unexplained***
14 ***wealth order***

15 *insert*

16 *interstate unexplained wealth order* means a corresponding law
17 order prescribed by regulation for this definition.

18 **40 Dictionary, new definition of *serious criminal activity***

19 *insert*

20 *serious criminal activity*—see section 11C.

21 **41 Dictionary, new definition of *total wealth***

22 *insert*

23 *total wealth*, of a person to whom a proceeding for an unexplained
24 wealth order relates—see section 11A.

1 **42 Dictionary, new definitions**

2 *insert*

3 *unexplained wealth charge*—see section 98G (4).

4 *unexplained wealth order*—see section 98A.

5 *unexplained wealth provision* means the following:

6 (a) section 32A;

7 (b) section 98D;

8 (c) a provision of this Act to the extent that it relates to a provision
9 mentioned in paragraph (a) or (b).

10 **Examples—par (c)**

- 11 • section 3 (da)
12 • section 26A
13 • section 98E

14 *unexplained wealth restraining order*—see section 21A.

15 **43 Dictionary, new definition of *wealth***

16 *insert*

17 *wealth*, of a person—see section 11B.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 20 February 2020.

2 Notification

Notified under the [Legislation Act](#) on 2020.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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