

Queensland



*Crimes (Confiscation) Act 1989*

# **CRIMES (CONFISCATION) REGULATION 1996**

**Reprinted as in force on 29 May 1996  
(regulation not amended up to this date)**

**Reprint No. 1**

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# Information about this reprint

This regulation is reprinted as at 29 May 1996.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have been made to—

- use standard punctuation consistent with current drafting practice (s 27)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (s 40).

**Also see endnotes for information about when provisions commenced.**



# **CRIMES (CONFISCATION) REGULATION 1996**

## **TABLE OF PROVISIONS**

Section	Page
1 Short title . . . . .	3
2 Commencement . . . . .	3
3 Definitions—the dictionary . . . . .	3
4 Prescribed corresponding laws . . . . .	3
5 Interstate forfeiture orders . . . . .	3
6 Interstate pecuniary penalty orders . . . . .	3
7 Interstate restraining orders . . . . .	4
8 Prescribed serious offences . . . . .	4
9 Magistrates Courts' powers to make forfeiture orders and restraining orders for real property . . . . .	4
10 Approved form for application for search warrant . . . . .	4
11 Approved form for search warrant . . . . .	5
12 Approved form for complaint verifying facts on which search warrant was sought . . . . .	5
13 Approved form for record of proceedings . . . . .	6
14 Approved form for report to issuing magistrate about execution . . . . .	6
15 Giving of notices . . . . .	6

<b>SCHEDULE 1</b> . . . . .	8
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### **CORRESPONDING LAWS**

<b>SCHEDULE 2</b> . . . . .	9
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### **INTERSTATE FORFEITURE ORDERS**

<b>SCHEDULE 3</b> . . . . .	10
-----------------------------	----

### **INTERSTATE PECUNIARY PENALTY ORDERS**

**SCHEDULE 4** ..... 11**INTERSTATE RESTRAINING ORDERS****SCHEDULE 5** ..... 12**DICTIONARY****ENDNOTES**

1	Index to endnotes	13
2	Date to which amendments incorporated	13
3	Key	13
4	List of legislation	14
5	List of annotations	14

# **CRIMES (CONFISCATION) REGULATION 1996**

[reprinted as in force on 29 May 1996]

## **Short title**

1. This regulation may be cited as the *Crimes (Confiscation) Regulation 1996*.

## **Commencement**

2. This regulation commences on 28 May 1996.

## **Definitions—the dictionary**

3. The dictionary in schedule 5 defines particular words used in this regulation.

## **Prescribed corresponding laws**

4. The laws mentioned in schedule 1 correspond to the Act.

## **Interstate forfeiture orders**

5. An order under a provision mentioned in schedule 2 is within the definition “interstate forfeiture order” in section 4 of the Act.

## **Interstate pecuniary penalty orders**

6. An order under a provision mentioned in schedule 3 is within the definition “interstate pecuniary penalty order” in section 4 of the Act.

**Interstate restraining orders**

7. An order under a provision mentioned in schedule 4 is within the definition “interstate restraining order” in section 4 of the Act.

**Prescribed serious offences**

8. An offence against any of the following is a serious offence—

- (a) the *Racing and Betting Act 1980*;
- (b) the *Vagrants, Gaming and Other Offences Act 1931*, section 18A or 18B.

**Magistrates Courts’ powers to make forfeiture orders and restraining orders for real property**

9.(1) A Magistrates Court may make a forfeiture order for real property in connection with a conviction for an offence only if it is satisfied that the value of the property (together with the value of all other property subject to other undischarged forfeiture orders made by the court in connection with the conviction) is not more than the monetary jurisdiction specified in the *Magistrates Courts Act 1921*, section 4(a).

(2) A Magistrates Court may make a restraining order for real property in connection with a charge or conviction for an offence only if it is satisfied that the value of the property (together with the value of all other property subject to other undischarged forfeiture orders made by the court in connection with the charge or conviction) is not more than the monetary jurisdiction specified in the *Magistrates Courts Act 1921*, section 4(a).

**Approved form for application for search warrant**

10.(1) An approved form for an application under section 59(1) of the Act for a search warrant must include provision for the following—

- (a) the date of the application;
- (b) the name of the police officer who is the applicant;
- (c) the name of the magistrate to whom the application is made;

- (d) the information required to be inserted in the application under section 59 of the Act;
- (e) the request for the warrant;
- (f) swearing the application as an affidavit.

(2) However, subsection (1)(f) does not require the application to be sworn as an affidavit.<sup>1</sup>

### **Approved form for search warrant**

**11.** An approved form for a search warrant under section 57(4) of the Act must include provision for the following—

- (a) the name of the magistrate issuing the warrant;
- (b) the time when the warrant is issued;
- (c) the land or premises for which it is issued;
- (d) the police officers authorised under the warrant (whether or not named);
- (e) the information required to be inserted under section 57(8) of the Act;
- (f) a statement setting out when the warrant ceases to have effect;<sup>2</sup>
- (g) the signature of the magistrate.

### **Approved form for complaint verifying facts on which search warrant was sought**

**12.** An approved form for a complaint mentioned in section 59(5)(g) of the Act must include provision for the following—

- (a) particulars of the applicant;
- (b) particulars of the magistrate who issued the warrant;

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<sup>1</sup> The application must be either sworn as an affidavit or verified before the magistrate on oath or affirmation. The approved form under this section will contain sufficient provisions to allow the form to be used for verification. See the Act, section 59(2)(c).

<sup>2</sup> See the Act, section 64 for when search warrants expire.

- (c) the time when the warrant was issued and to whom it was issued;
- (d) the facts on which the applicant sought the issue of the warrant;
- (e) verification under oath.

### **Approved form for record of proceedings**

**13.** An approved form for a record of proceedings before a magistrate for the issue of a search warrant may only include provision for the following—

- (a) the name of the magistrate;
- (b) particulars of the warrant issued, including the time of issue and particulars of the applicant;
- (c) the information mentioned in section 60(1) of the Act;
- (d) whether anyone did or did not provide information about the application further to that contained in any written application, affidavit or other written document that is on the record;
- (e) other information the magistrate may wish to record.

### **Approved form for report to issuing magistrate about execution**

**14.** An approved form for a report mentioned in section 65(1) of the Act must include provision for the following—

- (a) the particulars of the police officer making the report;
- (b) the time when the warrant was issued and the name of the magistrate who issued the warrant;
- (c) if the warrant was executed—the time when it was executed;
- (d) the information mentioned in section 65(1) of the Act;
- (e) the signature of the police officer making the report.

### **Giving of notices**

**15.(1)** This provision is in addition to the *Acts Interpretation Act 1954*, section 39.



(2) A notice in a proceeding under the Act must be in writing.

(3) A notice in a proceeding under the Act must be served at least 2 clear days before the proceeding unless the Act provides otherwise or the person to be served agrees otherwise.

(4) If a notice in a proceeding under the Act is to be served on a person in the person's capacity as member of the Queensland Police Service, the notice may be served by giving it to the commissioner of the police service.

(5) This section does not prevent a legal representative of a party to a proceeding accepting service of a notice in the proceeding.

**SCHEDULE 1****CORRESPONDING LAWS**

section 4

1. The Australian Capital Territory Act.
2. The New South Wales 1989 Act.
3. The New South Wales 1990 Act.
4. The Northern Territory Act.
5. The South Australian Act.
6. The Tasmanian Act.
7. The Victorian Act.
8. The Western Australian Act.

**SCHEDULE 2****INTERSTATE FORFEITURE ORDERS**

section 5

1. The Australian Capital Territory Act, section 19.
2. The New South Wales 1989 Act, section 18.
3. The New South Wales 1990 Act, section 22.
4. The Northern Territory Act, section 5.
5. The South Australian Act, section 5.
6. The Tasmanian Act, section 16.
7. The Victorian Act, section 7.
8. The Western Australian Act, section 10.

**SCHEDULE 3****INTERSTATE PECUNIARY PENALTY ORDERS**

section 6

1. The Australian Capital Territory Act, section 25.
2. The New South Wales 1989 Act, sections 24 and 29.
3. The New South Wales 1990 Act, section 27.
4. The Northern Territory Act, section 10.
5. The Tasmanian Act, section 21.
6. The Victorian Act, section 12.
7. The Western Australian Act, section 15.

**SCHEDULE 4****INTERSTATE RESTRAINING ORDERS**

section 7

1. The Australian Capital Territory Act, section 45.
2. The New South Wales 1989 Act, section 43.
3. The New South Wales 1990 Act, section 10.
4. The Northern Territory Act, section 14.
5. The South Australian Act, section 6.
6. The Tasmanian Act, section 26.
7. The Victorian Act, section 16.
8. The Western Australian Act, section 20.

## SCHEDULE 5

### DICTIONARY

section 3

**“the Australian Capital Territory Act”** means the *Proceeds of Crime Act 1991* (ACT).

**“the New South Wales 1989 Act”** means the *Confiscation of Proceeds of Crime Act 1989* (NSW).

**“the New South Wales 1990 Act”** means the *Drug Trafficking (Civil Proceedings) Act 1990* (NSW).

**“the Northern Territory Act”** means the *Crimes (Forfeiture of Proceeds) Act* (NT).

**“the South Australian Act”** means the *Crimes (Confiscation of Profits) Act 1986* (SA).

**“the Tasmanian Act”** means the *Crime (Confiscation of Profits) Act 1993* (Tas).

**“the Victorian Act”** means the *Crimes (Confiscation of Profits) Act 1986* (Vic).

**“the Western Australian Act”** means the *Crimes (Confiscation of Profits) Act 1988* (WA).

## ENDNOTES

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated . . . . .	13
3 Key . . . . .	13
4 List of legislation . . . . .	14
5 List of annotations . . . . .	14

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Crimes (Confiscation) Regulation 1996 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

## **4 List of legislation**

### **Crimes (Confiscation) Regulation 1996 SL No. 89**

notfd gaz 10 May 1996 pp 533–4

ss 1–2 commenced on date of notification

remaining provisions commenced 28 May 1996 (see s 2)

## **5 List of annotations**

### **Repeal**

**s 16** om R1 (see RA s 40)