



Proceeds of Crime Regulations 2002

Statutory Rules No. 259, 2002

made under the

Proceeds of Crime Act 2002

Compilation No. 10

Compilation date: 10 December 2018

Includes amendments up to: Act No. 126 of 2018

Registered: 17 December 2018

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Proceeds of Crime Regulations 2002* that shows the text of the law as amended and in force on 10 December 2018 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Name of Regulations.....	1
3 Definitions	1
3A Meaning of <i>authorised officer</i>	1
4 Declaration of State and self-governing Territory laws— definition of corresponding law	1
4A Meaning of <i>enforcement agency</i>	2
5 Declaration—definition of interstate forfeiture order	2
6 Declaration—definition of interstate pecuniary penalty order	3
7 Declaration—definition of interstate restraining order	5
8 Meaning of <i>narcotic substance</i>	6
9 Specification—definition of <i>serious offence</i>	6
Part 2—The confiscation scheme	10
Division 2.1A—Orders about forfeited property	10
9A Additional function of responsible authority.....	10
9B Giving notice of matters relevant to application for order under section 102 or 103 of Act.....	10
Division 2.1—Pecuniary penalty orders	11
10 Penalty amounts exceeding court’s jurisdiction—certificate	11
Division 2.2—Literary proceeds orders	12
11 Literary proceeds amounts exceeding the court’s jurisdiction—certificate	12
Part 3—Information gathering	13
12 Approved examiners	13
13 Approved form—examination notice.....	13
13A Unexplained wealth legislation of a State or Territory.....	13
Part 4—Administration	14
Division 4.1—Powers and duties of the Official Trustee	14
14 Costs etc payable to Official Trustee	14
15 Remuneration of Official Trustee	14
Division 4.2—Confiscated Assets Account	15
16 Identity of amounts credited to Confiscated Assets Account.....	15
17 Annual management fee for Confiscated Assets Account	15
18 Notice by AFP of possible claims under the equitable sharing program	15
19 Notice by responsible authority of possible claims under the equitable sharing program.....	16
Schedule 1—Forms	17
Form 1—Examination notice	17
Endnotes	18
Endnote 1—About the endnotes	18
Endnote 2—Abbreviation key	19

Endnote 3—Legislation history	20
Endnote 4—Amendment history	21

Part 1—Preliminary

1 Name of Regulations

These Regulations are the *Proceeds of Crime Regulations 2002*.

3 Definitions

In these Regulations:

Act means the *Proceeds of Crime Act 2002*.

3A Meaning of *authorised officer*

- (1) Subject to subregulation (2), for paragraph (e) of the definition of ***authorised officer*** in section 338 of the Act, a person engaged under the *Public Service Act 1999* who is performing duties in the Australian Taxation Office and who is authorised by the Commissioner of Taxation for the purposes of that paragraph is specified for the purposes of the Act.
- (2) Subregulation (1) does not apply to the use of the term ‘authorised officer’ in:
 - (a) Part 3-5 of the Act (except section 225); or
 - (b) the definition of ***executing officer*** in section 338 of the Act.
- (3) To avoid doubt, subregulation (1) applies to the use of the term ‘authorised officer’ in the definition of ***person assisting*** in section 338 of the Act.

4 Declaration of State and self-governing Territory laws—definition of **corresponding law**

For the definition of ***corresponding law*** in section 338 of the Act, each of the following laws is declared to be a law that corresponds to the Act:

- (a) *Criminal Assets Recovery Act 1990* of New South Wales;
- (b) *Confiscation of Proceeds of Crime Act 1989* of New South Wales;
- (c) *Confiscation Act 1997* of Victoria;
- (d) *Criminal Proceeds Confiscation Act 2002* of Queensland;
- (e) *Criminal Assets Confiscation Act 1996* of South Australia;
- (ea) *Criminal Assets Confiscation Act 2005* of South Australia;
- (f) *Criminal Property Confiscation Act 2000* of Western Australia;
- (g) *Crime (Confiscation of Profits) Act 1993* of Tasmania;
- (h) *Criminal Property Forfeiture Act 2002* of the Northern Territory;
- (j) *Confiscation of Criminal Assets Act 2003* of the Australian Capital Territory.

Regulation 4A

4A Meaning of *enforcement agency*

- (1) Subject to subregulation (2), for paragraph (b) of the definition of ***enforcement agency*** in section 338 of the Act, the Australian Taxation Office is specified as a revenue agency for the purposes of the Act.
- (2) Subregulation (1) does not apply to the use of the term ‘enforcement agency’ in section 254 of the Act.

5 Declaration—definition of interstate forfeiture order

For the definition of ***interstate forfeiture order*** in section 338 of the Act, each of the following kinds of order is declared to be within that definition:

- (a) assets forfeiture order under section 22 of the *Criminal Assets Recovery Act 1990* of New South Wales;
- (aa) order, under subsection 29(1) of the *Criminal Assets Recovery Act 1990* of New South Wales, declaring that an interest in property is available to satisfy a proceeds assessment order or unexplained wealth order;
- (ab) assets forfeiture order under subsection 31A(3) of the *Criminal Assets Recovery Act 1990* of New South Wales;
- (b) forfeiture order under subsection 18(1) of the *Confiscation of Proceeds of Crime Act 1989* of New South Wales;
- (ba) order, under subsection 32(2) of the *Confiscation of Proceeds of Crime Act 1989* of New South Wales, declaring that specified property is available to satisfy a drug proceeds order;
- (c) forfeiture order under Division 1 of Part 3, and civil forfeiture order under Part 4, of the *Confiscation Act 1997* of Victoria;
- (da) tainted property substitution declaration under subsection 34C(1) of the *Confiscation Act 1997* of Victoria;
- (db) declaration, under subsection 36(1) of the *Confiscation Act 1997* of Victoria, that property has been forfeited under section 35 of that Act;
- (dc) tainted property substitution declaration under section 36F(1) of the *Confiscation Act 1997* of Victoria;
- (dd) declaration, under subsection 36GB(1) of the *Confiscation Act 1997* (Vic.), that property has been forfeited under section 36GA of that Act;
- (de) declaration, under subsection 40ZB(3) of the *Confiscation Act 1997* (Vic.), that property has been forfeited under section 40ZA of that Act;
- (e) forfeiture order under subsection 58(1) or 151(1) of the *Criminal Proceeds Confiscation Act 2002* of Queensland;
- (ea) serious drug offender confiscation order under section 93ZZB of the *Criminal Proceeds Confiscation Act 2002* of Queensland;
- (ea) tainted property substitution declaration under subsection 153D(1) of the *Criminal Proceeds Confiscation Act 2002* of Queensland;
- (f) forfeiture order made under section 8 or 9 of the *Criminal Assets Confiscation Act 1996* of South Australia (that is continued in force under item 11 of Schedule 1 of the *Criminal Assets Confiscation Act 2005* of South Australia);

- (fa) forfeiture order under subsection 47(1) of the *Criminal Assets Confiscation Act 2005* of South Australia;
- (fb) instrument substitution declaration under section 48 of the *Criminal Assets Confiscation Act 2005* of South Australia;
- (fc) declaration that particular property has been forfeited under section 77 of the *Criminal Assets Confiscation Act 2005* of South Australia;
- (g) crime-used property substitution declaration under section 22 of the *Criminal Property Confiscation Act 2000* of Western Australia;
- (h) declaration of confiscation under section 30 of the *Criminal Property Confiscation Act 2000* of Western Australia;
- (i) forfeiture order under subsection 10(1) of the *Crimes (Confiscation of Profits) Act 1988* of Western Australia that is continued in effect under subsection 7(1) of the *Criminal Property Confiscation (Consequential Provisions) Act 2000* of Western Australia;
- (ia) confiscable property declaration under subsection 28(1) of the *Criminal Property Confiscation Act 2000* of Western Australia;
- (j) forfeiture order under section 16 of the *Crime (Confiscation of Profits) Act 1993* of Tasmania;
- (ja) wealth forfeiture order under section 152 of the *Crime (Confiscation of Profits) Act 1993* of Tasmania;
- (k) forfeiture order under subsection 54(1), 59(2) or 67(2) of the *Confiscation of Criminal Assets Act 2003* of the Australian Capital Territory;
- (l) crime-used property substitution declaration under subsection 81(2) of the *Criminal Property Forfeiture Act* of the Northern Territory;
- (m) declaration that property specified in an application that is not owned by the respondent is available for forfeiture under subsection 92(1) of the *Criminal Property Forfeiture Act* of the Northern Territory;
- (n) declaration that property has been forfeited under subsection 94(4) of the *Criminal Property Forfeiture Act* of the Northern Territory;
- (o) order that property is forfeit to the Territory under subsection 96(1) or section 97, 99, 100 or 101 of the *Criminal Property Forfeiture Act* of the Northern Territory.

6 Declaration—definition of interstate pecuniary penalty order

For the definition of *interstate pecuniary penalty order* in section 338 of the Act, each of the following kinds of order is declared to be within that definition:

- (a) proceeds assessment order under section 27 of the *Criminal Assets Recovery Act 1990* of New South Wales;
- (aa) unexplained wealth order under subsection 28A(2) of the *Criminal Assets Recovery Act 1990* of New South Wales;
- (ab) proceeds assessment order or unexplained wealth order under subsection 31B(4) of the *Criminal Assets Recovery Act 1990* of New South Wales;

Regulation 7

- (b) pecuniary penalty order under subsection 24(1) of the *Confiscation of Proceeds of Crime Act 1989* of New South Wales and drug proceeds order under subsection 29(1) of that Act;
- (c) pecuniary penalty order under Part 8 of the *Confiscation Act 1997* of Victoria;
- (e) proceeds assessment order under subsection 78(1) of the *Criminal Proceeds Confiscation Act 2002* of Queensland;
- (eaa) unexplained wealth order under section 89G of the *Criminal Proceeds Confiscation Act 2002* of Queensland;
- (ea) pecuniary penalty order under subsection 184(1) of the *Criminal Proceeds Confiscation Act 2002* of Queensland;
- (eb) special forfeiture order under subsection 202(1) of the *Criminal Proceeds Confiscation Act 2002* of Queensland;
- (f) pecuniary penalty order under paragraph 9(4)(b) of the *Criminal Assets Confiscation Act 1996* of South Australia (that is continued in force under item 11 of Schedule 1 of the *Criminal Assets Confiscation Act 2005* of South Australia);
- (fa) pecuniary penalty order under subsection 95(1) of the *Criminal Assets Confiscation Act 2005* of South Australia;
- (fb) literary proceeds order under subsection 111(1) of the *Criminal Assets Confiscation Act 2005* of South Australia;
- (g) unexplained wealth declaration under section 12 of the *Criminal Property Confiscation Act 2000* of Western Australia;
- (h) criminal benefits declaration under section 16 of the *Criminal Property Confiscation Act 2000* of Western Australia;
- (ha) criminal benefits declaration under subsection 17(1) of the *Criminal Property Confiscation Act 2000* of Western Australia;
- (i) crime-used property substitution declaration under section 22 of the *Criminal Property Confiscation Act 2000* of Western Australia;
- (j) pecuniary penalty order under subsection 15(1) of the *Crimes (Confiscation of Profits) Act 1988* of Western Australia that is continued in effect under subsection 7(1) of the *Criminal Property Confiscation (Consequential Provisions) Act 2000* of Western Australia;
- (k) pecuniary penalty order under section 21 of the *Crime (Confiscation of Profits) Act 1993* of Tasmania;
- (l) penalty order under subsection 84(1) or 85(1) of the *Confiscation of Criminal Assets Act 2003* of the Australian Capital Territory;
- (m) unexplained wealth declaration under subsection 71(1) of the *Criminal Property Forfeiture Act* of the Northern Territory;
- (n) criminal benefit declaration under subsection 75(1) or 76(1) of the *Criminal Property Forfeiture Act* of the Northern Territory;
- (o) crime-used property substitution declaration under subsection 81(2) of the *Criminal Property Forfeiture Act* of the Northern Territory

7 Declaration—definition of interstate restraining order

For the definition of *interstate restraining order* in section 338 of the Act, each of the following kinds of order is declared to be within that definition:

- (a) restraining order under subsection 10A(5) of the *Criminal Assets Recovery Act 1990* of New South Wales;
- (aa) order pending forfeiture under subsection 22(2) of the *Confiscation of Proceeds of Crime Act 1989* of New South Wales;
- (ab) confirmation of a freezing notice under subsection 42L(1) of the *Confiscation of Proceeds of Crime Act 1989* of New South Wales;
- (b) restraining order under subsection 43(2) of the *Confiscation of Proceeds of Crime Act 1989* of New South Wales;
- (c) restraining order under section 18 of the *Confiscation Act 1997* of Victoria;
- (da) civil forfeiture restraining order under section 36M of the *Confiscation Act 1997* of Victoria;
- (db) unexplained wealth restraining order under section 40I of the *Confiscation Act 1997* (Vic.);
- (e) restraining order under section 31, 93M or 122 of the *Criminal Proceeds Confiscation Act 2002* of Queensland;
- (f) restraining order under section 15 of the *Criminal Assets Confiscation Act 1996* of South Australia (that is continued in force under item 11 of Schedule 1 of the *Criminal Assets Confiscation Act 2005* of South Australia);
- (fa) restraining order under subsection 24(1) of the *Criminal Assets Confiscation Act 2005* of South Australia;
- (g) freezing notice under section 34 of the *Criminal Property Confiscation Act 2000* of Western Australia;
- (h) freezing order under section 43 of the *Criminal Property Confiscation Act 2000* of Western Australia;
- (i) restraining order made under subsection 20(7) of the *Crimes (Confiscation of Profits) Act 1988* of Western Australia that is continued in effect under subsection 7(1) of the *Criminal Property Confiscation (Consequential Provisions) Act 2000* of Western Australia;
- (j) restraining order under section 26 of the *Crime (Confiscation of Profits) Act 1993* of Tasmania;
- (ja) interim wealth-restraining order under section 116 of the *Crime (Confiscation of Profits) Act 1993* of Tasmania;
- (jb) wealth-restraining order under section 118 of the *Crime (Confiscation of Profits) Act 1993* of Tasmania;
- (k) restraining order under subsection 30(2) or 31(2) of the *Confiscation of Criminal Assets Act 2003* of the Australian Capital Territory;
- (ka) interim restraining order under subsection 40(1) of the *Criminal Property Forfeiture Act* (NT);
- (l) restraining order under subsection 43(1) or (2) or 44(1) of the *Criminal Property Forfeiture Act* of the Northern Territory.

Regulation 8

8 Meaning of *narcotic substance*

For paragraph (b) of the definition of *narcotic substance* in section 338 of the Act, the following substances are specified:

- (a) a substance that is a *narcotic drug* within the meaning given by section 3 of the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990*;
- (b) a substance that is a *psychotropic substance* within the meaning given by section 3 of the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990*;
- (c) a substance specified in column 2 of an item in Part 1 of Schedule 1AA to the *Customs Regulations 1926*.

Note: In addition to the substances specified in regulation 8, a substance that is a narcotic substance within the meaning of the *Customs Act 1901* is a narcotic substance for the purposes of the *Proceeds of Crime Act 2002*—see paragraph (a) of the definition of *narcotic substance* in section 338 of the Act and regulation 3 and the Schedule to the Customs (Narcotic Substances) Regulations.

9 Specification—definition of *serious offence*

For paragraph (h) of the definition of *serious offence* in section 338 of the Act, the following indictable offences are specified:

- (a) an offence against any of the following provisions of the *Criminal Code*:
 - (i) section 73.1 (offence of people smuggling);
 - (ii) section 73.2 (aggravated offence of people smuggling (exploitation, or danger of death or serious harm etc));
 - (iii) section 73.3 (aggravated offence of people smuggling (at least 5 people));
 - (iiia) section 73.3A (supporting the offence of people smuggling);
 - (iv) section 73.8 (making, providing or possessing a false travel or identity document);
 - (v) section 73.9 (providing or possessing a travel or identity document issued or altered dishonestly or as a result of threats);
 - (vi) section 73.10 (providing or possessing a travel or identity document to be used by a person who is not the rightful user);
 - (vii) section 73.11 (taking possession of or destroying another person's travel or identity document);
 - (viii) section 270.3 (slavery offences);
 - (viiia) section 270.5 (servitude offences);
 - (ix) section 270.6A (forced labour offences);
 - (ixa) section 270.7 (deceptive recruiting for labour or services);
 - (x) section 270.7B (forced marriage offences);
 - (xi) section 271.2 (offence of trafficking in persons);
 - (xia) section 271.3 (trafficking in persons—aggravated offence);
 - (xii) section 271.4 (offence of trafficking in children);
 - (xiii) section 271.5 (offence of domestic trafficking in persons);

Regulation 9

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- (xiiia) section 271.6 (domestic trafficking in persons—aggravated offence);
 - (xiv) section 271.7 (offence of domestic trafficking in children);
 - (xiva) section 271.7B (offence of organ trafficking—entry into and exit from Australia);
 - (xivb) section 271.7C (organ trafficking—aggravated offence);
 - (xivc) section 271.7D (offence of domestic organ trafficking);
 - (xivd) section 271.7E (domestic organ trafficking—aggravated offence);
 - (xive) section 271.7F (harbouring a victim);
 - (xivf) section 271.7G (harbouring a victim—aggravated offence);
 - (xivg) section 271.8 (offence of debt bondage);
 - (xivh) section 271.9 (debt bondage—aggravated offence);
 - (xv) section 272.8 (sexual intercourse with child outside Australia);
 - (xvi) section 272.9 (sexual activity (other than sexual intercourse) with child outside Australia);
 - (xvia) section 272.10 (aggravated offence—child with mental impairment or under care, supervision or authority of defendant);
 - (xvii) section 272.11 (persistent sexual abuse of child outside Australia);
 - (xviii) section 272.12 (sexual intercourse with young person outside Australia—defendant in position of trust or authority);
 - (xix) section 272.13 (sexual activity (other than sexual intercourse) with young person outside Australia—defendant in position of trust or authority);
 - (xx) section 272.14 (procuring child to engage in sexual activity outside Australia);
 - (xxi) section 272.15 (‘grooming’ child to engage in sexual activity outside Australia);
 - (xxii) section 272.18 (benefiting from offence against Division 272 of the *Criminal Code*);
 - (xxiii) section 272.19 (encouraging offence against Division 272 of the *Criminal Code*);
 - (xxiv) section 272.20 (preparing for or planning offence against Division 272 of the *Criminal Code*);
 - (xxv) section 273.5 (possessing, controlling, producing, distributing or obtaining child pornography material outside Australia);
 - (xxvi) section 273.6 (possessing, controlling, producing, distributing or obtaining child abuse material outside Australia);
 - (xxvia) section 273.7 (aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people);
 - (xxvii) section 390.3 (associating in support of serious organised criminal activity);
 - (xxviii) section 390.4 (supporting a criminal organisation);
 - (xxix) section 390.5 (committing an offence for the benefit of, or at the direction of, a criminal organisation);
 - (xxx) section 390.6 (directing activities of a criminal organisation);
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Regulation 9

- (xxxix) section 471.16 (using a postal or similar service for child pornography material);
- (xxxii) section 471.17 (possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service);
- (xxxiii) section 471.19 (using a postal or similar service for child abuse material);
- (xxxiv) section 471.20 (possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service);
- (xxxv) section 471.22 (aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people);
- (xxxvi) section 471.24 (using a postal or similar service to procure persons under 16);
- (xxxvii) section 471.25 (using a postal or similar service to ‘groom’ persons under 16);
- (xxxviii) section 471.26 (using a postal or similar service to send indecent material to persons under 16);
- (xxxix) section 474.19 (using a carriage service for child pornography material);
 - (xl) section 474.20 (possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service);
 - (xli) section 474.22 (using a carriage service for child abuse material);
 - (xlii) section 474.23 (possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service);
 - (xliii) section 474.24A (aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people);
 - (xliv) section 474.25A (using a carriage service for sexual activity with person under 16 years of age);
 - (xliva) section 474.25B (aggravated offence—child with mental impairment or under care, supervision or authority of defendant);
 - (xlv) section 474.26 (using a carriage service to procure persons under 16 years of age);
 - (xlvi) section 474.27 (using a carriage service to ‘groom’ persons under 16 years of age);
 - (xlvii) section 474.27A (using a carriage service to transmit indecent communication to person under 16 years of age).
- (b) an offence against any of the following provisions of the *Australian Crime Commission Act 2002*:
 - (i) section 30 (Failure of witnesses to attend and answer questions);
 - (ii) section 33 (False or misleading evidence);
 - (iii) section 35 (Obstructing or hindering the ACC or an examiner etc);
- (c) an offence against any of the following provisions of the *Copyright Act 1968*:

Regulation 9

- (i) subsection 132AC(1) (commercial-scale infringement prejudicing copyright owner);
- (ii) subsection 132AD(1) (making infringing copy commercially);
- (iii) subsection 132AE(1) (selling or hiring out infringing copy);
- (iv) subsections 132AF(1) and (2) (offering infringing copy for sale or hire);
- (v) subsections 132AG(1) and (2) (exhibiting infringing copy in public commercially);
- (vi) subsection 132AH(1) (importing infringing copy commercially);
- (vii) subsections 132AI(1) and (2) (distributing infringing copy);
- (viii) subsection 132AJ(1) (possessing infringing copy for commerce);
- (ix) subsections 132AL(1) and (2) (making or possessing device for making infringing copy);
- (x) subsection 132AN(1) (causing work to be performed publicly);
- (xi) subsection 132AO(1) (causing recording or film to be heard or seen in public);
- (xii) subsection 132AQ(1) (removing or altering electronic rights management information);
- (xiii) subsection 132AR(1) (distributing, importing or communicating copies after removal or alteration of electronic rights management information);
- (xiv) subsection 132AS(1) (distributing or importing electronic rights management information).

Part 2 The confiscation scheme

Division 2.1A Orders about forfeited property

Regulation 9A

Part 2—The confiscation scheme

Division 2.1A—Orders about forfeited property

9A Additional function of responsible authority

The responsible authority may represent the Commonwealth in proceedings relating to an application for an order under section 102 or 103 of the Act.

9B Giving notice of matters relevant to application for order under section 102 or 103 of Act

- (1) An applicant for an order under section 102 or 103 of the Act must give written notice to the responsible authority of both the application and the grounds on which the order is sought.
- (2) The responsible authority must give the applicant notice of any grounds on which it proposes to contest the application.

Division 2.1—Pecuniary penalty orders

10 Penalty amounts exceeding court’s jurisdiction—certificate

- (1) For subsection 144(1) of the Act, the particulars that must be contained in a certificate are:
 - (a) the name of the court that made the pecuniary penalty order;
 - (b) the date of the order;
 - (c) the amount of money that is to be paid under the order;
 - (d) the name of the person who must pay the amount.
- (2) For subsection 144(2) of the Act, the certificate may be registered in a court having jurisdiction with respect to the recovery of debts of an amount equal to the amount of the pecuniary penalty order, by filing it in that court.

Division 2.2—Literary proceeds orders

11 Literary proceeds amounts exceeding the court’s jurisdiction—certificate

- (1) For subsection 171(1) of the Act, the particulars that must be contained in a certificate are:
 - (a) the name of the court that made the literary proceeds order;
 - (b) the date of the order;
 - (c) the amount of money that is to be paid under the order;
 - (d) the name of the person who must pay the amount.
- (2) For subsection 171(2) of the Act, the certificate may be registered in a court having jurisdiction with respect to the recovery of debts of an amount equal to the amount of the literary proceeds order, by filing it in that court.

Part 3—Information gathering

12 Approved examiners

- (1) For paragraph 183(5)(a) of the Act, the following offices are specified:
 - (a) an office held by a person who is a presidential member of the Administrative Appeals Tribunal established under the *Administrative Appeals Tribunal Act 1975*;
 - (b) an office held by a person who is a non-presidential member of that Tribunal who is enrolled as a legal practitioner of the High Court, of another federal court or of the Supreme Court of a State or Territory, and has been enrolled for at least 5 years.
- (2) For paragraph 183(5)(a) of the Act, the following classes of people are specified:
 - (a) persons who have held the office of judge in the Supreme Court, District Court or County Court of a State or Territory and have stated, in writing, willingness to be an approved examiner;
 - (b) persons who have held the office of magistrate and have stated, in writing, willingness to be an approved examiner.

13 Approved form—examination notice

For section 185 of the Act, the examination summons must be in accordance with Form 1 in Schedule 1.

13A Unexplained wealth legislation of a State or Territory

New South Wales

- (1) For the definition of **unexplained wealth legislation** in section 338 of the Act, the unexplained wealth legislation of New South Wales is Division 2 of Part 3 of the *Criminal Assets Recovery Act 1990* of New South Wales, and the other provisions of that Act that relate to that Division.

Note: Section 6 of that Act (which defines **serious crime related activity**) is an example of a provision that relates to Division 2 of Part 3 of that Act because Division 2 refers to that term.

Northern Territory

- (2) For the definition of **unexplained wealth legislation** in section 338 of the Act, the unexplained wealth legislation of the Northern Territory is Division 1 of Part 6 of the *Criminal Property Forfeiture Act* of the Northern Territory, and the other provisions of that Act that relate to that Division.

Note: Section 100 of that Act (which allows a court to order that restrained property is forfeit to the Northern Territory if an unexplained wealth declaration has been made against a person who owns or effectively controls the property) is an example of a provision that relates to Division 1 of Part 6 of that Act because it relates to unexplained wealth declarations (which are made under that Division).

Part 4 Administration

Division 4.1 Powers and duties of the Official Trustee

Regulation 14

Part 4—Administration

Division 4.1—Powers and duties of the Official Trustee

14 Costs etc payable to Official Trustee

For paragraph 288(1)(a) of the Act, there is payable to the Official Trustee an amount equal to the amount of costs, charges and expenses incurred in connection with the Official Trustee's exercise of powers and performance of functions or duties under the Act or under Part VI of the Mutual Assistance Act.

15 Remuneration of Official Trustee

For paragraph 288(1)(b) of the Act, the amount of remuneration payable to the Official Trustee in respect of the Official Trustee's exercise of powers and performance of functions or duties is \$62.50 for each period of 15 minutes, or part of 15 minutes.

Division 4.2—Confiscated Assets Account

16 Identity of amounts credited to Confiscated Assets Account

- (1) For subsection 296(2) of the Act, the following amounts credited to the Confiscated Assets Account are to be identified as distributable funds:
 - (a) amounts mentioned in paragraph 296(1)(b) of the Act, other than amounts to be paid under an interstate forfeiture order or interstate pecuniary penalty order;
 - (b) amounts mentioned in any of paragraphs 296(1)(e) and (f) and 296(3)(a) to (h) and (k) to (p).
- (2) For subsection 296(2) of the Act, the following amounts credited to the Confiscated Assets Account are to be identified as suspended funds:
 - (a) amounts mentioned in paragraph 296(1)(b) of the Act that are to be paid under an interstate forfeiture order or interstate pecuniary penalty order;
 - (b) amounts mentioned in any of paragraphs 296(1)(c), (d) and (g) and 296(3)(i) and (j).

17 Annual management fee for Confiscated Assets Account

- (3) For paragraph 297(f) of the Act, the annual management fee of \$272 500 is specified for the 2016 calendar year and each later calendar year.
- (4) The fee specified in subregulation (3) is payable within 28 days after 27 December in the year to which the fee relates.
- (5) A fee mentioned in this regulation is the price of the taxable supply within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*.

18 Notice by AFP of possible claims under the equitable sharing program

- (1) In this regulation:

condemned goods has the meaning given by subsection 208DA(1) of the *Customs Act 1901*.

narcotic goods has the meaning given by subsection 4(1) of the *Customs Act 1901*.

narcotic-related goods has the meaning given by subsection 4(1) of the *Customs Act 1901*.

property means money or proceeds, as the case requires, mentioned in paragraph 296(3)(l) or (m) of the Act.

- (2) As soon as practicable after narcotic-related goods (other than narcotic goods) are condemned or are taken to be condemned, an AFP member must give notice in writing to the Official Trustee if the member considers that the condemned

Regulation 19

goods are property in respect of which a claim may be made under the equitable sharing program.

- (3) The notice must include:
- (a) the name of the claimant State or self-governing Territory; and
 - (b) the percentage of the value of the property that is likely to be payable in respect of the claim; and
 - (c) other brief particulars of the claim.

19 Notice by responsible authority of possible claims under the equitable sharing program

- (1) In this regulation:

property means money, proceeds or an amount, as the case requires, mentioned in paragraph 296(3)(a), (c), (e), (f), (g), (n), (o) or (p) of the Act.

- (2) As soon as practicable after:
- (a) a restraining order, or a forfeiture order, in relation to property is made under the Act; or
 - (b) property is forfeited to the Commonwealth under section 92 of the Act;
- the responsible authority must give notice in writing to the Official Trustee if the responsible authority considers that the property is property in respect of which a claim may be made under the equitable sharing program.
- (3) If the responsible authority:
- (a) applies to a court:
 - (i) for a pecuniary penalty order under Part 2-4 of the Act; or
 - (ii) for an order under section 243B of the *Customs Act 1901*; and
 - (b) considers that a claim may be made under the equitable sharing program in respect of any amount that is, or may be, paid into the Confiscated Assets Account as a result of the order;
- the responsible authority must, as soon as practicable after making the application, give notice in writing to the Official Trustee accordingly.
- (4) A notice under subregulation (2) or (3) must include:
- (a) the name of the claimant State or self-governing Territory; and
 - (b) the percentage of the property likely to be payable in respect of the claim; and
 - (c) other brief particulars of the claim.

Schedule 1—Forms

(regulation 13)

Form 1—Examination notice

Proceeds of Crime Act 2002

NOTICE TO ATTEND EXAMINATION

TO *[Insert name and address of person]*

Under section 183 of the *Proceeds of Crime Act 2002* I require you to attend an examination at the time and place mentioned below.

TIME: *[Insert time of examination]*

PLACE: *[Insert place of examination]*

You must produce the following documents at the examination:

[Insert list of documents required (if any)]

[Insert signature of approved examiner]

[Insert name of approved examiner]

Approved examiner under section 183 of the *Proceeds of Crime Act 2002*.

[Insert date]

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
2002 No. 259	6 Nov 2002	1 Jan 2003 (r 2)	
2003 No. 100	4 June 2003	4 June 2002 (r 2)	—
2004 No. 293	7 Sept 2004	7 Sept 2004 (r 2)	—
2006 No. 182	14 July 2006 (F2006L02344)	14 July 2006 (r 2)	—
2006 No. 209	11 Aug 2006 (F2006L02566)	12 Aug 2006 (r 2)	—
2006 No. 257	4 Oct 2006 (F2006L03303)	5 Oct 2006 (r 2)	—
2010 No. 198	9 July 2010 (F2010L01921)	10 July 2010 (r 2)	—
2012 No. 156	2 July 2012 (F2012L01489)	3 July 2012 (r 2)	—
76, 2015	4 June 2015 (F2015L00787)	Sch 1 (items 7–23): 5 June 2015 (s 2)	—

Name	Registration	Commencement	Application, saving and transitional provisions
Proceeds of Crime Amendment (Approved Examiners and Other Measures) Regulation 2016	14 Oct 2016 (F2016L01617)	15 Oct 2016 (s 2(1) item 1)	—

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Unexplained Wealth Legislation Amendment Act 2018	126, 2018	3 Oct 2018	Sch 8: 10 Dec 2018 (s 2(1) item 2)	—

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
Part 1 heading.....	ad 2004 No 293
r 2	rep LA s 48D
r 3A	ad 2006 No 257
r 4	
renum r 12	2004 No 293
r 5	
renum r 13	2004 No 293
r 6	
renum r 4	2004 No 293
r 4	am 2004 No 293; 2012 No 156
r 4A	ad 2006 No 257
r 7	
renum r 5	2004 No 293
r 5	am 2012 No 156; No 76, 2015; F2016L01617
r 8	
renum r 6	2004 No 293
r 6	am 2012 No 156; No 76, 2015
r 9	
renum r 7	2004 No 293
r 7	am 2012 No 156; No 76, 2015; F2016L01617
r 8	ad 2004 No 293
r 10	ad 2003 No 100
renum r 9	2004 No 293
r 9	am 2010 No 198; 2012 No 156; No 76, 2015
Part 2	
Part 2	ad 2004 No 293
Division 2.1A	
r 9A	ad 2006 No 209
	am 2012 No 156
r 9B.....	ad 2006 No 209
	am 2012 No 156
Division 2.1	
r 10	ad 2004 No 293
Division 2.2	
r 11	ad 2004 No 293
Part 3	

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Part 3 heading.....	ad 2004 No 293
r 12 (prev r 4).....	rs 2004 No 293; F2016L01617
s 13A.....	ad No 126, 2018
Part 4	
Part 4.....	ad 2004 No 293
Division 4.1	
r 14.....	ad 2004 No 293
r 15.....	ad 2004 No 293 rs 2006 No 182 am F2016L01617
Division 4.2	
r 16.....	ad 2004 No 293
r 17.....	ad 2004 No 293 am F2016L01617
r 18.....	ad 2004 No 293
r 19.....	ad 2004 No 293 am 2012 No 156
Schedule 1	
Schedule 1 heading.....	rs 2004 No 293
