

FILED
PAPER TABLED
16/10/19
CLERK: [Signature]

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with the Thirteenth Assembly Sessional Orders (part 12.3) as adopted on 24 August 2017.

Criminal Property Forfeiture Amendment Bill 2019

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) and the International Covenant on Civil and Political Rights (ICCPR).

OVERVIEW OF THE BILL

The purpose of this Bill is to give effect to the equitable sharing provisions in the National Cooperative Scheme on Unexplained Wealth, which will fulfil the NT's obligations under the Intergovernmental Agreement on the National Cooperative Scheme on Unexplained Wealth and enable the NT to benefit from the equitable sharing provisions of the National Cooperative Scheme.

HUMAN RIGHTS IMPLICATIONS

Consideration has been given as to whether this Bill engages some of the applicable rights or freedoms.

Article 17 – *Freedom from arbitrary or unlawful interference.*

Article 17 of the ICCPR provides that no persons shall be subjected to arbitrary or unlawful interference with privacy, family, home or correspondence, nor to unlawful attacks on their honour and reputation. Further all persons have the right to the protection of the law against such interference and attacks.

The proposed amendments deal with forfeiture of property unlawfully acquired, or suspected of being unlawfully acquired. Criminal Property Forfeiture schemes represent an interference by the state with the property of the individual, with a potential for certain property to be acquired by the state without being acquired on just terms, which could be considered to impinge upon article 17.

However, the current Bill does not alter the existing framework for dealing with actions to forfeit property; rather it deals solely with how those proceeds are dealt with between governments once a successful forfeiture action, in accordance with the existing law, is concluded.

The existing law provides a robust framework under which the government must establish that an individual's property has, or is likely to have been, acquired unlawfully and is therefore not subject to being acquired by the state. Rather it is confiscated on the basis of not being the lawful property of the individual due to it being acquired by unlawful means. The present Bill does not interfere with this framework and so does not engage article 17 of the ICCPR.

CONCLUSION

This Bill is compatible with human rights as it does not further engage human rights issues, and does not further impact upon those issues, beyond that which are presently engaged by the existing law.