



Proceeds of Crime Amendment Regulation 2012 (No. 1)¹

Select Legislative Instrument 2012 No. 156

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Proceeds of Crime Act 2002*.

Dated 28 June 2012

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

JASON CLARE
Minister for Justice

Section 1

1 Name of regulation

This regulation is the *Proceeds of Crime Amendment Regulation 2012 (No. 1)*.

2 Commencement

This regulation commences on the day after it is registered.

3 Amendment of *Proceeds of Crime Regulations 2002*

Schedule 1 amends the *Proceeds of Crime Regulations 2002*.

Schedule 1 Amendments

(section 3)

[1] Paragraph 4 (da)

omit

[2] After paragraph 4 (e)

insert

(ea) *Criminal Assets Confiscation Act 2005* of South Australia;

[3] Paragraph 4 (i)

omit

[4] Paragraph 4 (j)

omit

Territory;

insert

Territory.

[5] Paragraph 4 (k)

omit

[6] After paragraph 5 (a)

insert

- (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;

[7] After paragraph 5 (b)

insert

- (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;

[8] After paragraph 5 (d)

insert

- (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;

[9] Paragraph 5 (e)

omit

subsection 23 (1) of the *Crimes (Confiscation) Act 1989*

insert

subsection 58 (1) or 151 (1) of the *Criminal Proceeds Confiscation Act 2002*

[10] After paragraph 5 (e)

insert

- (ea) tainted property substitution declaration under subsection 153D (1) of the *Criminal Proceeds Confiscation Act 2002* of Queensland;

[11] Paragraph 5 (f)

omit

Australia;

insert

Australia (that is continued in force under item 11 of Schedule 1 of the *Criminal Assets Confiscation Act 2005* of South Australia);

[12] After paragraph 5 (f)

insert

- (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;

[13] After paragraph 5 (i)

insert

- (ia) confiscable property declaration under subsection 28 (1) of the *Criminal Property Confiscation Act 2000* of Western Australia;

[14] Paragraphs 5 (k) and (l)

substitute

- (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;

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- (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.

[15] After paragraph 6 (a)

insert

- (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;

[16] Paragraph 6 (e)

substitute

- (e) proceeds assessment order under subsection 78 (1) 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;

[17] Paragraph 6 (f)

omit

Australia;

insert

Australia (that is continued in force under item 11 of Schedule 1 of the *Criminal Assets Confiscation Act 2005* of South Australia);

[18] After paragraph 6 (f)

insert

- (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;

[19] After paragraph 6 (h)

insert

- (ha) criminal benefits declaration under subsection 17 (1) of the *Criminal Property Confiscation Act 2000* of Western Australia;

[20] Paragraphs 6 (l) and (m)

substitute

- (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

[21] Paragraph 7 (a)

omit

section 10

insert

subsection 10A (5)

[22] After paragraph 7 (a)

- (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;

[23] After paragraph 7 (d)

insert

- (da) civil forfeiture restraining order under section 36M of the *Confiscation Act 1997* of Victoria;

[24] Paragraph 7 (e)

omit

subsection 40 (15) of the *Crimes (Confiscation) Act 1989*

insert

subsection 31 (1) or 122 (1), (2) or (3) of the *Criminal Proceeds Confiscation Act 2002*

[25] Paragraph 7 (f)

omit

Australia;

insert

Australia (that is continued in force under item 11 of Schedule 1 of the *Criminal Assets Confiscation Act 2005* of South Australia);

[26] After paragraph 7 (f)*insert*

- (fa) restraining order under subsection 24 (1) of the *Criminal Assets Confiscation Act 2005* of South Australia;

[27] Paragraphs 7 (k) and (l)*substitute*

- (k) restraining order under subsection 30 (2) or 31 (2) of the *Confiscation of Criminal Assets Act 2003* of the Australian Capital Territory;
- (l) restraining order under subsection 43 (1) or (2) or 44 (1) of the *Criminal Property Forfeiture Act* of the Northern Territory.

[28] After subparagraph 9 (a) (x)*insert*

- (xi) section 271.2 (offence of trafficking in persons);
- (xii) section 271.4 (offence of trafficking in children);
- (xiii) section 271.5 (offence of domestic trafficking in persons);
- (xiv) section 271.7 (offence of domestic trafficking in children);
- (xv) section 272.8 (sexual intercourse with child outside Australia);
- (xvi) section 272.9 (sexual activity (other than sexual intercourse) with child outside Australia);
- (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);

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- (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);
 - (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);
 - (xxxi) 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);
 - (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).

[29] Paragraph 9 (b)

substitute

- (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).

[30] Further amendments

<i>Provision</i>	<i>omit each mention of</i>	<i>insert</i>
Regulations 4, 5, 6 and 7	Confiscation Act 1997	<i>Confiscation Act 1997</i>
Regulations 9A, 9B and 19	DPP	responsible authority

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.