

Queensland



Crimes (Confiscation) Act 1989

CRIMES (CONFISCATION) REGULATION 1996

**Reprinted as in force at repeal (1 January 2003)
(includes amendments up to SL No. 38 of 2001)**

Reprint No. 2B

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Information about this reprint

This regulation is reprinted as at 1 January 2003. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

Replacement reprint date If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.

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CRIMES (CONFISCATION) REGULATION 1996

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CRIMES (CONFISCATION) REGULATION 1996

[as amended by all amendments that commenced on or before 1 January 2003]

1 Short title

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

2 Commencement

This regulation commences on 28 May 1996.

3 Definitions—the dictionary

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

4 Prescribed corresponding laws

The laws mentioned in schedule 1 correspond to the Act.

5 Interstate forfeiture orders

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

6 Interstate pecuniary penalty orders

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

7 Interstate restraining orders

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

8 Prescribed serious offences

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.¹

9 Magistrates Courts' powers to make forfeiture orders and restraining orders for real property

(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

(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).

10 Approved form for application for search warrant

(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;

1 *Vagrants, Gaming and Other Offences Act 1931*, sections 18A (Public soliciting for purposes of prostitution) and 18B (Advertising prostitution)

2 *Magistrates Court Act 1921*, section 4 (Jurisdiction of Magistrates Courts)

- (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.³

11 Approved form for search warrant

An approved form for a search warrant under section 57(4)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)⁵ of the Act;
- (f) a statement setting out when the warrant ceases to have effect;⁶
- (g) the signature of the magistrate.

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

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;
- (c) the time when the warrant was issued and to whom it was issued;

3 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).

4 Section 57 (Search warrant for location etc. of certain documents and property) of the Act

5 Section 59 (Application for warrant) of the Act

6 See the Act, section 64 for when search warrants expire.

- (d) the facts on which the applicant sought the issue of the warrant;
- (e) verification under oath.

13 Approved form for record of proceedings

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.

14 Approved form for report to issuing magistrate about execution

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.

15 Giving of notices

(1) This provision is in addition to the *Acts Interpretation Act 1954*, section 39.⁷

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

⁷ *Acts Interpretation Act 1954*, section 39 (Service of documents)

(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 1986 Act.
8. The Victorian 1997 Act.
9. The Western Australian 1988 Act.
10. The Western Australian 2000 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 8 or 9(4)(a).
6. The Tasmanian Act, section 16.
7. The Victorian 1986 Act, section 7.
8. The Victorian 1997 Act, sections 33 and 38.
9. The Western Australian 1988 Act, section 10.
10. The Western Australian 2000 Act, sections 22, 28 and 30.

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 South Australian Act, section 9(4)(b).
6. The Tasmanian Act, section 21.
7. The Victorian 1986 Act, section 12.
8. The Victorian 1997 Act, sections 59 and 64.
9. The Western Australian 1988 Act, section 15.
10. The Western Australian 2000 Act, sections 12, 16, 17 and 22.

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 15.
6. The Tasmanian Act, section 26.
7. The Victorian 1986 Act, section 16.
8. The Victorian 1997 Act, section 14.
9. The Western Australian 1988 Act, section 20.
10. The Western Australian 2000 Act, section 43.

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 *Criminal Assets Recovery Act 1990* (NSW).

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

“the South Australian Act” means the *Criminal Assets Confiscation Act 1996* (SA).

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

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

“the Victorian 1997 Act” means the *Confiscation Act 1997* (Vic).

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

“the Western Australian 2000 Act” means the *Criminal Property Confiscation Act 2000* (WA).

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 January 2003.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the latest reprint.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	none	28 May 1996	29 May 1996
1A	to SL No. 302 of 1997	19 September 1997	14 November 1997
2	to SL No. 267 of 1998	2 October 1998	20 November 1998
2A	to SL No. 38 of 2001	4 May 2001	22 February 2002
			(Column discontinued)
			Notes
2B	to SL No. 38 of 2001	1 January 2003	

5 List of legislation

Crimes (Confiscation) Regulation 1996 SL No. 89

made by the Governor in Council on 9 May 1996
 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)
 lap 1 January 2003 (2002 No. 68 s 282)

amending legislation—

Crimes (Confiscation) Amendment Regulation (No. 1) 1997 SL No. 302

notfd gaz 19 September 1997 pp 262–3
 commenced on date of notification

Crimes (Confiscation) Amendment Regulation (No. 1) 1998 SL No. 267

notfd gaz 2 October 1998 pp 408–9
 commenced on date of notification

Crimes (Confiscation) Amendment Regulation (No. 1) 2001 SL No. 38

notfd gaz 4 May 2001 pp 69–70
 commenced on date of notification

6 List of annotations

Repeal

s 16 om R1 (see RA s 40)

SCHEDULE 1—CORRESPONDING LAWS

amd 1998 SL No. 267 s 3; 2001 SL No. 38 s 3

SCHEDULE 2—INTERSTATE FORFEITURE ORDERS

amd 1997 SL No. 302 s 3; 1998 SL No. 267 s 4; 2001 SL No. 38 s 4

SCHEDULE 3—INTERSTATE PECUNIARY PENALTY ORDERS

amd 1997 SL No. 302 s 4; 1998 SL No. 267 s 5; 2001 SL No. 38 s 5

SCHEDULE 4—INTERSTATE RESTRAINING ORDERS

amd 1997 SL No. 302 s 5; 1998 SL No. 267 s 6; 2001 SL No. 38 s 6

SCHEDULE 5—DICTIONARY

def “**the New South Wales 1990 Act**” sub 1998 SL No. 267 s 7

def “**the South Australian Act**” sub 1997 SL No. 302 s 6

def “**the Victorian Act**” om 1998 SL No. 267 s 7

def “**the Victorian 1986 Act**” ins 1998 SL No. 267 s 7

def “**the Victorian 1997 Act**” ins 1998 SL No. 267 s 7

def “**the Western Australian Act**” om 2001 SL No. 38 s 7

def “**the Western Australian 1988 Act**” ins 2001 SL No. 38 s 7

def “**the Western Australian 2000 Act**” ins 2001 SL No. 38 s 7