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Proceeds of Crime Regulations 2002

Statutory Rules 2002 No. 4¹

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I, PETER JOHN HOLLINGWORTH, Governor-General of the
 Commonwealth of Australia, acting with the advice of the
 Federal Executive Council, make the following Regulations
 under the *Proceeds of Crime Act 2002*.

Dated 30 OCT 2002 2002

PETER HOLLINGWORTH
 Governor-General

By His Excellency's Command

CHRISTOPHER MARTIN ELLISON
 Minister for Justice and Customs

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1 Name of Regulations

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

2 Commencement

These Regulations commence on 1 January 2003.

Note If, on the commencement of the *Proceeds of Crime Act 2002*, regulations for the purposes of certain provisions in that Act are not in force, then regulations made for a corresponding provision of the *Proceeds of Crime Act 1987* are in force for those purposes until new regulations are made — see Item 26 of Schedule 7 to the *Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002*.

3 Definitions

In these Regulations:

Act means the *Proceeds of Crime Act 2002*.

4 **Approved examiner**

For paragraph 183 (4) (a) of the Act, a person is included in a specified class of people if:

- (a) the person is:
 - (i) a member of the Administrative Appeals Tribunal established under the *Administrative Appeals Tribunal Act 1975* who is appointed to that Tribunal as a presidential member or a senior member; or
 - (ii) a person who has held the office of judge in the Supreme Court of a State or Territory and who has stated, in writing, that he or she is willing to be an approved examiner; or
 - (iii) a former magistrate who has stated, in writing, that he or she is willing to be an approved examiner; and
- (b) the person's name is on a register kept by the Minister for that purpose.

5 **Approved form – examination notice**

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

6 **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) *Crimes (Confiscation) Act 1989* of Queensland;
- (e) *Criminal Assets Confiscation Act 1996* of South Australia;
- (f) *Criminal Property Confiscation Act 2000* of Western Australia;
- (g) *Crime (Confiscation of Profits) Act 1993* of Tasmania;

- (h) *Crimes (Forfeiture of Proceeds) Act 1988* of the Northern Territory;
- (i) *Proceeds of Crime Act 1991* of the Australian Capital Territory.

7 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;
- (b) forfeiture order under subsection 18 (1) of the *Confiscation of Proceeds of Crime Act 1989* of New South Wales;
- (c) forfeiture order under Division 1 of Part 3, and civil forfeiture order under Part 4, of the **Confiscation Act 1997** of Victoria;
- (d) forfeiture order under subsection 7 (1) of the *Crimes (Confiscation of Profits) Act 1986* of Victoria that is continued in effect under subsection 157 (6) of the **Confiscation Act 1997** of Victoria;
- (e) forfeiture order under subsection 23 (1) of the *Crimes (Confiscation) Act 1989* of Queensland;
- (f) forfeiture order made under section 8 or 9 of the *Criminal Assets Confiscation Act 1996* 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;
- (j) forfeiture order under section 16 of the *Crime (Confiscation of Profits) Act 1993* of Tasmania;

- (k) forfeiture order under subsection 5 (1) of the *Crimes (Forfeiture of Proceeds) Act 1988* of the Northern Territory;
- (l) forfeiture order under subsection 19 (1) of the *Proceeds of Crime Act 1991* of the Australian Capital Territory.

8 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;
- (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;
- (d) pecuniary penalty order under subsection 12 (1) of the *Crimes (Confiscation of Profits) Act 1986* of Victoria that is continued in effect under subsection 157 (6) of the **Confiscation Act 1997** of Victoria;
- (e) pecuniary penalty order under subsection 34 (1) of the *Crimes (Confiscation) Act 1989* of Queensland;
- (f) pecuniary penalty order under paragraph 9 (4) (b) of the *Criminal Assets Confiscation Act 1996* 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;
- (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) pecuniary penalty order under subsection 10 (1) of the *Crimes (Forfeiture of Proceeds) Act 1988* of the Northern Territory;
- (m) pecuniary penalty order under subsection 25 (1) of the *Proceeds of Crime Act 1991* of the Australian Capital Territory.

9 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 section 10 of the *Criminal Assets Recovery Act 1990* 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;
- (d) restraining order under subsection 16 (3) of the *Crimes (Confiscation of Profits) Act 1986* of Victoria that is continued in effect under subsection 157 (6) of the **Confiscation Act 1997** of Victoria;
- (e) restraining order under subsection 40 (15) of the *Crimes (Confiscation) Act 1989* of Queensland;
- (f) restraining order under section 15 of the *Criminal Assets Confiscation Act 1996* 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;
- (k) restraining order under subsection 14 (2) of the *Crimes (Forfeiture of Proceeds) Act 1988* of the Northern Territory;
- (l) restraining order under subsection 45 (2) of the *Proceeds of Crime Act 1991* of the Australian Capital Territory.

Schedule 1 Forms

(regulation 5)

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]

Note

1. Notified in the *Commonwealth of Australia Gazette* on / 2002. 6 November