NEW LAWS TARGET BIKIE’S HIP POCKET

The Rann Government can now target criminal wealth that cannot be explained as coming from legal activity through laws that passed the Legislative Council last night.

Attorney-General Michael Atkinson says the core aim of the **Serious and Organised Crime (Unexplained Wealth) Bill 2009** targets the members of serious organised criminal gangs by forcing them to explain the source of specified assets, suspected of being acquired through illegal means.

The new laws will enable the removal of any wealth where that crime gang member cannot explain how that wealth was obtained by legal means.

“Any criminal wealth judged to be unexplained will go into the Victims of Crime Fund,” Mr Atkinson says.

“This is the next step in this Government’s determination to take on and bring down these organised criminal gangs.”

“It’s common knowledge that outlaw motorcycle gang members are heavily involved in drug trafficking and other profitable crimes. These laws will stop the criminal underworld living the high life they have enjoyed by their illegal profits.

“These laws will also help police target senior criminal figures, who directly profit from criminal activity but are rarely linked in the execution of crimes.

“By targeting their wealth we are closing the net around the criminal activity of these gangs – who are often involved in drug sales, blackmail and extortion.”

Mr Atkinson says each new piece of legislation helps tackle the menace of serious organised crime gangs.

“The bill seeks to authorise the Crown Solicitor to apply to a court for a declaration that a person, (including an incorporated body) has unexplained criminal wealth.

“A person will be considered to have unexplained criminal wealth if the value of their specified wealth, calculated in accordance with the legislation, exceeds their lawfully-obtained wealth.
“Any wealth that remains unexplained by the defendant will be assessed and form the basis of a civil judgement debt due from the defendant to the government. The proceeds obtained by the government must be credited to the Victims of Crime Fund.

“This legislation complements the Serious and Organised Crime (Control) Act 2008 and provides a major shot in the arm for the Government’s battle against criminal, bikie gangs.”

Mr Atkinson says he expected criminal bikie gangs would be employing high-paid lawyers to help them fight these laws in the courts.

“When the Serious and Organised Crime (Control) Act 2008 was passed this Government knew complementary legislation would be needed to attack criminal bike gangs from different angles.

“The Serious and Organised Crime (Unexplained Wealth) Bill 2009 will deliver a heavy blow criminal bikie gangs where it hurts them most.”

“We’re committed to delivering the result South Australians want – an end to criminal bikie gang operations,” he says.

THE PROCESS:

Application: An application can be made on reasonable suspicion of having unexplained wealth. The Commissioner of Police can make an application for a restraining order. The application will ask the court to be satisfied that the order is reasonably necessary to ensure payment of an amount that is, or may become payable, under an unexplained wealth order. The application for the restraining order will specify the property that it will cover.

The Assets: Once an application is made against a person or body corporate any piece of their wealth (all property owned or effectively controlled by the person, all property the person has given away at any time, all property the person has acquired and discarded or used, all services a person has acquired, royalties etc) is presumed not to have been lawfully acquired. Effectively, the legislation deems all specified private wealth to have been unlawfully acquired on application.

The Hearing: The respondent (the person or body corporate who is the subject of the application) bears the onus of establishing that his or its wealth has been lawfully obtained. The Crown is required to prove is that the respondent owns or effectively controls wealth. The Court may declare that the respondent has unexplained wealth if it determines that it is more likely than not the specified wealth is greater than the lawfully acquired wealth.

Declaration: Where the Court makes an unexplained wealth declaration, the respondent is required to pay the amount found to be unexplained to the Crown. The specific seized property can then be sold to recover that unexplained criminal wealth. The judgement is an ordinary civil judgement for a sum of money. The proceeds obtained by the Crown must be credited to the Victims of Crime Fund.