



Proceeds of Crime Regulations 2019

made under the

Proceeds of Crime Act 2002

Compilation No. 2

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|-----------------------------------|-------------|
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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Proceeds of Crime Regulations 2019* that shows the text of the law as amended and in force on 5 May 2021 (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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This instrument is the *Proceeds of Crime Regulations 2019*.

3 Authority

This instrument is made under the *Proceeds of Crime Act 2002*.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Mutual Assistance Act;
- (b) responsible authority;
- (c) literary proceeds order;
- (e) pecuniary penalty order;
- (f) Official Trustee.

In this instrument:

Act means the *Proceeds of Crime Act 2002*.

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*.

6 Meaning of *authorised officer*

- (1) Subject to subsection (2), for the purposes of paragraph (e) of the definition of *authorised officer* in section 338 of the Act, a person who is:
 - (a) an APS employee in the Australian Taxation Office; and
 - (b) authorised by the Commissioner of Taxation for the purposes of that paragraph;is specified.
- (2) Subsection (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, subsection (1) applies to the use of the term “authorised officer” in the definition of *person assisting* in section 338 of the Act.

Section 7

7 State and self-governing Territory laws that correspond to the Act

For the purposes of the definition of *corresponding law* in section 338 of the Act, each law specified in an item in the following table is declared to be a law that corresponds to the Act.

| Item | Law that corresponds to the Act |
|-------------------------------------|--|
| New South Wales | |
| 1 | <i>Confiscation of Proceeds of Crime Act 1989</i> |
| 2 | <i>Criminal Assets Recovery Act 1990</i> |
| Victoria | |
| 3 | <i>Confiscation Act 1997</i> |
| Queensland | |
| 4 | <i>Criminal Proceeds Confiscation Act 2002</i> |
| Western Australia | |
| 5 | <i>Criminal Property Confiscation Act 2000</i> |
| South Australia | |
| 6 | <i>Criminal Assets Confiscation Act 1996</i> |
| 7 | <i>Criminal Assets Confiscation Act 2005</i> |
| 7A | <i>Serious and Organised Crime (Unexplained Wealth) Act 2009</i> |
| Tasmania | |
| 8 | <i>Crime (Confiscation of Profits) Act 1993</i> |
| Australian Capital Territory | |
| 9 | <i>Confiscation of Criminal Assets Act 2003</i> |
| Northern Territory | |
| 10 | <i>Criminal Property Forfeiture Act 2002</i> |

8 Meaning of *enforcement agency*

- (1) Subject to subsection (2), for the purposes of paragraph (b) of the definition of *enforcement agency* in section 338 of the Act, the Australian Taxation Office is specified to be a revenue agency for the purposes of the Act.
- (2) Subsection (1) does not apply to the use of the term “enforcement agency” in section 254 of the Act.

9 Orders that are declared to be interstate forfeiture orders

For the purposes of the definition of *interstate forfeiture order* in section 338 of the Act, each order (however described):

- (a) specified in an item in a table in Schedule 1; and
 - (b) made under a corresponding law specified in the item;
- is declared to be an order of a kind within that definition.

10 Orders that are declared to be interstate pecuniary penalty orders

For the purposes of the definition of *interstate pecuniary penalty order* in section 338 of the Act, each order (however described):

- (a) specified in an item in a table in Schedule 2; and
 - (b) made under a corresponding law specified in the item;
- is declared to be an order of a kind within that definition.

11 Orders that are declared to be interstate restraining orders

For the purposes of the definition of *interstate restraining order* in section 338 of the Act, each order (however described):

- (a) specified in an item in a table in Schedule 3; and
 - (b) made under a corresponding law specified in the item;
- is declared to be an order of a kind within that definition.

12 Substances that are specified to be narcotic substances

For the purposes of 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 of 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 of section 3 of the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990*);
- (c) substances that are Tier 1 goods specified in an item in the table in Part 1 in clause 1 of Schedule 7 to the *Customs Regulation 2015*.

Note: In addition to the substances specified in this section, 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.

13 Indictable offences that are specified to be serious offences

For the purposes of paragraph (h) of the definition of *serious offence* in section 338 of the Act, each indictable offence mentioned in an item in a table in Schedule 4 is specified.

Part 2 The confiscation scheme

Division 1 Orders about forfeited property

Section 15

Part 2—The confiscation scheme

Division 1—Orders about forfeited property

15 Function of responsible authority in relation to section 102 of Act

To avoid doubt, the responsible authority may represent the Commonwealth in proceedings relating to an application for an order under section 102 of the Act.

Division 2—Pecuniary penalty orders

16 Penalty amounts exceeding court's jurisdiction—certificate

- (1) For the purposes of subsection 144(1) of the Act, the following particulars are specified:
 - (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 the purposes of 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.

Section 17

Division 3—Literary proceeds orders

17 Literary proceeds amounts exceeding the court's jurisdiction—certificate

- (1) For the purposes of subsection 171(1) of the Act, the following particulars are specified:
 - (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 the purposes of 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 literary proceeds amount by filing it in that court.

Part 3—Information gathering

18 Approved examiners

- (1) For the purposes of paragraph 183(5)(a) of the Act, the following offices are specified:
 - (a) the office of President of the Administrative Appeals Tribunal;
 - (b) the office of Deputy President of the Administrative Appeals Tribunal;
 - (c) an office of non-presidential member of the Administrative Appeals Tribunal, if the person holding office 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 the purposes of 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, that they are willing to be an approved examiner;
 - (b) persons who have held the office of magistrate and have stated, in writing, that they are willing to be an approved examiner.

19 Approved form—examination notice

For the purposes of section 185 of the Act, the form of examination notice set out in Schedule 5 is prescribed.

20 Unexplained wealth legislation of a State or Territory

New South Wales

- (1) For the purposes of 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* (NSW), and the other provisions of that Act that relate to that Division.

Note: Section 6 of the New South Wales 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.

Australian Capital Territory

- (1A) For the purposes of the definition of **unexplained wealth legislation** in section 338 of the Act, the unexplained wealth legislation of the Australian Capital Territory is Part 7A of the *Confiscation of Criminal Assets Act 2003* (ACT), and the other provisions of that Act that relate to that Part.

Note: Section 11C of the Australian Capital Territory Act (which defines **serious criminal activity**) is an example of a provision that relates to Part 7A of that Act because Part 7A refers to that term.

Section 20

Northern Territory

- (2) For the purposes of 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 2002* (NT), and the other provisions of that Act that relate to that Division.

Note: Section 100 of the Northern Territory 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 1—Powers and duties of the Official Trustee

21 Costs etc. payable to Official Trustee

For the purposes of 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, under Part VI of the Mutual Assistance Act or under section 208DA or Division 3 of Part XIII of the *Customs Act 1901*.

22 Remuneration of Official Trustee

For the purposes of 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 under the Act, under Part VI of the Mutual Assistance Act or under section 208DA or Division 3 of Part XIII of the *Customs Act 1901* is \$62.50 for each period of 15 minutes, or part of 15 minutes.

Division 2—Confiscated Assets Account

23 Annual management fee for Confiscated Assets Account

- (1) For the purposes of paragraph 297(f) of the Act, the annual management fee of \$272,500 is specified for the 2019 calendar year and each later calendar year.
- (2) The fee specified in subsection (1) is payable within 28 days after 27 December in the year to which the fee relates.
- (3) A fee mentioned in this section is the price of the taxable supply within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*.

Schedule 1—Interstate forfeiture order

Note: See section 9.

1 Orders under corresponding laws

The following tables set out orders made under corresponding State and Territory laws that are declared to be orders of a kind within the definition of *interstate forfeiture order* in section 338 of the Act.

Table 1—New South Wales

| Item | Order | Corresponding law |
|------|---|---|
| 1 | a forfeiture order | subsection 18(1) of the <i>Confiscation of Proceeds of Crime Act 1989</i> |
| 2 | an order declaring that specified property is available to satisfy a drug proceeds order | subsection 32(2) of the <i>Confiscation of Proceeds of Crime Act 1989</i> |
| 3 | an assets forfeiture order | section 22 of the <i>Criminal Assets Recovery Act 1990</i> |
| 4 | an order declaring that an interest in property is available to satisfy a proceeds assessment order or unexplained wealth order | subsection 29(1) of the <i>Criminal Assets Recovery Act 1990</i> |
| 5 | an order requiring a defendant to pay to the Treasurer the value of the whole or part of an interest in property of the defendant | subsection 31A(3) of the <i>Criminal Assets Recovery Act 1990</i> |

Table 2—Victoria

| Item | Order | Corresponding law |
|------|---|--|
| 1 | a forfeiture order | Division 1 of Part 3 of the <i>Confiscation Act 1997</i> |
| 2 | a tainted property substitution declaration | subsection 34C(1) of the <i>Confiscation Act 1997</i> |
| 3 | a declaration that property has been forfeited under section 35 of the <i>Confiscation Act 1997</i> | subsection 36(1) of the <i>Confiscation Act 1997</i> |
| 4 | a tainted property substitution declaration | subsection 36F(1) of the <i>Confiscation Act 1997</i> |
| 5 | a declaration that property has been forfeited under section 36GA of the <i>Confiscation Act 1997</i> | subsection 36GB(1) of the <i>Confiscation Act 1997</i> |
| 6 | a civil forfeiture order | Division 2 of Part 4 of the <i>Confiscation Act 1997</i> |
| 7 | a declaration that property has been forfeited under section 40ZA of the <i>Confiscation Act</i> | subsection 40ZB(3) of the <i>Confiscation Act 1997</i> |

| Item | Order | Corresponding law |
|------|-------|-------------------|
| | 1997 | |

Table 3—Queensland

| Item | Order | Corresponding law |
|------|---|--|
| 1 | a forfeiture order | subsection 58(1) of the <i>Criminal Proceeds Confiscation Act 2002</i> |
| 2 | a serious drug offender confiscation order | section 93ZZB of the <i>Criminal Proceeds Confiscation Act 2002</i> |
| 3 | a forfeiture order | subsection 151(1) of the <i>Criminal Proceeds Confiscation Act 2002</i> |
| 4 | a tainted property substitution declaration | subsection 153D(1) of the <i>Criminal Proceeds Confiscation Act 2002</i> |

Table 4—Western Australia

| Item | Order | Corresponding law |
|------|------------------------------------|--|
| 1 | a confiscable property declaration | subsection 28(1) of the <i>Criminal Property Confiscation Act 2000</i> |
| 2 | a declaration of confiscation | section 30 of the <i>Criminal Property Confiscation Act 2000</i> |

Table 5—South Australia

| Item | Order | Corresponding law |
|------|---|---|
| 1 | a forfeiture order | subsection 47(1) of the <i>Criminal Assets Confiscation Act 2005</i> |
| 2 | an instrument substitution declaration | section 48 of the <i>Criminal Assets Confiscation Act 2005</i> |
| 2A | a declaration that particular property has been forfeited under Division 1 of Part 4 of the <i>Criminal Assets Confiscation Act 2005</i> | section 56B of the <i>Criminal Assets Confiscation Act 2005</i> |
| 3 | a declaration that particular property has been forfeited under Division 2 of Part 4 of the <i>Criminal Assets Confiscation Act 2005</i> | section 77 of the <i>Criminal Assets Confiscation Act 2005</i> |
| 4 | a forfeiture order (under section 8 of the <i>Criminal Assets Confiscation Act 1996</i>) as continued in force under item 11 of Schedule 1 to the <i>Criminal Assets Confiscation Act 2005</i> | item 11 of Schedule 1 to the <i>Criminal Assets Confiscation Act 2005</i> |
| 5 | a forfeiture order (under subsection 9(1) of the <i>Criminal Assets Confiscation Act 1996</i>) as continued in force under item 11 of Schedule 1 to the <i>Criminal Assets Confiscation Act 2005</i> | item 11 of Schedule 1 to the <i>Criminal Assets Confiscation Act 2005</i> |

Table 6—Tasmania

| Item | Order | Corresponding law |
|------|---------------------------|--|
| 1 | a forfeiture order | section 16 of the <i>Crime (Confiscation of Profits) Act 1993</i> |
| 2 | a wealth forfeiture order | section 152 of the <i>Crime (Confiscation of Profits) Act 1993</i> |

Table 7—Australian Capital Territory

| Item | Order | Corresponding law |
|------|---|---|
| 1 | a forfeiture order | subsection 54(1) of the <i>Confiscation of Criminal Assets Act 2003</i> |
| 2 | an order declaring that property has been automatically forfeited under Division 5.2 of Part 5 of the <i>Confiscation of Criminal Assets Act 2003</i> | subsection 59(2) of the <i>Confiscation of Criminal Assets Act 2003</i> |
| 3 | an order that restrained property be forfeited to the Territory | subsection 67(2) of the <i>Confiscation of Criminal Assets Act 2003</i> |

Table 8—Northern Territory

| Item | Order | Corresponding law |
|------|--|--|
| 1 | a crime-used property substitution declaration | subsection 81(2) of the <i>Criminal Property Forfeiture Act 2002</i> |
| 2 | a declaration that property specified in an application that is not owned by the respondent is available for forfeiture under Part 7 of the <i>Criminal Property Forfeiture Act 2002</i> | subsection 92(1) of the <i>Criminal Property Forfeiture Act 2002</i> |
| 3 | a declaration that property has been forfeited by operation of section 94 of the <i>Criminal Property Forfeiture Act 2002</i> | subsection 94(4) of the <i>Criminal Property Forfeiture Act 2002</i> |
| 4 | an order that property restrained on suspicion of being crime-used is forfeit to the Territory | subsection 96(1) of the <i>Criminal Property Forfeiture Act 2002</i> |
| 5 | an order that property restrained on suspicion of being crime-derived is forfeit to the Territory | section 97 of the <i>Criminal Property Forfeiture Act 2002</i> |
| 6 | an order that property subject to a restraining order is forfeit to the Territory | section 99 of the <i>Criminal Property Forfeiture Act 2002</i> |
| 7 | an order that property subject to a restraining order is forfeit to the Territory | section 100 of the <i>Criminal Property Forfeiture Act 2002</i> |
| 8 | an order that property subject to a restraining order is forfeit to the Territory | section 101 of the <i>Criminal Property Forfeiture Act 2002</i> |

Schedule 2—Interstate pecuniary penalty order

Note: See section 10.

1 Orders under corresponding laws

The following tables set out orders made under corresponding State and Territory laws that are declared to be orders of a kind within the definition of *interstate pecuniary penalty order* in section 338 of the Act.

Table 1—New South Wales

| Item | Order | Corresponding law |
|------|---|---|
| 1 | a pecuniary penalty order | subsection 24(1) of the <i>Confiscation of Proceeds of Crime Act 1989</i> |
| 2 | a drug proceeds order | subsection 29(1) of the <i>Confiscation of Proceeds of Crime Act 1989</i> |
| 3 | a proceeds assessment order | section 27 of the <i>Criminal Assets Recovery Act 1990</i> |
| 4 | an unexplained wealth order | subsection 28A(2) of the <i>Criminal Assets Recovery Act 1990</i> |
| 5 | a proceeds assessment order or unexplained wealth order | subsection 31B(4) of the <i>Criminal Assets Recovery Act 1990</i> |

Table 2—Victoria

| Item | Order | Corresponding law |
|------|---------------------------|--|
| 1 | a pecuniary penalty order | Part 8 of the <i>Confiscation Act 1997</i> |

Table 3—Queensland

| Item | Order | Corresponding law |
|------|-----------------------------|---|
| 1 | a proceeds assessment order | subsection 78(1) of the <i>Criminal Proceeds Confiscation Act 2002</i> |
| 2 | an unexplained wealth order | section 89G of the <i>Criminal Proceeds Confiscation Act 2002</i> |
| 3 | a pecuniary penalty order | subsection 184(1) of the <i>Criminal Proceeds Confiscation Act 2002</i> |
| 4 | a special forfeiture order | subsection 202(1) of the <i>Criminal Proceeds Confiscation Act 2002</i> |

Table 4—Western Australia

| Item | Order | Corresponding law |
|------|--|--|
| 1 | an unexplained wealth declaration | section 12 of the <i>Criminal Property Confiscation Act 2000</i> |
| 2 | a criminal benefits declaration | section 16 of the <i>Criminal Property Confiscation Act 2000</i> |
| 3 | a criminal benefits declaration | subsection 17(1) of the <i>Criminal Property Confiscation Act 2000</i> |
| 4 | a crime-used property substitution declaration | section 22 of the <i>Criminal Property Confiscation Act 2000</i> |

Table 5—South Australia

| Item | Order | Corresponding law |
|------|--|---|
| 1 | a declaration that particular property has been forfeited under Division 2 of Part 4 of the <i>Criminal Assets Confiscation Act 2005</i> | section 77 of the <i>Criminal Assets Confiscation Act 2005</i> |
| 2 | a pecuniary penalty order | subsection 95(1) of the <i>Criminal Assets Confiscation Act 2005</i> |
| 3 | a literary proceeds order | subsection 111(1) of the <i>Criminal Assets Confiscation Act 2005</i> |
| 4 | a pecuniary penalty order (under paragraph 9(4)(b) of the <i>Criminal Assets Confiscation Act 1996</i>) as continued in force under item 11 of Schedule 1 to the <i>Criminal Assets Confiscation Act 2005</i> | item 11 of Schedule 1 to the <i>Criminal Assets Confiscation Act 2005</i> |
| 5 | an unexplained wealth order | section 9 of the <i>Serious and Organised Crime (Unexplained Wealth) Act 2009</i> |

Table 6—Tasmania

| Item | Order | Corresponding law |
|------|---------------------------|---|
| 1 | a pecuniary penalty order | section 21 of the <i>Crime (Confiscation of Profits) Act 1993</i> |

Table 7—Australian Capital Territory

| Item | Order | Corresponding law |
|------|-----------------------------|---|
| 1 | a penalty order | subsection 84(1) of the <i>Confiscation of Criminal Assets Act 2003</i> |
| 2 | a penalty order | subsection 85(1) of the <i>Confiscation of Criminal Assets Act 2003</i> |
| 3 | an unexplained wealth order | subsection 98D(1) of the <i>Confiscation</i> |

| Item | Order | Corresponding law |
|------|-------|------------------------------------|
| | | <i>of Criminal Assets Act 2003</i> |

Table 8—Northern Territory

| Item | Order | Corresponding law |
|------|--|--|
| 1 | an unexplained wealth declaration | subsection 71(1) of the <i>Criminal Property Forfeiture Act 2002</i> |
| 2 | a criminal benefit declaration | subsection 75(1) of the <i>Criminal Property Forfeiture Act 2002</i> |
| 3 | a criminal benefit declaration | subsection 76(1) of the <i>Criminal Property Forfeiture Act 2002</i> |
| 4 | a crime-used property substitution declaration | subsection 81(2) of the <i>Criminal Property Forfeiture Act 2002</i> |

Schedule 3—Interstate restraining order

Note: See section 11.

1 Orders under corresponding laws

The following tables set out orders made under corresponding State and Territory laws that are declared to be orders of a kind within the definition of *interstate restraining order* in section 338 of the Act.

Table 1—New South Wales

| Item | Order | Corresponding law |
|------|--|--|
| 1 | an order directing that property specified in the order not be disposed of | subsection 22(2) of the <i>Confiscation of Proceeds of Crime Act 1989</i> |
| 2 | confirmation of a freezing notice | subsection 42L(1) of the <i>Confiscation of Proceeds of Crime Act 1989</i> |
| 3 | a restraining order | subsection 43(2) of the <i>Confiscation of Proceeds of Crime Act 1989</i> |
| 4 | a restraining order | subsection 10A(5) of the <i>Criminal Assets Recovery Act 1990</i> |

Table 2—Victoria

| Item | Order | Corresponding law |
|------|---|---|
| 1 | a restraining order | section 18 of the <i>Confiscation Act 1997</i> |
| 2 | a civil forfeiture restraining order | section 36M of the <i>Confiscation Act 1997</i> |
| 3 | an unexplained wealth restraining order | section 40I of the <i>Confiscation Act 1997</i> |

Table 3—Queensland

| Item | Order | Corresponding law |
|------|---------------------|---|
| 1 | a restraining order | section 31 of the <i>Criminal Proceeds Confiscation Act 2002</i> |
| 2 | a restraining order | section 93M of the <i>Criminal Proceeds Confiscation Act 2002</i> |
| 3 | a restraining order | section 122 of the <i>Criminal Proceeds Confiscation Act 2002</i> |

Table 4—Western Australia

| Item | Order | Corresponding law |
|------|-------------------|--|
| 1 | a freezing notice | section 34 of the <i>Criminal Property Confiscation Act 2000</i> |
| 2 | a freezing order | section 43 of the <i>Criminal Property Confiscation Act 2000</i> |

Table 5—South Australia

| Item | Order | Corresponding law |
|------|---|--|
| 1 | a restraining order | subsection 24(1) of the <i>Criminal Assets Confiscation Act 2005</i> |
| 2 | an instrument substitution declaration | section 48 of the <i>Criminal Assets Confiscation Act 2005</i> |
| 3 | a declaration that particular property has been forfeited under Division 2 of Part 4 of the <i>Criminal Assets Confiscation Act 2005</i> | section 77 of the <i>Criminal Assets Confiscation Act 2005</i> |
| 4 | a restraining order (under section 15 of the <i>Criminal Assets Confiscation Act 1996</i>) as continued in force under item 11 of Schedule 1 to the <i>Criminal Assets Confiscation Act 2005</i> | item 11 of Schedule 1 to the <i>Criminal Assets Confiscation Act 2005</i> |
| 5 | a restraining order | section 20 of the <i>Serious and Organised Crime (Unexplained Wealth) Act 2009</i> |

Table 6—Tasmania

| Item | Order | Corresponding law |
|------|-------------------------------------|--|
| 1 | a restraining order | section 26 of the <i>Crime (Confiscation of Profits) Act 1993</i> |
| 2 | an interim wealth-restraining order | section 116 of the <i>Crime (Confiscation of Profits) Act 1993</i> |
| 3 | a wealth-restraining order | section 118 of the <i>Crime (Confiscation of Profits) Act 1993</i> |

Table 7—Australian Capital Territory

| Item | Order | Corresponding law |
|------|---|--|
| 1 | restraining order | subsection 30(2) of the <i>Confiscation of Criminal Assets Act 2003</i> |
| 2 | restraining order | subsection 31(2) of the <i>Confiscation of Criminal Assets Act 2003</i> |
| 3 | an unexplained wealth restraining order | subsection 32A(2) of the <i>Confiscation of Criminal Assets Act 2003</i> |

Table 8—Northern Territory

| Item | Order | Corresponding law |
|-------------|------------------------------|---|
| 1 | an interim restraining order | subsection 40(1) of the <i>Criminal Property Forfeiture Act 2002</i> |
| 2 | a restraining order | subsection 43(1) or (2) of the <i>Criminal Property Forfeiture Act 2002</i> |
| 3 | a restraining order | subsection 44(1) of the <i>Criminal Property Forfeiture Act 2002</i> |

Schedule 4—Indictable offences that are serious offences

Note: See section 13.

1 Table 1—*Australian Crime Commission Act 2002*

The following table specifies indictable offences against provisions of the *Australian Crime Commission Act 2002* for the purposes of paragraph (h) of the definition of **serious offence** in section 338 of the *Proceeds of Crime Act 2002*.

| Item | An offence against any of the following provisions of the <i>Australian Crime Commission Act 2002</i> is a serious offence |
|------|--|
| 1 | subsection 21A(4) (notices to produce a document or thing) |
| 2 | section 30 (failure of witnesses to attend and answer questions) |
| 3 | section 33 (false or misleading evidence) |
| 4 | section 35 (obstructing or hindering the ACC or an examiner etc.) |

2 Table 2—*Copyright Act 1968*

The following table specifies indictable offences against provisions of the *Copyright Act 1968* for the purposes of paragraph (h) of the definition of **serious offence** in section 338 of the *Proceeds of Crime Act 2002*.

| Item | An offence against any of the following provisions of the <i>Copyright Act 1968</i> is a serious offence |
|------|---|
| 1 | subsection 132AC(1) (commercial-scale infringement prejudicing copyright owner) |
| 2 | subsection 132AD(1) (making infringing copy commercially) |
| 3 | subsection 132AE(1) (selling or hiring out infringing copy) |
| 4 | subsections 132AF(1) and (2) (offering infringing copy for sale or hire) |
| 5 | subsections 132AG(1) and (2) (exhibiting infringing copy in public commercially) |
| 6 | subsection 132AH(1) (importing infringing copy commercially) |
| 7 | subsections 132AI(1) and (2) (distributing infringing copy) |
| 8 | subsection 132AJ(1) (possessing infringing copy for commerce) |
| 9 | subsections 132AL(1) and (2) (making or possessing device for making infringing copy) |
| 10 | subsection 132AN(1) (causing work to be performed publicly) |
| 11 | subsection 132AO(1) (causing recording or film to be heard or seen in public) |
| 12 | subsection 132AQ(1) (removing or altering electronic rights management information) |
| 13 | subsection 132AR(1) (distributing, importing or communicating copies after removal or alteration of electronic rights management information) |
| 14 | subsection 132AS(1) (distributing or importing electronic rights management information) |

2A Table 2A—Crimes Act 1914

The following table specifies indictable offences against provisions of the *Crimes Act 1914* (as in force before 15 April 2010) for the purposes of paragraph (h) of the definition of **serious offence** in section 338 of the *Proceeds of Crime Act 2002*.

| Item | An offence against any of the following provisions of the <i>Crimes Act 1914</i> (as in force before 15 April 2010) is a serious offence |
|------|--|
| 1 | section 50BA (sexual intercourse with child under 16) |
| 2 | section 50BB (inducing child under 16 to engage in sexual intercourse) |
| 3 | section 50BC (sexual conduct involving child under 16) |
| 4 | section 50BD (inducing child under 16 to be involved in sexual conduct) |
| 5 | section 50DA (benefiting from offence against Part IIIA) |
| 6 | section 50DB (encouraging offence against Part IIIA) |

3 Table 3—Criminal Code

The following table specifies indictable offences against provisions of the *Criminal Code* for the purposes of paragraph (h) of the definition of **serious offence** in section 338 of the *Proceeds of Crime Act 2002*.

| Item | An offence against any of the following provisions of the <i>Criminal Code</i> is a serious offence |
|------|--|
| 1 | section 73.1 (offence of people smuggling) |
| 2 | section 73.2 (aggravated offence of people smuggling (danger of death or serious harm etc.)) |
| 3 | section 73.3 (aggravated offence of people smuggling (at least 5 people)) |
| 4 | section 73.3A (supporting the offence of people smuggling) |
| 5 | section 73.8 (making, providing or possessing a false travel or identity document) |
| 6 | section 73.9 (providing or possessing a travel or identity document issued or altered dishonestly or as a result of threats) |
| 7 | section 73.10 (providing or possessing a travel or identity document to be used by a person who is not the rightful user) |
| 8 | section 73.11 (taking possession of or destroying another person's travel or identity document) |
| 9 | section 270.3 (slavery offences) |
| 10 | section 270.5 (servitude offences) |
| 11 | section 270.6A (forced labour offences) |
| 12 | section 270.7 (deceptive recruiting for labour or services) |
| 13 | section 270.7B (forced marriage offences) |

Schedule 4 Indictable offences that are serious offences

| Item | An offence against any of the following provisions of the <i>Criminal Code</i> is a serious offence |
|------|--|
| 14 | section 270.7C (offence of debt bondage) |
| 15 | section 271.2 (offence of trafficking in persons) |
| 16 | section 271.3 (trafficking in persons—aggravated offence) |
| 17 | section 271.4 (offence of trafficking in children) |
| 18 | section 271.5 (offence of domestic trafficking in persons) |
| 19 | section 271.6 (domestic trafficking in persons—aggravated offence) |
| 20 | section 271.7 (offence of domestic trafficking in children) |
| 21 | section 271.7B (offence of organ trafficking—entry into and exit from Australia) |
| 22 | section 271.7C (organ trafficking—aggravated offence) |
| 23 | section 271.7D (offence of domestic organ trafficking) |
| 24 | section 271.7E (domestic organ trafficking—aggravated offence) |
| 25 | section 271.7F (harbouring a victim) |
| 26 | section 271.7G (harbouring a victim—aggravated offence) |
| 27 | section 272.8 (sexual intercourse with child outside Australia) |
| 28 | section 272.9 (sexual activity (other than sexual intercourse) with child outside Australia) |
| 29 | section 272.10 (aggravated offence—sexual intercourse or other sexual activity with child outside Australia) |
| 30 | section 272.11 (persistent sexual abuse of child outside Australia) |
| 31 | section 272.12 (sexual intercourse with young person outside Australia—defendant in position of trust or authority) |
| 32 | section 272.13 (sexual activity (other than sexual intercourse) with young person outside Australia—defendant in position of trust or authority) |
| 33 | section 272.14 (procuring child to engage in sexual activity outside Australia) |
| 34 | section 272.15 (“grooming” child to engage in sexual activity outside Australia) |
| 34A | section 272.15A (“grooming” person to make it easier to engage in sexual activity with a child outside Australia) |
| 35 | section 272.18 (benefiting from offence against Division 272 of the <i>Criminal Code</i>) |
| 36 | section 272.19 (encouraging offence against Division 272 of the <i>Criminal Code</i>) |
| 37 | section 272.20 (preparing for or planning offence against Division 272 of the <i>Criminal Code</i>) |
| 38 | section 273.5 (possessing, controlling, producing, distributing or obtaining child pornography material outside Australia) |
| 39 | section 273.6 (possessing, controlling, producing, distributing or obtaining child abuse material outside Australia) |
| 40 | section 273.7 (aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people) |
| 40A | section 273A.1 (possession of child-like sex dolls etc.) |
| 40B | section 273B.4 (failing to protect child at risk of child sexual abuse offence) |
| 40C | section 273B.5 (failing to report child sexual abuse offence) |
| 41 | section 360.2 (cross-border offence of disposal or acquisition of a firearm or firearm part) |

| Item | An offence against any of the following provisions of the <i>Criminal Code</i> is a serious offence |
|------|--|
| 42 | section 360.3 (taking or sending a firearm or firearm part across borders) |
| 43 | section 361.2 (trafficking prohibited firearms or firearm parts into Australia) |
| 44 | section 361.3 (trafficking prohibited firearms or firearm parts out of Australia) |
| 45 | section 372.1 (dealing in identification information) |
| 46 | section 372.1A (dealing in identification information that involves use of a carriage service) |
| 47 | section 372.2 (possession of identification information) |
| 48 | section 372.3 (possession of equipment used to make identification documentation) |
| 49 | section 390.3 (associating in support of serious organised criminal activity) |
| 50 | section 390.4 (supporting a criminal organisation) |
| 51 | section 390.5 (committing an offence for the benefit of, or at the direction of, a criminal organisation) |
| 52 | section 390.6 (directing activities of a criminal organisation) |
| 53 | section 471.16 (using a postal or similar service for child pornography material) |
| 54 | section 471.17 (possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service) |
| 55 | section 471.19 (using a postal or similar service for child abuse material) |
| 56 | section 471.20 (possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service) |
| 57 | section 471.22 (aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people) |
| 58 | section 471.24 (using a postal or similar service to procure persons under 16) |
| 59 | section 471.25 (using a postal or similar service to “groom” persons under 16) |
| 59A | section 471.25A (using a postal or similar service to “groom” another person to make it easier to procure persons under 16) |
| 60 | section 471.26 (using a postal or similar service to send indecent material to person under 16) |
| 61 | section 474.19 (using a carriage service for child pornography material) |
| 62 | section 474.20 (possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service) |
| 63 | section 474.22 (using a carriage service for child abuse material) |
| 63A | section 474.22A (possessing or controlling child abuse material obtained or accessed using a carriage service) |
| 64 | section 474.23 (possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service) |
| 64A | section 474.23A (conduct for the purposes of electronic service used for child abuse material) |
| 65 | section 474.24A (aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people) |
| 66 | section 474.25A (using a carriage service for sexual activity with person under 16 years of age) |

Schedule 4 Indictable offences that are serious offences

| Item | An offence against any of the following provisions of the <i>Criminal Code</i> is a serious offence |
|-------------|--|
| 67 | section 474.25B (aggravated offence—using a carriage service for sexual activity with person under 16 years of age) |
| 68 | section 474.26 (using a carriage service to procure persons under 16 years of age) |
| 69 | section 474.27 (using a carriage service to “groom” persons under 16 years of age) |
| 69A | section 474.27AA (using a carriage service to “groom” another person to make it easier to procure persons under 16 years of age) |
| 70 | section 474.27A (using a carriage service to transmit indecent communication to person under 16 years of age) |

Schedule 5—Forms

Note: See section 19.

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

| Name | Registration | Commencement | Application, saving and transitional provisions |
|---|---------------------------|--|---|
| Proceeds of Crime Regulations 2019 | 9 Aug 2019 (F2019L01045) | 10 Aug 2019 (s 2(1) item 1) | |
| Proceeds of Crime Amendment (Unexplained Wealth) Regulations 2020 | 16 Dec 2020 (F2020L01626) | 17 Dec 2020 (s 2(1) item 1) | — |
| Crimes Legislation Amendment (Economic Disruption) Regulations 2021 | 4 May 2021 (F2021L00541) | Sch 1 (items 2–18): 5 May 2021 (s 2(1) item 1) | — |

Endnote 4—Amendment history

Endnote 4—Amendment history

| Provision affected | How affected |
|--------------------|-----------------------------|
| Part 1 | |
| s 2 | rep LA s 48D |
| s 4 | rep LA s 48C |
| s 7 | am F2021L00541 |
| Part 2 | |
| Division 1 | |
| s 14 | rep F2021L00541 |
| s 15 | am F2021L00541 |
| Part 3 | |
| s 20 | am F2020L01626 |
| Part 4 | |
| Division 1 | |
| s 21 | am F2021L00541 |
| s 22 | am F2021L00541 |
| Schedule 1 | |
| Schedule 1 | am F2021L00541 |
| Schedule 2 | |
| Schedule 2 | am F2020L01626; F2021L00541 |
| Schedule 3 | |
| Schedule 3 | am F2020L01626; F2021L00541 |
| Schedule 4 | |
| Schedule 4 | am F2021L00541 |
| | ed C2 |
| Schedule 6 | rep LA s 48C |

Endnotes

Endnote 5—Editorial changes

Endnote 5—Editorial changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

Clause 2A of Schedule 4 (table item 2)

Kind of editorial change

Change to punctuation

Details of editorial change

Schedule 1 item 10 of the *Crimes Legislation Amendment (Economic Disruption) Regulations 2021* instructs to insert clause 2A after clause 2 of Schedule 4.

Table item 2 of the newly inserted clause reads as follows:

2 section 50BB (inducing child under 16 to engage in sexual intercourse))

This compilation was editorially changed to remove the extra bracket after “intercourse)” to correct the punctuation.