



Australian Capital Territory

Proceeds of Crime Regulations 1993 No 50

made under the

Proceeds of Crime Act 1991

Republication No 1

Republication date: 1 August 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Proceeds of Crime Regulations 1993*, made under the *Proceeds of Crime Act 1991*, as in force on 1 August 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

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Amendments incorporated to
12 September 2001



Australian Capital Territory

Proceeds of Crime Regulations 1993

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1 Name of regulations

These regulations are the *Proceeds of Crime Regulations 1993*.

3 Declaration of State laws—def of *corresponding law*

For the Act, section 4 (1), definition of *corresponding law*, each of the following laws is declared to be a law that corresponds to the Act:

- (a) *Drug Trafficking (Civil Proceedings) Act 1990* (NSW);
- (b) *Confiscation of Proceeds of Crime Act 1989* (NSW);
- (c) *Crimes (Confiscation of Profits) Act 1986* (Vic);
- (d) *Crimes (Confiscation of Profits) Act 1989* (Qld);
- (e) *Crimes (Confiscation of Profits) Act 1988* (WA);
- (f) *Crimes (Confiscation of Profits) Act 1986* (SA);
- (g) *Crime (Confiscation of Profits) Act 1993* (Tas);
- (h) *Crimes (Forfeiture of Proceeds) Act 1988* (NT).

4 Distributable funds

For the Act, section 4 (1), definition of *distributable funds*, paragraph (a), the following money paid into the trust fund are distributable funds:

- (a) money referred to in the Act, section 4 (1), definition of *proceeds of confiscated assets*, paragraph (a);
- (b) money referred to in the Act, section 4 (1), definition of *proceeds of confiscated assets*, paragraphs (b) to (j) that is not an amount in relation to which notice has been given to the public trustee under regulation 11 (2) or (3);
- (c) money referred to in the Act, section 34 (1) (c).

5 What is a government business enterprise?

For the Act, section 4 (1), definition of *government business enterprise*, Totalcare Industries Limited is prescribed.

6 Declaration of orders—def of *interstate forfeiture order*

For the Act, section 4 (1), the definition of *interstate forfeiture order*, each of the following kinds of orders is declared to be within the definition:

- (a) assets forfeiture orders under the *Drug Trafficking (Civil Proceedings) Act 1990* (NSW), section 22;
- (b) forfeiture orders under the *Confiscation of Proceeds of Crime Act 1989* (NSW), section 18 (1);
- (c) forfeiture orders under the *Crimes (Confiscation of Profits) Act 1986* (Vic), section 7 (1);
- (d) forfeiture orders under the *Crimes (Confiscation of Profits) Act 1989* (Qld), section 8 (1);
- (e) forfeiture orders under the *Crimes (Confiscation of Profits) Act 1988* (WA), section 10 (1);
- (f) orders that property be forfeited to the Crown made under the *Crimes (Confiscation of Profits) Act 1986* (SA), section 5 (1);
- (g) forfeiture orders under the *Crime (Confiscation of Profits) Act 1993* (Tas), section 16 (1);
- (h) forfeiture orders under the *Crimes (Forfeiture of Proceeds) Act 1988* (NT), section 5 (1).

7 Declaration of orders—def of *interstate pecuniary penalty order*

For the Act, section 4 (1), definition of *interstate pecuniary penalty order*, each of the following kinds of orders is declared to be within the definition:

- (a) proceeds assessment orders under the *Drug Trafficking (Civil Proceedings) Act 1990* (NSW), section 27;
- (b) pecuniary penalty orders under the *Confiscation of Proceeds of Crime Act 1989* (NSW), section 24 (1) and drug proceeds orders under that Act, section 29 (1);
- (c) pecuniary penalty orders under the *Crimes (Confiscation of Profits) Act 1986* (Vic), section 12 (1);
- (d) pecuniary penalty orders under the *Crimes (Confiscation of Profits) Act 1989* (Qld), section 13 (1);
- (e) pecuniary penalty orders under the *Crimes (Confiscation of Profits) Act 1988* (WA), section 15 (1);
- (f) pecuniary penalty orders under the *Crime (Confiscation of Profits) Act 1993* (Tas), section 21 (1);
- (g) pecuniary penalty orders under the *Crimes (Forfeiture of Proceeds) Act 1988* (NT), section 10 (1).

8 Declaration of orders—def of *interstate restraining order*

For the Act, section 4 (1), definition of *interstate restraining order*, each of the following kinds of orders is declared to be within the definition:

- (a) restraining orders under the *Drug Trafficking (Civil Proceedings) Act 1990* (NSW), section 10;
- (b) restraining orders under the *Confiscation of Proceeds of Crime Act 1989* (NSW), section 43 (2);
- (c) restraining orders under the *Crimes (Confiscation of Profits) Act 1986* (Vic), section 16 (3);
- (d) restraining orders under the *Crimes (Confiscation of Profits) Act 1989* (Qld), section 17 (8);
- (e) restraining orders under the *Crimes (Confiscation of Profits) Act 1988* (WA), section 20 (7);

- (f) sequestration orders under the *Crimes (Confiscation of Profits) Act 1986* (SA), section 6 (1);
- (g) restraining orders under the *Crime (Confiscation of Profits) Act 1993* (Tas), section 26 (2);
- (h) restraining orders under the *Crimes (Forfeiture of Proceeds) Act 1988* (NT), section 14 (2).

9 Declaration of substances—def of *narcotic substance*

For the Act, section 4 (1), definition of *narcotic substance*, each substance, or each substance of a kind, specified in an item in schedule 1 is declared to be a substance to which the definition applies.

10 Suspended funds

For the Act, section 4 (1), definition of *suspended funds*, the following amounts paid into the trust fund are suspended funds:

- (a) an amount equal to any amount payable in accordance with an order under the Act, section 21 (6) or 29 (6) of which the public trustee has been given notice;
- (b) if the DPP, under regulation 12 (2), gives the public trustee a copy of a notice relating to an application for an order under the Act, section 21 (6) or 29 (6) and that application has not been finally determined—an amount equal to any amount that the public trustee considers is likely to become payable in accordance with an order under the Act, section 21 (6) or 29 (6);
- (c) an amount that is referred to in the Act, section 34 (1) (b);
- (d) an amount in relation to which notice has been given to the public trustee under regulation 11 (2) or (3).

11 Notice by DPP of possible claims under the equitable sharing program

- (1) In this regulation:

property means money, proceeds or an amount, as each case requires, referred to in the Act, section 4 (1), definition of *proceeds of confiscated assets*, paragraph (b), (c), (d), (e), (f), (i) or (j).

- (2) As soon as practicable after—

- (a) a forfeiture order is made under the Act, section 19 (1); or
- (b) the forfeiture under the Act, section 28 of property within the meaning of that section; or
- (c) a restraining order is made under the Act, section 45 (2);

the DPP shall give written notice to the public trustee if the DPP considers that the property to which the order relates, or that is forfeited, is property in relation to which a claim may be made under the equitable sharing program.

- (3) If the DPP—

- (a) applies to a court for a pecuniary penalty order under the Act, division 2.3; or
- (b) considers that a claim may be made under the equitable sharing program in relation to any amount that is, or may be, paid into the trust fund as a result of the order;

the DPP shall, as soon as practicable, give written notice to the public trustee accordingly.

- (4) A notice under subregulation (2) or (3) shall include—

- (a) the name of the claimant State or Territory; and
- (b) the percentage of the property likely to be payable in relation to the claim; and
- (c) other brief particulars of the claim.

12 DPP to give public trustee notice of certain applications and orders

- (1) If the DPP is given notice of an order, or an application for an order, under the Act, section 19 (5), the DPP shall, as soon as practicable after receiving the notice, advise the public trustee in writing of the order or application.
- (2) If the DPP is given notice under the Act, section 21 (9) or 29 (8) of an application for an order, the DPP shall give the public trustee a copy of the notice.

14 Annual management fee for trust fund

- (1) For the Act, section 35 (1) (a) (ii), the prescribed annual management fee is \$500.
- (2) The annual management fee is payable by 10 January each year.

15 Determination of balance of distributable funds

In making a determination for the Act, section 36 (1), the Attorney-General shall have regard to the following matters:

- (a) any amount in relation to which notice has been given to the public trustee under regulation 11 (2) or (3);
- (b) any amount payable to the Commonwealth or a State under the Act, section 35 (1) (a) (i);
- (c) any amount of suspended funds in relation to which a payment has not been, but may be, made under the Act, section 35 (1) (a) (i);
- (d) any amount that may be required to make a payment referred to in the Act, section 35 (1) (a) (iii);
- (e) the amount of suspended funds that the public trustee declares under the Act, section 37 (3) to be distributable funds.

16 Remuneration of public trustee

- (1) There is payable to the public trustee in relation to the exercise by the public trustee of functions under the Act—
 - (a) if the public trustee is a band 1 officer in the senior executive service of the public service or an officer of a higher classification in the public service—remuneration at the rate of \$150 per hour for the time when the officer is so engaged; or
 - (b) if the public trustee is a senior officer grade C in the public service or an officer of a higher classification in the public service, other than a classification referred to in paragraph (a)—remuneration at the rate of \$100 per hour for the time when the officer is so engaged; or
 - (c) if the public trustee is an administrative service officer, class 6 in the public service or an officer of a lower classification in the public service—remuneration at the rate of \$75 per hour for the time when the officer is so engaged.
- (2) For subregulation (1), a person who, for the time being, is performing the duties of a particular office in the public service shall be taken to be the holder of that office.

17 Costs etc payable to public trustee

There is payable to the public trustee an amount equal to the amount of costs, charges and expenses incurred in connection with the exercise by the public trustee of functions under the Act.

Schedule 1 Declared narcotic substances

(see reg 10)

column 1 item	column 2 substances
1	Acetyl-alpha-methylfentanyl
2	Acetylmorphines
3	Alfentanil
4	Alkoxyamphetamines and bromo-substituted alkoxyamphetamines except if separately specified in this schedule
5	Alkoxyphenethylamines and alkyl-substituted alkoxyphenethylamines except if separately specified in this schedule
6	Alpha-methylfentanyl
7	Alpha-methylthiofentanyl
8	Beta-hydroxyfentanyl
9	Beta-hydroxy-3-methylfentanyl
10	4-Bromo-3,5-dimethoxyamphetamine
11	4-Bromo-2,5-dimethoxyphenethylamine (BDMPEA)
12	3-Bromo-4-methoxyamphetamine
13	4-Bromo-3-methoxyamphetamine
14	Butorphanol
15	Cannabis Oil
16	Cathinone
17	Coca leaf

Schedule 1 Declared narcotic substances

column 1 item	column 2 substances
18	Concentrate of Poppy Straw (the material produced when poppy straw has undergone a process for the concentration of its alkaloids)
19	4-Cyano-2-dimethylamino-4,4-diphenylbutane (Methadone intermediate)
20	4-Cyano-1-methyl-4-phenylpiperidine (Pethidine intermediate A)
21	Dexamphetamine
22	Dextromoramide
23	Dextropropoxyphene
24	Difenoxin
25	2,4-Dimethoxyamphetamine
26	3,4-Dimethoxyamphetamine
27	3,4-Dimethoxy-5-ethoxyamphetamine
28	2,5-Dimethoxy-4-ethoxyamphetamine
29	4,5-Dimethoxy-2-ethoxyamphetamine
30	2,5-Dimethoxy-4-ethyl-alpha-methylphenylethylamine (DOET)
31	2,3-Dimethoxy-4,5-methylenedioxyamphetamine
32	2,5-Dimethoxy-3,4-methylenedioxyamphetamine
33	2,5-Dimethoxy-alpha-methylphenylethylamine (DMA)
34	3,4-Dimethoxyphenylethylamine
35	3-(1,2-Dimethylheptyl)-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran (DMHP)
36	Drotebanol
37	4,5-Ethylenedioxy-3-methoxyamphetamine

column 1 item	column 2 substances
38	Eticyclidine (PCE)
39	Fenetylline
40	3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d]pyran (Parahexyl)
41	Isomethadone
42	Levamphetamine
43	Levomethamphetamine
44	Levomethorphan
45	Levomoramide
46	Levophenacymorphan
47	Mecloqualone
48	2-Methoxy-3,4-methylenedioxyamphetamine
49	2-Methoxy-4,5-methylenedioxyamphetamine
50	4-Methoxy-2,3-methylenedioxyamphetamine
51	5-Methoxy-3,4-methylenedioxy-alpha-methylphenylethylamine (MMDA)
52	2-Methoxy-3,4-methylenedioxyphenylethylamine
53	3-Methoxy-4,5-methylenedioxyphenylethylamine
54	4-Methoxy-alpha-methylphenylethylamine (PMA)
55	4-Methoxyphenylethylamine
56	2-Methyl-3-morpholino-1,1-diphenylpropane carboxylic acid (Moramide intermediate)
57	1-Methyl-4-phenyl-4-propionoxypiperidine (MPPP)
58	1-Methyl-4-phenylpiperidine-4-carboxylic acid (Pethidine intermediate C)

Schedule 1 Declared narcotic substances

column 1 item	column 2 substances
59	3,4-Methylenedioxy-N, alpha-dimethylphenylethylamine (MDMA)
60	3,4-Methylenedioxy-N-ethylamphetamine (MDE)
61	3-Methylfentanyl
62	3-Methylthiofentanyl
63	Morphine Methobromide
64	Muscimol
65	Nabilone
66	Para-fluorofentanyl
67	Phencyclidine (PCP)
68	1-Phenylethyl-4-phenyl-4-acetoxypiperidine (PEPAP)
69	4-Phenylpiperidine-4-carboxylic acid ethyl ester (Pethidine intermediate B)
70	Propiram
71	Racemoramide
72	Racemorphan
73	Rolicyclidine (PHP,PCPY)
74	Sufentanil
75	Tenocyclidine (TCP)
76	2,3,4,5-Tetramethoxyamphetamine
77	Thiofentanyl
78	Tilidine
79	2,3,4-Trimethoxyamphetamine
80	2,3,5-Trimethoxyamphetamine
81	2,3,6-Trimethoxyamphetamine

column 1 item	column 2 substances
82	2,4,5-Trimethoxyamphetamine
83	2,4,6-Trimethoxyamphetamine
84	3,4,5-Trimethoxy-alpha-methylphenylethylamine (TMA)
85	1-(3,4,5-Trimethoxyphenyl)-2-aminobutane
86	2,4,5-Trimethoxyphenylethylamine
87	Substances structurally derived from methoxy-phenylethylamine other than— <ul style="list-style-type: none"> (a) methoxyphenamine; or (b) a substance separately specified in an item in this schedule
88	A substance that is, in relation to a substance specified in an item in this schedule— <ul style="list-style-type: none"> (a) an active principal of that specified substance; or (b) a preparation or admixture of that specified substance; or (c) a salt of that specified substance or active principal; except if the firstmentioned substance is separately specified in an item in this schedule
89	A substance (being a drug analogue) that is, in relation to another substance (being a narcotic substance within the meaning of the <i>Customs Act 1901</i> (Cwlth) or a substance specified in an item in this schedule (other than this item), or a stereoisomer, a structural isomer (with the same constituent groups) or an alkaloid of such a drug or substance)—

Schedule 1 Declared narcotic substances

column 1 item	column 2 substances
	<ul style="list-style-type: none"> (a) a stereoisomer; or (b) a structural isomer having the same constituent groups; or (c) an alkaloid; or (d) a structural modification notionally obtained in 1 or more of the following ways: <ul style="list-style-type: none"> (i) by the replacement of up to 2 carbocyclic or heterocyclic ring structures with different carbocyclic or heterocyclic ring structures; (ii) by the addition of hydrogen atoms to 1 or more unsaturated bonds; (iii) by the addition of 1 or more of the alkoxy, cyclic diether, acyl, acyloxy, mono-amino or dialkylamino groups (with up to 6 carbon atoms in any alkyl residue), alkyl, alkenyl or alkynyl groups (with up to 6 carbon atoms in the group, if the group is attached to oxygen (for example, an ester or an ether group), nitrogen, sulphur or carbon) or halogen, hydroxy, nitro or amino groups; (iv) by the replacement of 1 or more of the groups specified in subparagraph (iii) with another such group or groups; (v) by the conversion of a carboxyl or an ester group into an amide group; or

column 1 item	column 2 substances
	<p>(e) otherwise a homologue, an analogue, a chemical derivative or a substance substantially similar in chemical structure;</p> <p>however manufactured or actually obtained, except if the drug analogue—</p> <p>(f) is a narcotic substance within the meaning of the <i>Customs Act 1901</i> (Cwlth); or</p> <p>(g) is separately specified in an item in this schedule.</p>

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	s = section/subsection
LRA = Legislation (Republication) Act 1996	sch = schedule
mod = modified / modification	sdiv = subdivision
No = number	sub = substituted
num = numbered	SL = Subordinate Law
o = order	<u>underlining</u> = whole or part not commenced or to be expired
om = omitted/repealed	

3 Legislation history

The *Proceeds of Crime Regulations 1993* were originally the *Proceeds of Crime Regulations*. They were renamed under the *Legislation Act 2001*.

Proceeds of Crime Regulations 1993 No 50

notified 22 December 1993 (Gaz No S269)
commenced 22 December 1993

as amended by

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 2

notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
sch pt 2 commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 2

notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch 2 commenced 1 June 1998 (s 2 (2))

Legislation (Consequential Amendments) Act 2001 No 44 pt 300

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 300 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

4 Amendment history

Name of regulations

reg 1 hdg am R1 LA
reg 1 am R1 LA

Interpretation

reg 2 om Act 2001 No 44 amdt 1.3292

Notice of application for court order regarding third party interest

reg 13 om Act 2001 No 44 amdt 1.3292

Remuneration of public trustee

reg 16 am Act 1994 No 97

Forms

sch 2 am Act 1997 No 96 sch 2
om Act 2001 No 44 amdt 1.3293

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