

I certify that this is a copy of the authorised version of this Statutory Rule as at 1 September 2021, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 September 2021.

Robyn Webb
Chief Parliamentary Counsel
Dated 2 September 2021

TASMANIA

CRIME (CONFISCATION OF PROFITS) REGULATIONS 2014

STATUTORY RULES 2014, No. 117

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**CRIME (CONFISCATION OF PROFITS)
REGULATIONS 2014**

I, the Lieutenant-Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Crime (Confiscation of Profits) Act 1993*.

Dated 17 November 2014.

A. M. BLOW
Lieutenant-Governor

By His Excellency's Command,

DR. VANESSA GOODWIN
Minister for Justice

1. Short title

These regulations may be cited as the *Crime (Confiscation of Profits) Regulations 2014*.

2. Commencement

These regulations take effect on
24 November 2014.

3. Interpretation

In these regulations –

Act means the *Crime (Confiscation of Profits) Act 1993*;

Australian Capital Territory Act means the *Confiscation of Criminal Assets Act 2003* of the Australian Capital Territory;

New South Wales Act means the *Confiscation of Proceeds of Crime Act 1989* of New South Wales;

Northern Territory Act means the *Criminal Property Forfeiture Act* of the Northern Territory;

Queensland Act means the *Criminal Proceeds Confiscation Act 2002* of Queensland;

South Australian Act means the *Criminal Assets Confiscation Act 2005* of South Australia;

Victorian Act means the *Confiscation Act 1997* of Victoria;

West Australian Act means the *Criminal Property Confiscation Act 2000* of Western Australia.

4. Corresponding laws

For the purposes of the definition of *corresponding law* in section 4 of the Act, the

following laws are declared to be laws that correspond to the Act:

- (a) the Australian Capital Territory Act;
- (b) the New South Wales Act;
- (c) the Northern Territory Act;
- (d) the Queensland Act;
- (e) the South Australian Act;
- (f) the Victorian Act;
- (g) the West Australian Act.

5. Interstate forfeiture order

For the purposes of section 4 of the Act, an order, declaration, or other decision of a court, made and in force under any of the following provisions is declared to be within the definition of *interstate forfeiture order*:

- (a) section 54, 59, 60 or 250 of the Australian Capital Territory Act;
- (ab) section 98D of the Australian Capital Territory Act if the order under that section results in the application of section 98G of that Act to restrained property within the meaning of that Act;
- (b) a restraining order under section 30 of the Australian Capital Territory Act (after the relevant period of time as

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provided for by section 62 of that Act has elapsed);

- (c) a restraining order under section 31 of the Australian Capital Territory Act (after the relevant period of time as provided for by section 58 of that Act has elapsed);
- (d) section 18 of the New South Wales Act;
- (e) section 96(1), 97, 99, or 100 of the Northern Territory Act;
- (f) section 58 or 151 of the Queensland Act;
- (g) section 47 of the South Australian Act;
- (h) section 33, 34, 36, 38 or 39 of the Victorian Act;
- (i) section 28 or 30 of the West Australian Act.

6. Interstate pecuniary penalty order

For the purposes of section 4 of the Act, an order, declaration, or other decision of a court, made and in force under any of the following provisions is declared to be within the definition of *interstate pecuniary penalty order*:

- (a) section 84 of the Australian Capital Territory Act;
- (b) section 24 of the New South Wales Act;

- (c) section 78, 184 or 202 of the Queensland Act;
- (d) section 95 or 111 of the South Australian Act;
- (e) section 59 or 60 of the Victorian Act;
- (f) section 16 or 17 of the West Australian Act.

7. Interstate restraining order

For the purposes of section 4 of the Act, an order, declaration, or other decision of a court, made and in force under any of the following provisions is declared to be within the definition of *interstate restraining order*:

- (a) section 30, 31, 32A or 39 of the Australian Capital Territory Act;
- (b) section 22, 42M, 42V, 43 or 45 of the New South Wales Act;
- (c) section 40, 43 or 44 (if subsection (1)(b) (i), (ii) or (iii) or subsection (1)(c) of section 44 applies in respect of the restraining order under that section) of the Northern Territory Act;
- (d) section 31, 37, 122, 129 or 208 of the Queensland Act;
- (e) section 24 or 40 of the South Australian Act;

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- (f) section 18, 26, 31F, 36M or 36W of the Victorian Act;
- (g) section 43 of the West Australian Act.

8. Notice of application for return of or access to property

- (1) In this regulation –

court of application means the court in which the application to which the notice relates is made.

- (2) For the purposes of section 46(7) of the Act, a notice is to be in accordance with Form 1.
- (3) Despite subregulation (2), the form of a notice for the purposes of section 46(7) is to be adapted to comply with any requirements as to format, or formal matters, provided for by rules of court, or regulations, that are applicable in respect of the court of application.
- (4) For the purposes of section 46(7) of the Act, a notice referred to in subregulation (2) is to be served on the following:
 - (a) the Commissioner of Police;
 - (b) the DPP;
 - (c) any other person on whom the court directs the notice is to be served.

9. Prescribed purpose under section 79(5)(e) of Act

The following purposes are prescribed for section 79(5)(e) of the Act:

- (a) the following actions by the DPP:
 - (i) the valuation and auctioning, or sale, of forfeited property under the Act;
 - (ii) the investigation, and prosecution, of an unlawful activity, if the unlawful activity is the subject of proceedings under the Act or a corresponding law;
- (aab) the reimbursement to the DPP of the reasonable costs or expenses incurred by the DPP in the exercise of powers, and the undertaking of proceedings, under the Act;
- (ab) the reimbursement to the Public Trustee of any reasonable costs or expenses, incurred by the Public Trustee as a result of having control or management of property under Part 3 or 9 of the Act, that are not otherwise reimbursed under the Act;
- (b) the payment of extraordinary costs associated with obtaining forensic accounting services in relation to possible applications under section 11 of the Act.

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10. Maximum value of property to be protected

(1) In this regulation –

protected amount means the maximum value of ordinary tools of trade that are to be protected from restraint or forfeiture under the Act.

(2) For the purposes of section 191(3)(a) of the Act, the protected amount under section 191(2)(a) is –

(a) in the case of the financial year commencing on 1 July 2014, \$3 650 per person; and

(b) for the financial year commencing on 1 July 2015 and for each subsequent financial year, the amount per person calculated in accordance with the following formula and rounded off in accordance with subregulation (3):

$$A = B \times \frac{C}{D}$$

where –

A is the value in dollars of the protected amount per person for the relevant financial year being calculated;

B is \$3 650;

C is the value of the CPI figure for Hobart, that is referred to as the

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index number, published by the Australian Bureau of Statistics for the December quarter immediately preceding the financial year in which the protected amount is to apply;

D is the value of the CPI figure for Hobart, that is referred to as the index number, published by the Australian Bureau of Statistics for the December quarter 2013.

- (3) If the value of the protected amount, calculated in accordance with the formula specified in subregulation (2) is not a multiple of \$10, the amount is to be rounded down to the nearest multiple of \$10.

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SCHEDULE 1 – FORMS

Regulation 8(2)

Form 1

CRIME (CONFISCATION OF PROFITS) ACT 1993

**NOTICE OF APPLICATION FOR RETURN OF, OR ACCESS TO, PROPERTY
(SECTION 46(7))**

To: (Name)

(Address),

....., of has
(name and address of applicant)

applied to the..... for an order
(name of Court)

under section 46(6) of the *Crime (Confiscation of Profits) Act 1993*, relating to the

property listed below, seized on
(date of seizure)

under a search warrant issued under Part 4 of that Act, directing –

- that the property be returned to the applicant*
- that the applicant be allowed access to the property*

List of property –

.....

.....

.....

.....

The application has been set for hearing on at
(date)

..... at.....
(time) (address of Court)

*Delete whichever is inapplicable.

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 21 November 2014.

These regulations are administered in the Department of Justice.

NOTES

The foregoing text of the *Crime (Confiscation of Profits) Regulations 2014* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 September 2021 are not specifically referred to in the following table of amendments.

Citation	Serial Number	Date of commencement
<i>Crime (Confiscation of Profits) Regulations 2014</i>	S.R. 2014, No. 117	24.11.2014
<i>Legislation Publication Act 1996</i>	No. 17 of 1996	9.12.2018
<i>Crime (Confiscation of Profits) Amendment Act 2018</i>	No. 30 of 2018	10.12.2018
<i>Crime (Confiscation of Profits) Amendment Regulations 2021</i>	S.R. 2021, No. 67	1.9.2021

TABLE OF AMENDMENTS

Provision affected	How affected
Regulation 5	Amended by S.R. 2021, No. 67
Regulation 7	Amended by S.R. 2021, No. 67
Regulation 9	Substituted by No. 17 of 1996 Amended by No. 30 of 2018, s. 18 and S.R. 2021, No. 67