



Shane Rattenbury MLA

Attorney-General

Minister for Consumer Affairs

Minister for Water, Energy and Emissions Reduction

Minister for Gaming

Member for Kurrajong

Mr Peter Cain MLA

Chair

Standing Committee on Justice and Community Safety

ACT Legislative Assembly

scrutiny@parliament.act.gov.au

Dear Mr ~~Cain~~ *Pelo*

I refer to the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) Scrutiny Report 17 of 6 June 2022 in which the Committee made comments on the Confiscation of Criminal Assets Amendment Regulation 2022 (the Regulation). The Committee noted that the Explanatory Statement for the Regulation states that the amendments do not engage human rights and requested further advice about the potential human rights implications of the Regulation.

The amendments in the Regulation prescribe corresponding law orders for the purpose of interstate orders under Part 11 of the *Confiscation of Criminal Assets Act 2003* (the Act). An interstate order that expressly applies to property in the ACT may be registered in the ACT and enforced as if it were an order made under the Act. Part 11 of the Act may limit human rights and, as a result, I acknowledge that the Regulation could also be said to limit rights by formalising the circumstances in which interstate orders may be made.

An interstate order under Part 11 of the Act may limit the right to protection of the family and children (section 11 of the *Human Rights Act 2004*) as family members may have their property, including their home, restrained and forfeited due to an order that is made because of the criminal behaviour of a family member. An interstate order may also limit the right to privacy and reputation (section 12 of the *Human Rights Act 2004*) as the restraint or forfeiture of a person's assets imposes a limit on a person's right to private life as well as the private life of close family members.

The amendments in the Regulation are for the legitimate purposes of facilitating cross-jurisdictional operations and ensuring that a person is not enriched because of the commission of an offence, whether or not anyone has been convicted. The Act contains safeguards to ensure that any limitations are proportionate and the least restrictive means to achieve these purposes.

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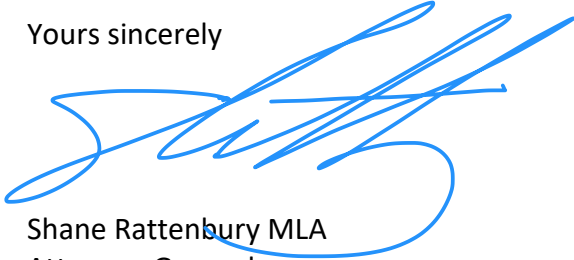
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These safeguards include provisions for the court to make orders for the payment of living, business and legal expenses from restrained property and for a person claiming an interest in the property to apply to the court for an exclusion order.

Thank you for your consideration of the Regulation. I trust that the information above is of assistance to the Committee.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Shane Rattenbury', written over the typed name below.

Shane Rattenbury MLA
Attorney-General

27 July 2022