



Australian Capital Territory

# **Forfeiture Act 1991      No 68**

## **Republication No 1**

Republication date: 28 March 2002

Act not amended up to this date

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Forfeiture Act 1991* as in force on 28 March 2002. It includes any commencement, repeal or expiry affecting the republished law 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](http://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

# Forfeiture Act 1991

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Australian Capital Territory

## Forfeiture Act 1991

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An Act to provide for the relief of persons guilty of unlawful killing from the forfeiture of inheritance and other rights, and for related purposes

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## 1 Name of Act

This Act may be cited as the *Forfeiture Act 1991*.

## 2 Interpretation for Act

### (1) In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

***forfeiture rule*** means the rule of public policy that in certain circumstances precludes a person who has unlawfully killed another person from acquiring a benefit in consequence of the killing.

***property*** includes any thing in action or incorporeal moveable property.

*Note* A ***thing*** in action is an intangible personal property right recognised and protected by the law. Examples include debts, money held at a bank, shares, rights under a trust, copyright, and the right to sue for breach of contract.

***will*** includes a codicil.

- (2) A reference in this Act to unlawful killing includes a reference to aiding, abetting, counselling or procuring an unlawful killing.
- (3) A reference in this Act to a person who has unlawfully killed another includes a reference to a person who has unlawfully aided, abetted, counselled or procured the death of another person.

## 3 Power of Supreme Court to modify forfeiture rule

- (1) Where a person (the ***offender***) has unlawfully killed another and is thereby precluded by the forfeiture rule from obtaining an interest in any property, application may be made to the Supreme Court for an order modifying the effect of the rule.
- (2) On an application under subsection (1), the Supreme Court may make an order modifying the effect of the forfeiture rule if satisfied that, having regard to the conduct of the offender and of the deceased and to any other circumstances that appear to the court to

be material, the justice of the case requires the effect of the rule to be modified.

- (3) An order under subsection (2) may be made in respect of any interest in property that the offender would have acquired but for the operation of the forfeiture rule and may modify the effect of the rule in either or both of the following ways:
  - (a) in respect of any 1 interest in property affected by the rule—by excluding the application of the rule in respect of all the property or any part of it;
  - (b) where more than 1 interest in property is affected by the rule—by excluding the application of the rule in respect of all the interests or any of them.
- (4) On the making of an order under subsection (2), the forfeiture rule shall have effect for all purposes (including purposes relating to anything done before the order was made) subject to modifications made by the order.
- (5) The Supreme Court shall not make an order under subsection (2) in relation to an offence in which unlawful killing is an element unless application is made for the order within 3 months after the day on which the offender is convicted of the offence.

#### **4 Exclusion of murderers**

Nothing in this Act or in any order made under section 3 (2) shall affect the application of the forfeiture rule in the case of a person who stands convicted of murder.

#### **5 Application of orders**

- (1) Subject to subsection (2), an order may be made under section 3 (2) in respect of a person who has unlawfully killed another whether the unlawful killing occurred before or after the commencement of this Act.
- (2) An order shall not be made under section 3 (2) modifying the effect of the forfeiture rule in respect of any interest in property that, in

consequence of the rule, has been acquired before the commencement of this Act by a person other than the offender or a person claiming through the offender.



## 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
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3      Legislation history

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### 3      **Legislation history**

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 25).

#### **Forfeiture Act 1991 No 68**

notified 7 November 1991 (Gaz 1991 No S120)

commenced 7 November 1991

Authorised by the ACT Parliamentary Counsel—also accessible at  
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