

Queensland



CIVIL FORFEITURE OF THE PROCEEDS OF CRIME BILL 2002



CIVIL FORFEITURE OF THE PROCEEDS OF CRIME BILL 2002

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DICTIONARY

2002

A BILL

FOR

**An Act to provide for the confiscation of property of a person engaged
in serious crime related activities, to enable the proceeds of serious
crime related activities to be recovered as a debt payable to the State,
and for other purposes**

The Parliament of Queensland enacts—

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PART 1—PRELIMINARY

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1 Short title

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This Act may be cited as the *Civil Forfeiture of the Proceeds of Crime Act 2002*.

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2 Commencement

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This Act commences on a day to be fixed by proclamation.

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3 Main objects of Act

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The main objects of this Act are—

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- (a) to provide for the confiscation, without requiring a conviction, of property of a person if a court finds it to be more probable than not the person has engaged in serious crime related activities; and
- (b) to enable the proceeds of serious crime related activities to be recovered as a debt payable to the State; and
- (c) to enable law enforcement authorities to effectively identify and recover property.

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4 Definitions

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The dictionary in the schedule defines particular terms used in this Act.

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5 Act binds State

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This Act binds all persons, including the State and, as far as the legislative power of Parliament permits, the Commonwealth and the other States.

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6	Notes	1
	A note in the text of this Act is part of this Act.	2
7	Particular proceedings are civil, not criminal	3
	(1) A proceeding on an application for a restraining order or a confiscation order under this Act is not a criminal proceeding.	4 5
	(2) Other than for an offence against this Act—	6
	(a) the rules of construction applying only to the criminal law do not apply in the interpretation of this Act; and	7 8
	(b) the rules of evidence applying only in criminal proceedings do not apply to a proceeding under this Act; and	9 10
	(b) the rules of evidence applying in civil proceedings apply to a proceeding under this Act.	11 12
8	What does “property” include	13
	(1) “Property” of a person includes—	14
	(a) the person’s money; and	15
	(b) an interest the person has in the goodwill of a business; and	16
	(c) an interest the person has in a licence required to be held to carry on a business; and	17 18
	(d) an interest the person has in property situated outside the State, including outside Australia; and	19 20
	(e) an interest prescribed by regulation for this section.	21
	(2) However, if apart from this subsection, a person would have an interest in property under the effective control of someone else (the “controller”), the interest is an interest of the controller and not the person.	22 23 24 25
9	When does a person have “effective control” of property	26
	(1) A person may have “effective control” of property for this Act even if the person does not have a direct or indirect interest in the property.	27 28

(2) In deciding whether a person has effective control of property, regard may be had to anything relevant, including, but not limited to, the following—

- (a) shareholdings in, or debentures or directorships of, a corporation with an interest in the property;
- (b) a trust with a relationship to the interest;
- (c) family, domestic, business and other relationships between the person and other persons having an interest in—
 - (i) the property; or
 - (ii) a corporation with an interest in the property; or
 - (iii) a trust with a relationship to the interest.

10 When property is “illegally acquired property”

(1) Property is “illegally acquired property” if—

- (a) it is all or part of the proceeds of an illegal activity; or
- (b) it is all or part of the proceeds of the disposal of or other dealing in illegally acquired property; or
- (c) all or part of it was acquired using illegally acquired property.

(2) For subsection (1)(b) and (c), it does not matter when the illegal activity that caused the property to become illegally acquired property happened.

(3) Also, it does not matter whether the illegal activity, disposition or other dealing or acquisition that caused property to become illegally acquired property took place before or after the commencement of this section.

(4) The proceeds of a sale or other dealing do not lose their identity as proceeds of the sale only because they are credited to an account.

(5) Once property becomes illegally acquired property it remains illegally acquired property even if the property is disposed of or otherwise dealt with, including by using the property to acquire an interest in property.

11 When property stops being, or again becomes, illegally acquired property	1 2
(1) Property stops being illegally acquired property—	3
(a) when it is acquired by a person—	4
(i) for sufficient consideration; and	5
(ii) without knowing, and in circumstances not likely to arouse	6
a reasonable suspicion, that the property was illegally	7
acquired property when it was acquired; or	8
(b) when it vests in a person on the distribution of the estate of a	9
deceased person; or	10
(c) when the property is sold or otherwise disposed of under this Act,	11
including when discharging a proceeds assessment order; or	12
(d) when it is the proceeds of the sale or other disposition of illegally	13
acquired property under this Act other than a sale under	14
section 19(1) or 23 ¹ ; or	15
(e) when it is acquired by a person as payment of reasonable legal	16
expenses payable because of an application under this Act or in	17
defending a criminal charge; or	18
(f) in circumstances prescribed by regulation.	19
(2) If property that is not illegally acquired property was once owned by	20
a person and was then illegally acquired property, the property becomes	21
illegally acquired property if and when it is again acquired by the person.	22
12 What is “serious crime derived property”	23
(1) Property is “serious crime derived property” if—	24
(a) it is all or part of the proceeds of a serious crime related activity;	25
or	26
(b) it is all or part of the proceeds of the disposal of or other dealing	27
with serious crime derived property; or	28
(c) all or part of it was acquired using serious crime derived	29
property.	30

1 Sections 19 (How restraining order affects other actions) and 23 (Appropriate court may order sale)

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(2) For subsection (1)(b) and (c), it does not matter when the serious crime related activity that caused the property to become serious crime derived property happened.

(3) Also, it does not matter whether the serious crime related activity, illegal activity, disposition or other dealing or acquisition that caused the property to become serious crime derived property took place before or after the commencement of this section.

(4) The proceeds of a sale or other dealing do not lose their identity as proceeds of the sale only because they are credited to an account.

(5) Once property becomes serious crime derived property it remains serious crime derived property even if the property is disposed of or otherwise dealt with, including by using the property to acquire other property.

Examples—

1. If money that is the proceeds of serious crime related activity is used to buy land, the land becomes serious crime derived property and the money, though in the hands of someone else, continues to be serious crime derived property.
2. If the land is then sold, it continues to be serious crime derived property and the money paid for it becomes serious crime derived property.
3. If the money paid for the land is then used to buy a car, the car becomes serious crime derived property and the money used to buy it continues to be serious crime derived property, unless the purchase was for sufficient consideration from an innocent person.

13 When property stops being, or again becomes, serious crime derived property

(1) Property stops being serious crime derived property—

(a) when it is acquired by a person—

(i) for sufficient consideration; and

(ii) without knowing, and in circumstances not likely to arouse a reasonable suspicion, that the property was serious crime derived property when it was acquired; or

(b) when it vests in a person on the distribution of the estate of a deceased person; or

(c) when the property is sold or otherwise disposed of under this Act, including when discharging a proceeds assessment order; or

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- (d) when it is the proceeds of the sale or other disposition of serious crime derived property under this Act other than a sale under section 19(1) or 23;² or
- (e) when it is acquired by a person as payment of reasonable legal expenses payable because of an application under this Act or in defending a criminal charge; or
- (f) in circumstances prescribed by regulation.
- (2) If property that is not serious crime derived property was once owned by a person and was then serious crime derived property, the property becomes serious crime derived property if and when it is again acquired by the person.
- 14 Court to which particular applications may be made**
- (1) This section applies to an application under this Act for a restraining order or a confiscation order relating to property that is or may be illegally acquired property or serious crime derived property because of an alleged illegal activity or alleged serious crime related activity.
- (2) The court to which the application may be made (the “**appropriate court**”) is to be decided according to—
- (a) the amount estimated by the commission as the value of the property that may be the subject of the order; and
- (b) the limit of the relevant court’s civil jurisdiction.
- (3) In this section—
- “**civil jurisdiction**”, in relation to an amount that is the limit of a court’s civil jurisdiction, means an amount equal to the maximum amount that may be claimed in a personal action in the civil jurisdiction of the court.

² Sections 19 (How restraining order affects other actions) and 23 (Appropriate court may order sale)

PART 2—RESTRAINING ORDERS

15 Application for restraining order

(1) The commission may apply to the appropriate court for an order (“**restraining order**”) restraining a person from disposing of or attempting to dispose of, or from otherwise dealing with or attempting to otherwise deal with, property stated in the order other than in a stated way or in stated circumstances.

(2) The application—

- (a) may be made without notice to the party to whom it relates; and
- (b) must be sworn and state the grounds on which it is made; and
- (c) must be accompanied by an affidavit of an authorised officer.

(3) For subsection (1), the following property of a person suspected of having engaged in 1 or more serious crime related activities may be included in the application—

- (a) for a person suspected of having engaged in 1 or more serious crime related activities—
 - (i) stated property; or
 - (ii) a stated class of property; or
 - (iii) all property; or
 - (iv) if a restraining order is made because of the application, property acquired after the making of the order and before the making of an assets forfeiture order affecting the property restrained under the restraining order; or
- (b) stated property, or a stated class of property, of someone else; or
- (c) property mentioned in both paragraph (a) and paragraph (b).

(4) If the application is about property mentioned in subsection (3)(a), the authorised officer’s affidavit must state why the authorised officer suspects the person has engaged in 1 or more serious crime related activities.

(5) If the application is about property mentioned in subsection (3)(b) or (c), the authorised officer’s affidavit must state why the authorised officer suspects the property is serious crime derived property.

(6) The court may refuse to consider the application until the commission gives the court all the information the court requires about the application in the way the court requires.

Example—

The court may require additional information supporting the application to be given by statutory declaration.

16 Consideration of application

(1) If, having regard to the matters stated in the authorised officer's affidavit, the appropriate court considers there are reasonable grounds for the suspicion on which the application is based, the court must make the restraining order.

(2) However, the court may refuse to make the restraining order if the State fails to give the court the undertakings the court considers appropriate for the payment of damages or costs in relation to the making and operation of the order.

(3) The commission may, for the State, give the court the undertakings for the payment of damages or costs required by the court.

17 Restraining order may make other provision

(1) A restraining order may, if the appropriate court considers the circumstances require it, order the public trustee to take control of some or all of the property restrained under the order ("**restrained property**").

(2) A restraining order may, when it is made or at a later time, make provision for paying out of the restrained property, or a stated part of the property, all or any of the following—

- (a) the reasonable living expenses of a person whose interests in property are restrained under the order, including the reasonable living expenses of dependants;
- (b) the reasonable legal expenses of a person whose interests in property are restrained under the order—
 - (i) payable because of the application for the restraining order;
 - or

(ii) payable because of an application for a confiscation order.	1
(3) Subsection (2)(b) is subject to section 26. ³	2
18 Duration of restraining order	3
After the first 48 hours of its operation, a restraining order remains in force over restrained property only while—	4 5
(a) an application for an assets forfeiture order for the property has been made but not yet decided; or	6 7
(b) there is an unsatisfied proceeds assessment order in force against the person whose suspected serious crime related activities formed the basis of the restraining order; or	8 9 10
(c) an application for a proceeds assessment order for the property has been made but is not yet decided; or	11 12
(d) the restraining order continues in force under an order of the appropriate court under section 31. ⁴	13 14
19 How restraining order effects other actions	15
(1) The existence of a restraining order applying to property of a person does not prevent enforcement against the property or, with the consent of the appropriate court—	16 17 18
(a) the sale or other disposition of the property to enable the proceeds to be applied to satisfy all or part of a proceeds assessment order debt; or	19 20 21
(b) the application of the property to satisfy all or part of a proceeds assessment order debt.	22 23
(2) A restraining order does not apply to property acquired after the order is made unless the order expressly states it applies to the property.	24 25
(3) In this section—	26
“proceeds assessment order debt” means a debt payable under a proceeds assessment order in force against a person.	27 28

3 Section 26 (Restrictions on payment of legal expenses from restrained property)

4 Section 31 (Effect on restraining order of refusal to make confiscation order)

20 Notice of restraining order

(1) If the appropriate court makes a restraining order, the commission must give the director of public prosecutions and the commissioner of the police service written notice of the order and any variation made to it.

(2) If the person whose property is restrained under the restraining order was not given notice of the application for the order, the commission must give the person notice of the making or variation of the order.

(3) A restraining order does not stop having effect only because appropriate efforts to give the person notice of its making have been unsuccessful.

21 Appropriate court may make further orders

(1) The appropriate court may make the ancillary orders the court considers appropriate, including, but not limited to, any 1 or more of the following orders—

(a) an order varying the interests in property restrained under the restraining order;

(b) an order for the examination on oath before the court, or an officer of the court prescribed by rules of court, of the owner of restrained property or a stated person about the owner's affairs, including the nature and location of property in which the owner has an interest;

(c) an order for the examination on oath before the court, or an officer of the court prescribed by rules of court, of the spouse of the owner of restrained property, about the spouse's affairs, including the nature and location of property in which the spouse or the owner has an interest;

(d) an order about the performance of an undertaking for the payment of damages or costs given by the State for the restraining order;

(e) an order directing either of the following to give the commission or public trustee, within a stated time, a sworn statement of the particulars of the property, or dealings with the property, in which the owner has or had an interest, as the court considers appropriate—

(i) a person who is or was the owner of restrained property;

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-
- (ii) if the owner of restrained property is or was a corporation—a stated director of the corporation; 1
2
- (f) if the restraining order requires the public trustee to take control of an interest in property, an order— 3
4
- (i) regulating the way the public trustee may perform functions under the restraining order; or 5
6
- (ii) deciding any question about the interest in property, including a question affecting the liabilities of the owner of the interest or the functions of the public trustee; 7
8
9
- (g) an order requiring or authorising the seizure or taking possession of property. 10
11
- (2) The appropriate court may make an ancillary order under subsection (1)— 12
13
- (a) when making a restraining order or at a later time; and 14
- (b) whether or not the order affects a person whose property is restrained under the restraining order. 15
16
- (3) The appropriate court may make an order under subsection (1) on the application of— 17
18
- (a) the commission; or 19
- (b) the owner; or 20
- (c) if the restraining order directed the public trustee to take control of property—the public trustee; or 21
22
- (d) with the leave of the appropriate court—another person. 23
- (4) The applicant for the order must give notice of the order to the other persons mentioned in subsection (3). 24
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22 Privilege

- (1) A person examined under an order under section 21 is not excused from answering a question, or from producing a document or other thing, on the ground that— 26
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29
- (a) answering the question or producing the document may tend to incriminate the person or make the person liable to a forfeiture or penalty; or 30
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- (b) producing the document would be in breach of an obligation, whether imposed by an enactment or otherwise, of the person not to disclose the existence or contents of the document; or
- (c) answering the question or producing the document would disclose information that is the subject of legal professional privilege.
- (2) A statement or disclosure made by a person in answer to a question asked in an examination under section 21, or a document or other thing obtained because of the statement or disclosure, is not admissible against the person in any civil or criminal proceeding, other than—
- (a) a proceeding about the false or misleading nature of the statement or disclosure; or
- (b) a proceeding on an application under this Act; or
- (c) a proceeding ancillary to an application under this Act; or
- (d) a proceeding for the enforcement of a confiscation order; or
- (e) for a document or other thing, a proceeding about a right or liability it confers or imposes.
- (3) A person directed under section 21 to give a statement to the commission or the public trustee is not excused from giving the statement or including particulars in the statement on the ground that the statement or particulars may tend to incriminate the person or make the person liable to a forfeiture or penalty.
- (4) If a person gives a statement to the commission or the public trustee under an order under section 21, the statement is not admissible against the person in any criminal proceeding other than a proceeding about the false or misleading nature of the statement.
- 23 Appropriate court may order sale**
- (1) This section applies if an application is made to an appropriate court for an assets forfeiture order.
- (2) The appropriate court may, when the application is made or at a later time, make an order directing the public trustee to sell property to which the application relates if—
- (a) the property may waste or substantially lose value; or

(b) the public trustee considers the cost of controlling the property would be more than the value of the property if the assets forfeiture order were made.

(3) Notice of an application for an order under this section must be given to the owner of the property to which the application relates.

(4) The proceeds of the sale of the property under subsection (2) are taken to be restrained under the restraining order under which the property was restrained.

24 Recording of restraining order

(1) This section applies if a restraining order applies to property of a particular kind and a law, whether or not a law of the State, provides for the registration of title to, or an interest in or a charge over, property of that kind.

(2) On application by the commission, the authority responsible for administering the law must record the particulars of the restraining order in the register kept under the law.

(3) If the particulars of a restraining order are recorded under subsection (2), a person who later deals with or attempts to deal with the property is, for section 25, taken to have had notice of the restraining order.

(4) If a restraining order applies to an interest in land under the *Land Title Act 1994*, the commission may lodge a caveat under that Act in relation to the order.

(5) If a restraining order recorded under this section stops having effect in relation to property restrained under the order, the commission must—

(a) apply for cancellation of the record of the order; and

(b) withdraw any caveat lodged because of the order.

25 Contravention of restraining order

(1) A person who contravenes a restraining order or an ancillary order under section 21⁵ by disposing of or attempting to dispose of, or by

⁵ Section 21 (Appropriate court may make further orders)

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otherwise dealing with or attempting to otherwise deal with, property that is restrained under the restraining order commits an offence.	1 2
Maximum penalty—a fine equivalent to the value of the property, as decided by the appropriate court, or 2 years imprisonment.	3 4
(2) The person may also be dealt with by the Supreme Court for contempt.	5 6
(3) It is a defence to a charge of an offence against subsection (1) to prove the person had no notice that the property was restrained under the restraining order and no reason to suspect it was.	7 8 9
(4) However, if the person may be proceeded against both for contempt and an offence, the person may be proceeded against for the contempt or for the offence, but the person is not liable to be punished twice for the same conduct.	10 11 12 13
(5) The disposal of, or other dealing with property restrained under a restraining order in contravention of the order is void unless the disposal or dealing was either for sufficient consideration or in favour of a person who acted in good faith.	14 15 16 17
(6) It is not a contravention of a restraining order to dispose of or attempt to dispose of, or to otherwise deal with or attempt to otherwise deal with, property under this Act.	18 19 20
26 Restrictions on payment of legal expenses from restrained property	21 22
(1) The following restrictions apply to a restraining order providing for the payment of a person's legal expenses—	23 24
(a) no provision may be made other than to the extent the appropriate court is satisfied the person can not meet the expenses out of the person's unrestrained property;	25 26 27
(b) no provision may be made in relation to a particular interest in property if the appropriate court is satisfied the property is illegally acquired property;	28 29 30
(c) no provision may be made unless a statement of affairs disclosing all the person's interests in property and liabilities that is verified on oath by the person has been filed in the appropriate court;	31 32 33 34

(d) no provision may be made unless the appropriate court is satisfied the person has taken all reasonable steps to bring all of the person's interests in property within the jurisdiction of the court;

(e) provision made under this subsection must specify the particular interest in property out of which the expenses may be met.

(2) In this section—

“unrestrained property” means the following property of a person—

(a) property not restrained under a restraining order under this Act;
or

(b) property the appropriate court is satisfied—

(i) is not within the court's jurisdiction, whether or not it is restrained under a restraining order under this Act; or

(ii) would not be available to satisfy a proceeds assessment order against the person, assuming a proceeds assessment order were to be made against the person.

27 Maximum legal expenses payable from restrained property

(1) Despite a provision in a restraining order for the payment of legal expenses out of property restrained under the order, a legal expense may not be paid out of the property to the extent the amount payable for any legal service concerned is more than any maximum allowable cost for the service fixed under subsection (2).

(2) A regulation may fix maximum allowable costs for legal services provided in relation to an application for a restraining order or confiscation order or the defending of a criminal charge.

(3) This section operates only to limit the amount of the legal expenses authorised to be paid out of property restrained under a restraining order and does not limit or otherwise affect any entitlement of a lawyer to be paid for a legal service an amount that is more than any maximum fixed under subsection (2).

28 Order for assessment of legal expenses

(1) If a restraining order makes provision for paying a person's reasonable legal expenses—

-
- (a) the commission; or 1
- (b) if the order provides for the public trustee to take control of an 2
interest in the property, the public trustee; 3
- may apply to the appropriate court for an order under this section. 4
- (2) The commission or the public trustee must give the person notice of 5
the application. 6
- (3) On application under this section, the court must order that the 7
expenses be assessed as provided in the order. 8
- (4) After the application is made, the public trustee need not, unless the 9
court otherwise orders, take a step for the purpose of meeting the expenses 10
as provided by the restraining order until— 11
- (a) an order under this section relating to the expenses is complied 12
with; or 13
- (b) the application, and any appeal, is finally decided, or otherwise 14
disposed of, other than by the making of an order under 15
subsection (3). 16
- 29 Protection of public trustee 17**
- (1) A person must not hinder or obstruct the public trustee in the 18
performance of the public trustee's obligations under a restraining order. 19
- Maximum penalty—20 penalty units or 6 months imprisonment. 20
- (2) The *Public Trustee Act 1978*, section 138(1)⁶ applies to the functions 21
of the public trustee under this Act in the same way as it applies to the 22
functions of the public trustee under that section. 23
- (3) Also, this section does not limit the operation of the *Public Trustee 24
Act 1978*, section 138. 25
- (4) The public trustee is not liable for rates, land tax or other statutory 26
charges imposed by or under a law of the State on or in relation to property 27
under the public trustee's control under a restraining order that become 28
payable on or after the date of the restraining order, other than to the extent 29
of the rents and profits received by the public trustee from the property on 30
or after that date. 31

6 *Public Trustee Act 1978*, section 138 (Certificate or recital of authority evidence)

(5) If, under a restraining order, the public trustee takes control of a business carried on by a person, the public trustee is not liable—	1 2
(a) to pay long service leave the person was liable to pay; or	3
(b) to pay long service leave to which a person employed by the public trustee in the capacity of manager of the business, or the legal personal representative of that person, becomes entitled after the date of the restraining order; or	4 5 6 7
(c) to pay, other than out of the income or assets of the business, any liabilities or expenses incurred in controlling the business.	8 9
(6) In this section—	10
“public trustee” includes the deputies of, officers and employees on the staff of, and agents of, the public trustee.	11 12
30 Fees payable to public trustee	13
(1) This section applies if—	14
(a) the public trustee takes control of property under a restraining order; or	15 16
(b) property is vested in the public trustee when an assets forfeiture order takes effect.	17 18
(2) The public trustee may deduct from the proceeds of disposing of the property the fees, for the performance of functions relating to the property, prescribed by regulation.	19 20 21
(3) If the property is not disposed of, the public trustee may be paid the fees from the proceeds account.	22 23
31 Effect on restraining order of refusal to make confiscation order	24
(1) This section applies if, while a restraining order is in force, the appropriate court does not make either of the following orders in relation to the restrained property—	25 26 27
(a) an assets forfeiture order;	28
(b) a proceeds assessment order.	29

- (2) The appropriate court may— 1
- (a) if the court considers it appropriate, make an order about the 2
period for which the restraining order is to remain in force; or 3
 - (b) make any other order the court considers appropriate for the 4
operation of the restraining order. 5
- (3) An order under subsection (2) may be made to take effect— 6
- (a) immediately; or 7
 - (b) at a stated time; or 8
 - (c) when a stated event happens. 9

32 Certificate by public trustee 10

If a restraining order directs the public trustee to take control of 11
restrained property, a certificate signed by the public trustee and with the 12
public trustee's seal on it, stating either of the following is evidence of the 13
matters stated and of the public trustee's right to act under the restraining 14
order— 15

- (a) the restraining order has been made and is in force; 16
- (b) the terms of the restraining order. 17

PART 3—CONFISCATION 18

Division 1—Assets forfeiture orders 19

33 Application for assets forfeiture order 20

(1) If a restraining order is in force under part 2, the commission may 21
apply to the appropriate court for an order (“**assets forfeiture order**”) 22
forfeiting to the State all or any of the property restrained under the 23
restraining order. 24

(2) The commission must give the person to whom the application 25
relates notice of the making of the application. 26

(3) The person may appear and give evidence at the hearing of the application. 1
2

(4) However, the absence of a person required to be given notice under subsection (2) does not stop the court from making an assets forfeiture order. 3
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34 Making an assets forfeiture order 6

(1) The appropriate court must make an assets forfeiture order if the court finds it to be more probable than not that the person whose suspected serious crime related activity formed the basis of the relevant restraining order was, at any time before the making of the application for the assets forfeiture order, engaged in— 7
8
9
10
11

(a) a serious crime related activity involving a drug offence; or 12

(b) a serious crime related activity involving an offence punishable by imprisonment for 5 years or more. 13
14

(2) A finding of the court under subsection (1) need not be based on a finding about the commission of a particular offence and may be based on a finding— 15
16
17

(a) that an offence that is a serious crime related activity involving a drug offence was committed; or 18
19

(b) that an offence that is a serious crime related activity punishable by imprisonment for 5 years or more was committed. 20
21

(3) An assets forfeiture order must state the interests in property to which it applies. 22
23

(4) The raising of a doubt whether a person engaged in a serious crime related activity or whether an offence is a drug offence is not of itself enough to avoid a finding by the appropriate court under subsection (1). 24
25
26

(5) The quashing or setting aside of a conviction for a serious crime related activity does not affect the validity of an assets forfeiture order made before or after the conviction was quashed or set aside and based on the serious crime related activity. 27
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(6) The making of an assets forfeiture order does not prevent the making of a proceeds assessment order which assesses the value of the proceeds of, or is based on, the serious crime related activity on which the assets forfeiture order was based. 31
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33
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35 Effect of assets forfeiture order

- (1) When an assets forfeiture order takes effect in relation to property—
 (a) the property is forfeited to the State and vests, for the State, in the public trustee; and
 (b) if the person forfeiting the property was in possession or entitled to possession of the property, the public trustee may, for the State, take possession of the property.
- (2) Property forfeited under subsection (1) must be disposed of by the public trustee as directed by the Treasurer and the proceeds must be paid to the proceeds account.
- (3) The Treasurer may delegate the power to give directions under subsection (2) to a public service officer.
- (4) The appropriate court may make the ancillary orders the court considers appropriate, for example, ancillary orders for facilitating the transfer to the State of interests in property forfeited to the State under the assets forfeiture order.
- (5) The appropriate court may make the ancillary orders when it makes an assets forfeiture order or at a later time.

36 Dealing with forfeited property prohibited

- (1) A person must not dispose of or otherwise deal with property to which an assets forfeiture order applies.
- Maximum penalty—a fine equivalent to the value of the property, as decided by the appropriate court, or 2 years imprisonment.
- (2) It is a defence to a charge of an offence against subsection (1) for the person to prove that the person had no notice that an assets forfeiture order applied to the property and no reason to suspect it did.
- (3) The person may also be dealt with by the appropriate court for contempt.
- (4) However, if the person may be proceeded against both for contempt and an offence, the person may be proceeded against for the contempt or for the offence, but the person is not liable to be punished twice for the same conduct.

(5) The disposal or other dealing with property in contravention of this section is void unless the disposal or dealing was either for sufficient consideration or in favour of a person who acted in good faith.

(6) It is not a contravention of subsection (1) to dispose of, or to otherwise deal with or attempt to otherwise deal with property under this Act.

37 Excluding property from restraining order and assets forfeiture order

(1) This section applies if an assets forfeiture order has been applied for but not made or an assets forfeiture order has been made.

(2) The following may apply to the appropriate court for an order (“**exclusion order**”) excluding the property from the operation of the assets forfeiture order or any relevant restraining order—

(a) a person whose property may be forfeited under the order if made; or

(b) a person whose property was forfeited under the order.

(3) The appropriate court must not make an exclusion order unless the applicant for the order proves it is more probable than not that the property to which the application relates is not illegally acquired property.

(4) An exclusion order must declare the nature and extent of the property to which it relates and—

(a) if the property has been forfeited to the State, but not disposed of, must require the State to vest the property in the claimant; or

(b) if the property has been disposed of, must require the State to pay to the claimant an amount declared by the appropriate court to be the value, as at the date of the order, of the former interest of the claimant.

(5) Despite subsection (2), a person may not apply for an exclusion order unless—

(a) if the person was given notice of the proceeding that led to the relevant restraining order or assets forfeiture order—

(i) the application is made within 6 months after the assets forfeiture order took effect; and

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-
- (ii) the appropriate court has granted leave to apply for the exclusion order; or 1
2
- (b) in any other case— 3
- (i) the application is made within 6 months after the assets forfeiture order took effect; or 4
5
- (ii) the appropriate court has granted leave to apply for the exclusion order after the end of the 6 months. 6
7
- (6) The applicant must give notice of the application to the commission and anyone else required by regulation to be given notice. 8
9
- (7) The applicant must also give the commission notice of the grounds on which the exclusion order is sought. 10
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- (8) A person required to be given notice under subsection (6) may appear at the hearing of the application. 12
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- (9) If the commission proposes to contest the application, the commission— 14
15
- (a) must give the applicant notice that the commission proposes to contest the application; and 16
17
- (b) is not required to give the applicant notice of the grounds; and 18
- (c) the application must not be heard, until the commission has had a reasonable opportunity to conduct an examination of the applicant under section 21.⁷ 19
20
21
- 38 Exclusion of the value of innocent interests from assets forfeiture order** 22
23
- (1) If it is proved it is more probable than not that a stated part of the value of the property forfeited under an assets forfeiture order is not attributable to the proceeds of an illegal activity, the appropriate court may— 24
25
26
27
- (a) make a declaration to that effect; and 28
- (b) order that the person who has forfeited the property be paid a stated part of the proceeds of the sale of the property. 29
30

7 Section 21 (Appropriate court may make further orders)

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(2) A declaration under subsection (1)(a) must be made on the basis of the extent the property was not, when it first became illegally acquired property, acquired using the proceeds of an illegal activity.

(3) The appropriate court may make a declaration and order under subsection (1) for property on the application of the person whose property it was when forfeited under an assets forfeiture order.

(4) A person given notice of the proceeding that led to the making of an assets forfeiture order may not apply for an order under subsection (1) unless—

(a) if the person was given notice of the proceeding that led to the making of an assets forfeiture order—

(i) the application is made within 6 months after the assets forfeiture order took effect; and

(ii) the appropriate court has granted leave to apply for the declaration and order; or

(b) if the person was not given notice of the proceeding that led to the making of the assets forfeiture order—

(i) the application is made within 6 months after the assets forfeiture order took effect; or

(ii) the appropriate court has granted leave to apply more than 6 months after the assets forfeiture order took effect for the declaration and order.

(5) The person must give notice of the application to the commission and anyone else required by regulation to be given notice and that person may appear at the hearing of the application.

(6) Also, the applicant must give the commission notice of the grounds on which the order is sought.

(7) If the commission proposes to contest the application it must give the applicant notice of the grounds on which the commission proposes to contest the application.

Division 2—Proceeds assessment orders**39 Application for proceeds assessment order**

(1) The commission may apply to the appropriate court for an order (“**proceeds assessment order**”) requiring a person to pay to the Treasurer an amount assessed by the court as the value of the proceeds derived from an illegal activity of the person that took place before the making of the application for the order.

(2) The application may be made whether or not the activity is an activity on which the application is based.

(3) The commission must give notice of the application to the person against whom the order is sought and anyone else required by regulation to be given notice.

(4) The absence of a person required to be given notice of the application does not prevent the appropriate court from making a proceeds assessment order.

40 Making of proceeds assessment order

(1) The appropriate court must make a proceeds assessment order if the court finds it to be more probable than not that the person against whom the order is sought was, at any time before the making of the application for the order, engaged in—

(a) a serious crime related activity involving a drug offence; or

(b) a serious crime related activity involving an offence punishable by imprisonment for 5 years or more.

(2) A finding of the court for the purposes of subsection (1) need not be based on a finding about the commission of a particular offence and may be based on a finding—

(a) that an offence that is a serious crime related activity involving a drug offence was committed; or

(b) that an offence that is a serious crime related activity punishable by imprisonment for 5 years or more was committed.

(3) The appropriate court may make the ancillary orders the court considers appropriate.

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- (4) The appropriate court may make the ancillary orders when it makes a proceeds assessment order or at a later time. 1 2
- (5) The quashing or setting aside of a conviction for a serious crime related activity does not affect the validity of a proceeds assessment order. 3 4
- (6) The making of a proceeds assessment order does not prevent the making under division 1 of an assets forfeiture order based on the serious crime related activity, or on all or any of the serious crime related activities, because of which the proceeds assessment order is made. 5 6 7 8
- (7) The amount a person is required to pay under a proceeds assessment order is a debt payable by the person to the State. 9 10
- (8) If an order under this section is made against a dead person, subsection (7) has effect before final distribution of the estate as if the person had died the day after the making of the order. 11 12 13
- (9) The net amount recovered under a proceeds assessment order must be paid to the proceeds account. 14 15

41 Assessment of proceeds of serious crime related activity 16

- (1) When making an assessment under section 40 in relation to an illegal activity of a person (“**relevant person**”), the appropriate court must have regard to the following— 17 18 19
- (a) the money, or the value of any property other than money, directly or indirectly acquired by the relevant person or another person at the request, or by the direction, of the relevant person, because of the illegal activity; 20 21 22 23
 - (b) the value of any service, benefit or advantage provided for the relevant person or another person at the request, or by the direction, of the relevant person because of the illegal activity; 24 25 26
 - (c) the market value, at the time of the illegal activity, of a drug similar, or substantially similar, to any drug involved in the illegal activity, and the amount that was, or the range of amounts that were, ordinarily paid for an act similar, or substantially similar, to the illegal activity; 27 28 29 30 31
 - (d) the value of the relevant person’s property before and after the illegal activity; 32 33
 - (e) the relevant person’s income and expenditure before and after the illegal activity. 34 35

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(2) If evidence is given at the hearing of an application for a proceeds assessment order that the value of the relevant person's property after an illegal activity was more than the value of the relevant person's property before the activity, the appropriate court must treat the difference as proceeds derived by the relevant person from the activity, other than to the extent the court is satisfied the difference was due to causes unrelated to an illegal activity.

(3) If evidence is given at the hearing of an application for a proceeds assessment order of the amount of the relevant person's expenditure within the 6 years before the making of the application for the order, the appropriate court must treat the amount as proceeds derived by the relevant person from an illegal activity, other than to the extent the court is satisfied the expenditure was funded from income, or amounts from other sources, unrelated to an illegal activity.

(4) The appropriate court must not take expenditure into account under subsection (3) to the extent the court is satisfied it resulted in the acquisition of property the value of which is taken into account under subsection (2).

(5) In making an assessment as provided by this section, none of the following amounts are to be deducted—

- (a) expenses or outgoings incurred by the relevant person in relation to the illegal activity;

Note—

If an illegal activity involved the sale of drugs, in determining the value of the proceeds derived by the defendant from the sale of drugs there must be no reduction for expenditure by the defendant in acquiring the drugs.

- (b) the value of proceeds derived as agent for or otherwise for someone else, whether or not any of the proceeds are received by the other person.

Note—

If the defendant is paid an amount for drugs in a "controlled buy" but was merely as an agent or messenger for some other person and gives the amount to the other person, in calculating the proceeds derived by the defendant the amount given to the other person must not be subtracted and the full amount is considered to have been derived by the defendant.

(6) This section applies to—

- (a) property that comes into the possession or is under the effective control of a person in Queensland or elsewhere; and

(b) proceeds acquired in Queensland or elsewhere in relation to an illegal activity.	1 2
(7) Despite any rule of law or practice about hearsay evidence, the appropriate court may, for this section, receive evidence of the opinion of a prescribed officer who is experienced in the investigation of illegal activities involving drugs about—	3 4 5 6
(a) the market value at a particular time of a particular kind of drug; or	7 8
(b) the amount, or range of amounts, ordinarily paid at a particular time for the doing of anything in relation to a particular kind of drug.	9 10 11
(8) In this section—	12
“prescribed officer” means—	13
(a) a police officer; or	14
(b) a member of the Australian Federal Police; or	15
(c) an officer of Customs within the meaning of the <i>Customs Act 1901</i> (Cwlth); or	16 17
(d) a commission officer under the <i>Crime and Misconduct Act 2001</i> .	18
42 Enforcement of order against property under effective control	19
(1) On the application of the commission, the appropriate court must, if it considers property is under the effective control of a person about whom the court has made a proceeds assessment order, make an order declaring the interest is available to satisfy the order to the extent other property is not readily available for the purpose.	20 21 22 23 24
(2) The commission must give notice of the application to—	25
(a) the person against whom the order is sought; and	26
(b) anyone the commission reasonably believes may have an interest in the property to which the application relates; and	27 28
(c) anyone else required by regulation to be given notice.	29
(3) Each person to whom notice is given under subsection (2), and any other person who claims an interest in the property, may appear at the hearing of the application.	30 31 32

- (4) The absence of a person required to be given notice of the application does not prevent the appropriate court from making the order. 1 2
- (5) If the appropriate court declares an interest in property is available to satisfy a proceeds assessment order, the proceeds assessment order may be enforced against the property to the extent specified in the declaration. 3 4 5
- (6) Despite section 9⁸, an interest in property is not available to satisfy a proceeds assessment order made against a person who has effective control of the interest unless the appropriate court makes a declaration under this section in relation to the interest. 6 7 8 9
- 43 Public trustee may discharge proceeds assessment order** 10
- (1) This section applies if— 11
- (a) the public trustee has, under a restraining order, taken control of an interest in property; and 12 13
 - (b) a proceeds assessment order has been made against the person entitled to the interest. 14 15
- (2) On the application of the public trustee, the appropriate court may make an order (“**later order**”) directing the public trustee to pay to the Treasurer a sufficient amount to discharge the debt payable to the State under the proceeds assessment order. 16 17 18 19
- (3) For enabling the public trustee to comply with the later order, the appropriate court may, in the later order or another order— 20 21
- (a) direct the public trustee to sell stated property under the control of the public trustee; and 22 23
 - (b) appoint an officer of the court or another person to sign any deed or instrument in the name of the person entitled to the property and to do anything necessary to give validity and operation to the deed or instrument. 24 25 26 27
- (4) The signing of the deed or instrument by the person appointed is as valid as if it had been signed by the person who was entitled to the property to which it relates. 28 29 30
- (5) As soon as practicable after the later order is made, the public trustee— 31 32

8 Section 9 (When does a person have “effective control” of property)

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-
- (a) must apply the amount in the public trustee's possession or under the public trustee's control because of the sale stated in the later order, or the other order, or otherwise in the performance of the public trustee's duties in relation to the property to which the restraining order relates, in payment of the public trustee's expenses; and
- (b) must pay any balance as provided by subsection (6).
- (6) If the balance is more than the amount required to discharge the debt payable under the proceeds assessment order, the public trustee must use the balance to discharge the debt by payment of the appropriate amount to the proceeds account and, if the property sold—
- (a) was also the subject of an assets forfeiture order, must pay the balance of the amount to the proceeds account; or
- (b) was not the subject of an assets forfeiture order, must pay the balance of the amount to the person against whom the proceeds assessment order was made.
- (7) If, as required by the later order, the public trustee pays an amount to the proceeds account towards discharging the liability of a person under a proceeds assessment order, the person's liability under the proceeds assessment order is discharged to the extent of the payment.
- (8) In this section—
- “expenses”** means the fees payable and expenses incurred by the public trustee for performing the duties imposed on the public trustee under a restraining order, including expenses incurred in relation to the sale of any of the property to which the restraining order relates
- “possession”** includes control.
- “sell”** property includes another way of disposing of property.
- 44 Charge on property**
- (1) If the appropriate court makes a proceeds assessment order against a person, all the interests of the person in property are, while the assessed amount remains unpaid, charged in favour of the State to the extent necessary to secure payment of the assessed amount.

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- (2) A charge created under subsection (1)— 1
- (a) is subject to every encumbrance on the property that came into 2
existence before the charge and that would, apart from this 3
paragraph, have priority over the charge; and 4
 - (b) has priority over all other encumbrances; and 5
 - (c) is not affected by any change of ownership of the interest 6
charged, unless the charge stops having effect under 7
subsection (3). 8
- (3) The charge stops having effect on whichever of the following 9
happens first— 10
- (a) if the proceeds assessment order is discharged, on the hearing of 11
an appeal against the making of the order; 12
 - (b) on payment to the proceeds account of the assessed amount; 13
 - (c) on the bankruptcy of the person subject to the order; 14
 - (d) on the sale or other disposition of the interest charged under the 15
this Act other than under section 19 or 23;⁹ 16
 - (e) on the sale of the interest charged to a purchaser for sufficient 17
consideration who, at the time of purchase, had no notice of the 18
charge. 19
- (4) If a charge is created by subsection (1) on property of a particular 20
kind and a law, whether or not a law of the State, provides for the 21
registration of title to, interests in, or charges over, property of that kind, 22
the public trustee or an appropriate officer may cause the charge created to 23
be registered under that law. 24

Division 3—Confiscated Proceeds Account 25

45 Establishment and use of proceeds account 26

- (1) A Confiscated Proceeds Account (“proceeds account”) is 27
established. 28
- (2) The following amounts must be paid from the proceeds account— 29

9 Sections 19 (How restraining order effects other actions) and 23 (Appropriate court may order sale)

(a) amounts decided by the Treasurer, in consultation with the Minister, as payable to the Treasurer for the administration of this Act;	1 2 3
(b) amounts the Treasurer is satisfied the public trustee may be paid under section 19; ¹⁰	4 5
(c) amounts required to be paid under an order of the appropriate court under this Act;	6 7
(d) amounts the commission is directed by the Minister to pay to a fund for compensating victims of crime or for helping law enforcement, victim support programs, crime prevention programs or programs supporting safer communities, drug rehabilitation or drug education.	8 9 10 11 12
 PART 4—INFORMATION GATHERING POWERS	 13
 <i>Division 1—Production orders</i>	 14
 46 Application for production order	 15
(1) This section applies if an authorised officer reasonably suspects a person possesses or controls a document that may be a property-tracking document relating to illegally acquired property.	16 17 18
(2) The authorised officer may apply to a Supreme Court judge for an order (“ production order ”) requiring the person to produce the document to the authorised officer.	19 20 21
(3) The application—	22
(a) may be made without notice to the person suspected to be in possession or control of the document; and	23 24
(b) must be sworn and state the grounds for making the application.	25
(4) The judge may refuse to consider the application until the authorised officer gives the judge all the information the judge requires about the application in the way the judge requires.	26 27 28

10 Section 19 (How restraining order effects other actions)

Example—

The judge may require additional information supporting the application to be given by statutory declaration.

47 Making of production orders

The Supreme Court judge may make a production order only if satisfied there are reasonable grounds for suspecting the person possesses a document that may be a property tracking document relating to illegally acquired property.

48 What production order must state

(1) The production order must—

(a) order a stated person—

(i) to produce to an authorised officer any documents, other than a financial institution's books, of the kind mentioned in section 46(1) that are in the person's possession or control; or

(ii) to make available to an authorised officer, for inspection, any documents of the kind mentioned in subparagraph (i) that are in the person's possession or control; and

(b) state when and the place where—

(i) documents that must be produced are to be produced; or

(ii) documents that must be made available for inspection are to be made available; and

(c) state that an authorised officer may enter the place and exercise the powers under section 49.

(2) In this section—

“financial institution books” means accounting records used in the ordinary business of a financial institution, including account books, cashbooks, daybooks and ledgers.

49 Powers under production order

An authorised officer has the following powers in relation to a document produced or made available under a production order—

(a) power to inspect the document;	1
(b) power to take extracts from the document;	2
(c) power to make copies of the document;	3
(d) power to retain the document for the time reasonably necessary for the purposes of this Act.	4 5
50 Variation of production order	6
(1) If a Supreme Court judge makes a production order requiring a person to produce a document to an authorised officer, the person may apply to a Supreme Court judge for a variation of the order.	7 8 9
(2) If the judge is satisfied the document is essential to the business activities of the person, the judge may vary the production order so it requires the person to make the document available to an authorised officer for inspection.	10 11 12 13
51 Offence to contravene production order	14
(1) A person must not contravene a production order, unless the person has a reasonable excuse.	15 16
(2) A person must not produce or make available a document under a production order that the person knows is false or misleading in a material particular without—	17 18 19
(a) indicating to the authorised officer to whom the document is produced or made available how the document is false or misleading; and	20 21 22
(b) giving correct information to the authorised officer, if the person has, or can reasonably obtain, the correct information.	23 24
Maximum penalty—100 penalty units or 2 years imprisonment.	25
(3) It is sufficient compliance with a requirement of a production order for a person to produce a document or make a document available if—	26 27
(a) the person gives the commission a statement verified by statutory declaration to the effect that the person does not have possession and does not have control of the document; and	28 29 30

- (b) the commission gives the person written notice that the
commission is prepared to accept provision of the statement as
compliance with the order.

52 Effect of compliance with production order

- (1) A person is not excused from producing or making available a document on the ground that—
- (a) producing or making the document available might tend to incriminate the person or make the person liable to a penalty; or
- (b) producing or making the document available would be in breach of an obligation, whether imposed by any law or otherwise, of the person not to disclose the existence or contents of the document; or
- (c) the production or making available of the document would disclose information the subject of legal professional privilege.
- (2) Subsection (3) applies if a person produces a document or make a document available under a production order.
- (3) The following are not admissible in any criminal proceeding, other than a proceeding for an offence against section 53 in relation to producing the document or making the document available—
- (a) the fact that the person produced the document;
- (b) the fact that the person made the document available;
- (c) any information, document or thing directly or indirectly obtained because the document was produced or made available.

53 Prohibited disclosures about production orders

- (1) This section does not apply to a production order unless it, or a notice accompanying it, states that information about the order must not be disclosed.
- (2) A person against whom a production order is made must not disclose—
- (a) the existence or nature of the order; or

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(b) any information to a person from which the person could reasonably be expected to infer the existence or nature of the order.	1 2 3
Maximum penalty—50 penalty units or 1 year’s imprisonment.	4
(3) A person does not contravene this section if—	5
(a) the disclosure is made to an employee, agent or other person to obtain a property-tracking document to comply with the order and the employee, agent or other person is directed not to inform the person to whom the document relates about the matter; or	6 7 8 9
(b) the disclosure is made to obtain legal advice or representation in relation to the order; or	10 11
(c) the disclosure is made for the purposes of, or in, a legal proceeding.	12 13
54 Right to inspect documents	14
(1) Unless a Supreme Court judge otherwise orders, an authorised officer who retains a document must allow a person who would be entitled to the document—	15 16 17
(a) to inspect it at any reasonable time and from time to time; and	18
(b) to take extracts from or make copies of it.	19
(2) If an authorised officer retains a document under a production order, the officer, if asked by the person against whom the order was made, must give the person a copy of the document certified by the officer in writing to be a true copy of the document.	20 21 22 23
<i>Division 2—Search powers</i>	24
55 Application of div 2	25
This division applies if an authorised officer reasonably believes there is or will be at any place within the next 72 hours any of the following (a “forfeitable crime related thing”)—	26 27 28
(a) anything in which a person has an interest that is serious crime derived property;	29 30

(b) anything in which a person has an interest that is illegally acquired property of a person reasonably suspected of having been engaged in serious crime related activities;	1 2 3
(c) evidence of a serious crime related activity;	4
(d) evidence of illegal activity of a person reasonably suspected of having been engaged in serious crime related activities;	5 6
(e) property an interest in which is restrained under a restraining order.	7 8
56 Search warrants	9
(1) An authorised officer may apply to a magistrate for a search warrant under this division to search for a forfeitable crime related thing.	10 11
(2) The application must be sworn and state the grounds on which it is sought.	12 13
(3) The magistrate may refuse to issue the warrant until the authorised officer gives the magistrate all the information the magistrate reasonably requires in the way the magistrate requires.	14 15 16
<i>Example—</i>	17
The magistrate may require additional information supporting the application to be given by statutory declaration.	18 19
57 Issue of search warrant	20
The magistrate may issue a search warrant only if satisfied there are reasonable grounds for suspecting the forfeitable crime related thing sought under the warrant—	21 22 23
(a) is at the place; or	24
(b) is likely to be taken to the place within the next 72 hours.	25
58 What search warrant must state	26
A search warrant must state—	27
(a) that a stated authorised officer may enter the place and exercise search warrant powers at the place; and	28 29
(b) the thing that may be seized under the warrant; and	30

(c) if the warrant is to be executed at night, the hours when the place may be entered; and	1 2
(d) the day and time the warrant ends.	3
59 Powers under search warrant	4
An authorised officer has the following powers under a search warrant (“search warrant power”)—	5 6
(a) power to enter the place stated in the warrant (the “ relevant place ”) and to stay on it for the time reasonably necessary to exercise powers authorised under the warrant and this section;	7 8 9
(b) power to search the place for anything sought under the warrant;	10
(c) power to seize anything found during the search that may be a thing sought under the warrant.	11 12
60 Seizure of property and search of person	13
(1) The power conferred by a search warrant to seize anything includes—	14 15
(a) power to remove it from the premises where it is found; and	16
(b) power to guard it on the place.	17
(2) A person may, under a search warrant under this division, search a person found on the premises who might reasonably be suspected of possessing something that may be seized under the warrant.	18 19 20
(3) A person executing a search warrant issued under this division may—	21 22
(a) examine a thing seized under the warrant; and	23
(b) inspect and test the property; and	24
(c) for a document—make copies of, and take extracts from, the document.	25 26
61 Responsibility for seized property	27
(1) The commission must take reasonably necessary steps to protect something seized under a search warrant under this division while it is in the commission’s custody.	28 29 30

- (2) A person authorised by the commission for the purpose may— 1
- (a) examine any thing seized under a search warrant under this 2
division, including a warrant issued on the application of a police 3
officer; and 4
 - (b) inspect and test the property; and 5
 - (c) for a document—make copies of, and take extracts from, the 6
document. 7

62 Return of certain seized property 8

- (1) If— 9
- (a) property has been seized under a search warrant under this 10
division; and 11
 - (b) when the property was seized, a restraining order affecting an 12
interest in the property had not been applied for or granted; and 13
 - (c) within 7 days after the property was seized, a restraining order 14
had not been applied for or granted or, if applied for, had been 15
refused; and 16
 - (d) the responsible person does not propose to use the property as 17
evidence in a proceeding; 18

the responsible person must arrange for the property to be returned, at the 19
end of the period, to the person from whose possession it was seized. 20

- (2) In this section— 21

“responsible person”, in relation to property, means— 22

- (a) for property in the custody, or under the control, of the 23
commission—the commission; or 24
- (b) for property in the custody, or under the control, of a police 25
officer—the commissioner of the police service. 26

63 Obstruction etc. of person executing warrant 27

(1) A person must not obstruct a person exercising powers under a search 28
warrant under this division, unless the person has a reasonable excuse. 29

Maximum penalty— 100 penalty units or 2 years imprisonment. 30

(2) In this section—	1
“obstruct” includes hinder and attempt to obstruct.	2
<i>Division 3—Search powers for property tracking</i>	3
64 Consent to search for, and to seize, property-tracking document	4
With the consent of the occupier of premises, an authorised officer may—	5 6
(a) enter the premises; and	7
(b) search the premises for any property-tracking document; and	8
(c) seize any document found during the search that the authorised officer reasonably believes is a property-tracking document.	9 10
65 Application for search warrant for property-tracking document	11
(1) An authorised officer who reasonably suspects a property-tracking document is, or may be within the next 72 hours, in or on any premises, may apply to a Supreme Court judge for a search warrant.	12 13 14
(2) The application must be sworn and state the grounds on which it is sought.	15 16
(3) The Supreme Court judge may refuse to consider the application until the authorised officer gives the Supreme Court judge all the information the Supreme Court judge reasonably requires in the way the Supreme Court judge reasonably requires.	17 18 19 20
<i>Example—</i>	21
The Supreme Court judge may require additional information supporting the application to be given by statutory declaration.	22 23
66 Consideration of application	24
The Supreme Court judge must not issue the search warrant unless satisfied—	25 26
(a) the document involved can not be identified or described with enough accuracy to be able to obtain a production order for the document; or	27 28 29

(b) a production order has been made for the document and has not been complied with; or	1 2
(c) a production order for the document would be unlikely to be effective because there are reasonable grounds to suspect a production order would not be complied with; or	3 4 5
(d) the investigation for which the search warrant is sought may be seriously prejudiced if the authorised officer does not gain immediate access to the document without notice to any person.	6 7 8
67 What search warrant must state	9
A search warrant must state—	10
(a) that a stated authorised officer may enter the place and exercise search warrant powers at the place; and	11 12
(b) the thing that may be seized under the warrant; and	13
(c) if the warrant is to be executed at night, the hours when the place may be entered; and	14 15
(d) the day and time, not more than 1 month after the warrant's issue, the warrant ends.	16 17
68 Powers under search warrant	18
An authorised officer has the following powers under a search warrant—	19
(a) power to enter the place stated in the warrant (the “ relevant place ”) and to stay on it for the time reasonably necessary to exercise powers authorised under the warrant and this section;	20 21 22
(b) power to search the place for property-tracking documents;	23
(c) power to seize any document found during the search that the authorised officer reasonably believes is a property-tracking document;	24 25 26
(d) power to seize any document or thing found during the search that the authorised officer reasonably believes will provide evidence of an offence and is necessary to seize to prevent its concealment, loss or destruction.	27 28 29 30

69 Legal professional privilege

(1) The fact that a document contains or may contain information that is the subject of legal professional privilege does not prevent the document being seized under a search warrant under this Act.

(2) If a person objects to a document being seized under a search warrant on the ground that the document contains or may contain information that is the subject of legal professional privilege, any information, document or thing obtained as a direct or indirect result of the seizure of the document is not admissible in any civil or criminal proceeding against the person entitled to claim the privilege.

(3) Subsection (2) does not apply to a civil proceeding under this Act.

Division 4—Monitoring orders**70 Monitoring order**

(1) An authorised officer may apply to a Supreme Court judge for an order (a “**monitoring order**”) directing the financial institution to give the commission, or to an authorised officer nominated by the commission, information about a named person.

(2) The application must be sworn and state the grounds on which it is sought.

(3) The Supreme Court judge may refuse to consider the application until the authorised officer gives the judge all the information the judge reasonably requires about the application in the way the judge requires.

Example—

The Supreme Court judge may require additional information supporting the application to be given by statutory declaration.

71 Consideration of application

The Supreme Court judge may make the monitoring order only if satisfied there are reasonable grounds for suspecting that the person named in the application—

(a) has been, or is about to be, involved in a serious crime related activity; or

(b) has acquired, or is about to acquire, directly or indirectly—

- (i) serious crime derived property; or 1
- (ii) for a person mentioned in paragraph (a), illegally acquired 2
property. 3

72 What monitoring order must state 4

(1) A monitoring order must order a financial institution to give 5
information obtained by the institution about transactions conducted 6
through an account held by the named person with the institution and 7
state— 8

- (a) the name or names in which the account is believed to be held; 9
and 10
- (b) the type of information the institution is required to give; and 11
- (c) the period, of not more than 3 months from the date of its 12
making, the order is in force; and 13
- (d) that the order applies to transactions conducted during the period 14
stated in the order; and 15
- (e) that the information is to be given to any authorised officer or to a 16
stated authorised officer and the way in which the information is 17
to be given. 18

(2) In this section— 19

“**transaction conducted through an account**” includes— 20

- (a) the making of a fixed term deposit; and 21
- (b) in relation to a fixed term deposit—the transfer of the amount 22
deposited, or any part of it, at the end of the term. 23

73 When period stated in monitoring order starts 24

A monitoring order has effect from the start of the day notice of the order 25
is given to the financial institution. 26

74 Offence to contravene monitoring order 27

A financial institution that has been given notice of a monitoring order 28
must not knowingly— 29

- (a) contravene the order; or 30

(b) provide false or misleading information in purported compliance with the order.	1 2
Maximum penalty—1 000 penalty units.	3
75 Existence and operation of monitoring order not to be disclosed	4
(1) A financial institution that is or has been subject to a monitoring order must not disclose the existence or the operation of the order to any person other than—	5 6 7
(a) the commission or the authorised commission officer named in the order; or	8 9
(b) an officer or agent of the institution (an “ institution officer ”), for ensuring the order is complied with; or	10 11
(c) a lawyer, for obtaining legal advice or representation in relation to the order.	12 13
Maximum penalty—1 000 penalty units.	14
(2) A person to whom the existence or operation of a monitoring order has been disclosed, whether under subsection (1) or a previous application of this subsection or otherwise, must not—	15 16 17
(a) while the person is an authorised commission officer, institution officer or lawyer, discloses the existence or operation of the order, other than to another person to whom it may be disclosed under subsection (1) and then only for—	18 19 20 21
(i) if the person is an authorised commission officer—performing the person’s duties; or	22 23
(ii) if the person is an institution officer—ensuring the order is complied with or obtaining legal advice or representation in relation to the order; or	24 25 26
(iii) if the person is a lawyer—giving legal advice or making representations in relation to the order; or	27 28
(b) when the person is no longer an authorised commission officer, institution officer or lawyer, make a record of, or disclose, the existence or operation of the order in any circumstances.	29 30 31
Maximum penalty—100 penalty units or 2 years imprisonment.	32

(3) Subsection (2) does not prevent the disclosure by the commission or an authorised commission officer of the existence or operation of a monitoring order—

(a) for, or in relation to, a legal proceeding; or

(b) in a proceeding before a court.

(4) The commission or an authorised commission officer can not be required to disclose to a court the existence or operation of a monitoring order.

(5) A reference in this section to disclosing the existence or operation of a monitoring order to a person includes a reference to disclosing information to the person from which the person could reasonably be expected to infer the existence or operation of the monitoring order.

76 Communication of information by financial institutions to prescribed authorities

(1) This section applies if a financial institution reasonably believes information it has about a transaction with the institution—

(a) may be relevant to an investigation of a serious crime related activity or the making of a confiscation order; or

(b) may otherwise be of assistance in the enforcement of this Act.

(2) The institution may give the information to the commission.

(3) An action, suit or proceeding does not lie for any action taken by the institution or person under subsection (2) against—

(a) the financial institution; or

(b) an officer, employee or agent of the institution acting in the performance of the person's duties or agency.

77 Protection for financial institution—money laundering

(1) The *Crimes (Confiscation) Act 1989*, section 90(3)¹¹ applies to a financial institution that is or has been subject to a monitoring order under this Act in the same way as it applies to a financial institution under that Act.

11 *Crimes (Confiscation) Act 1989*, section 90 (Money laundering)

(2) If a financial institution, or a person who is an officer, employee or agent of the institution, gives information under section 51¹² as soon as practicable after forming the belief mentioned in that section, the institution or person is taken, for the *Crimes (Confiscation) Act 1989*, section 90 not to have been in possession of the information at any time.

PART 5—GENERAL

78 Proceedings for offences

(1) A proceeding for an offence against this Act, other than an offence against section 25, 74 or 75(1)¹³, must be dealt with summarily before a Magistrates Court.

(2) A proceeding for an offence against section 25, 74 or 75(1) must be dealt with before the Supreme Court in its summary jurisdiction.

(3) If a proceeding for an offence is dealt with before a Magistrates Court, the maximum penalty the court may impose is the lower of 100 penalty units or the maximum penalty for the offence.

79 Evidentiary provision

(1) In a proceeding under this Act—

- (a) a certificate apparently signed by the chairperson of the commission and stating a stated person was or was not an authorised commission officer at a stated time is evidence of the facts stated; and
- (b) a certificate under the *Drugs Misuse Act 1986*, section 56¹⁴ is evidence of the matters of which it is evidence in a proceeding under that Act, without proof of the signature, employment or appointment of the person who apparently signed the certificate.

¹² Section 51 (Offence to contravene production order)

¹³ Section 25 (Contravention of restraining order), 74 (Offence to contravene monitoring order) or 75 (Existence and operation of monitoring order not to be disclosed)

¹⁴ *Drugs Misuse Act 1986*, section 56 (Analyst's certificate)

- (2) In a civil proceeding under this Act, a certificate under the Criminal Code, section 635¹⁵ of a conviction of an offence is evidence of the commission of the offence by the person to whom it relates.
- (3) In a proceeding on an application for an order under this Act—
- (a) the court may, in deciding the application, have regard to the transcript of any proceeding against a person for an offence to which the application relates and to the evidence given in that proceeding; and
 - (b) the transcript of an examination under section 21¹⁶ is evidence of the answers given by a person to a question put to the person in the examination.
- 80 Responsibility for acts or omissions of representatives**
- (1) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—
- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (2) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken also to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.
- (3) In this section—
- “representative”** of a person means—
- (a) for a corporation—an executive officer, employee or agent of the corporation; or
 - (b) for an individual—an employee or agent of the individual.
- “state of mind”** of a person includes—

15 Criminal Code, section 635 (Evidence of previous conviction)

16 Section 21 (Appropriate court may make further orders)

(a) the person's knowledge, intention, opinion, belief or purpose; and	1 2
(b) the person's reasons for the intention, opinion, belief or purpose.	3
81 Executive officers must ensure corporation complies with this Act	4
(1) The executive officers of a corporation must ensure the corporation complies with this Act.	5 6
(2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.	7 8 9 10
Maximum penalty—the penalty for the contravention of the provision by an individual.	11 12
(3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.	13 14 15 16
(4) However, it is a defence for an executive officer to prove—	17
(a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or	18 19 20 21
(b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.	22 23
82 Serious crime related activity can form basis of a number of orders	24 25
The fact that a restraining order or an assets forfeiture order has been made on the basis of a person's serious crime related activity does not prevent the making of another restraining order or assets forfeiture order on the basis of that activity.	26 27 28 29
83 Orders can be extended to innocent interests	30
(1) The purpose of this section is to provide for an order of the appropriate court under this Act relating to an interest of a person in	31 32

property to be extended to other interests in the property, whether of that person or another person, if—

- (a) the proceeds of disposal of the interests combined would be likely to be greater than the proceeds of disposal of each of the interests separately; or
- (b) the disposal of the interests separately would be impracticable or significantly more difficult than disposal of the combined interests.

(2) When the appropriate court makes an order under this Act relating to an interest of a person in property, the court may, if it is consistent with the purpose of this section, in that order or a later order, direct that the order is also to apply to stated other interests in the property.

(3) If the appropriate court extends the operation of an order to an interest in property that the order would not, apart from this section, have applied to, the court may make the ancillary orders the court considers appropriate for the protection of the person whose interest it is, for example—

- (a) an order declaring a stated amount is payable to the person as the value of the person's interest in the property; or
- (b) an order directing that stated other interests in the property be transferred to the person.

(4) In deciding whether to declare that an amount is payable to a person or to direct that an interest in property be transferred to a person, the appropriate court must have regard to—

- (a) the nature, extent and value of the person's interest in the property concerned; and
- (b) if the court is aware that another person claims an interest in the property, the nature, extent and value of the interest claimed; and
- (c) anything else the court considers relevant.

84 Effect of death of person involved

(1) A notice authorised or required to be given to a person under this Act is, for a person who is dead, taken to have been given if it is given to the person's legal personal representative.

- (2) A reference in this Act to an interest in property of a person is, for a person who is dead, a reference to an interest in the property the person had immediately before death. 1
2
3
- (3) An order may be applied for and made under this Act— 4
- (a) in relation to a person's interest in property even if the person is dead; and 5
6
- (b) on the basis of the previous activities of a person who is dead. 7
- 85 Effect of death of joint owner of restrained property** 8
- (1) If a person has an interest in property as joint owner of the property, the person's death after a restraining order is made in relation to the interest does not, while the order is in force, operate to vest the interest in the surviving joint owner or owners and the restraining order continues to apply to the interest as if the person had not died. 9
10
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13
- (2) An assets forfeiture order made in relation to the interest applies as if the order took effect immediately before the person died. 14
15
- (3) If a restraining order stops applying to an interest in property without an assets forfeiture order being made in relation to the interest, subsection (1) is taken not to have applied to the interest. 16
17
18
- 86 Arrangements to avoid operation of Act** 19
- (1) If the appropriate court is satisfied on the application of the commission that a scheme carried out by a person was carried out for the purpose of directly or indirectly defeating the operation of this Act in any way, the court may for the purpose of defeating that purpose— 20
21
22
23
- (a) make an order declaring all or part of the scheme void; or 24
- (b) make an order varying the operation of all or part of the scheme. 25
- (2) The appropriate court may also make the orders the court considers just in the circumstances for consequential or a related matter or for giving effect to any order of the court under this section, including any order about the following— 26
27
28
29
- (a) any disposition of property; 30
- (b) the payment of money; 31

(c) the sale or other realisation of property and the disposition of the proceeds;	1 2
(d) the creation of a charge on property in favour of any person and the enforcement of the charge created.	3 4
(3) In this section—	5
“defeat” the operation of this Act includes avoid, prevent and impede.	6
“scheme” means—	7
(a) any agreement, arrangement, promise, understanding or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; or	8 9 10 11
(b) any action, course of action, course of conduct, plan or proposal.	12
87 Restriction on functions	13
(1) A proceeds assessment order under this Act and a monetary penalty order under the <i>Crimes (Confiscation) Act 1989</i> may not both be made in relation to the same serious crime related activity.	14 15 16
(2) A restraining order under this Act and a restraining order under the <i>Crimes (Confiscation) Act 1989</i> may not both be made to be in force in relation to the same interest in property at the same time.	17 18 19
(3) Other than as provided by this section, this Act does not affect the exercise of a function under another Act and another Act does not affect the exercise of a function under this Act.	20 21 22
88 Publication of proceedings	23
If—	24
(a) a person has been charged with an offence in relation to a serious crime related activity and a proceeding on the charge has not started or, if started, has not been completed; and	25 26 27
(b) a proceeding is started under this Act for a restraining order or an assets forfeiture order affecting an interest of the person in property, or for a proceeds assessment order against the person;	28 29 30
the appropriate court may make the orders it considers appropriate about the publication of any matter arising under this Act.	31 32

89 Stay of proceedings

1

The fact that criminal proceedings have been started, whether or not
under this Act, is not a ground on which the appropriate court may stay a
proceeding under this Act that is not a criminal proceeding.

2

3

4

90 Duty not payable

5

No duty is payable under the *Duties Act 2001* in relation to the vesting of
any property under section 37 or 83.¹⁷

6

7

91 Requirements to give notice

8

(1) A regulation may prescribe the way a notice authorised or required
by this Act to be given to a person must be given, including by substituted
service.

9

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11

(2) A person must be considered to have been given notice if all
reasonable efforts were made to give the notice whether or not the person
actually received notice.

12

13

14

92 Regulation-making power

15

(1) The Governor in Council may make regulations under this Act.

16

(2) A regulation may create an offence and prescribe a penalty for the
offence of not more than 20 penalty units.

17

18

¹⁷ Section 37 (Excluding property from restraining order and assets forfeiture order) or
83 (Orders can be extended to innocent interests)

SCHEDULE	1
DICTIONARY	2
section 4	3
“acquire an interest in property for sufficient consideration” means	4
acquire an interest in property for a consideration that, having regard	5
solely to commercial considerations, reflects the value of the interest.	6
“appropriate court” see section 14. ¹⁸	7
“assets forfeiture order” see section 34. ¹⁹	8
“authorised officer” means—	9
(a) the chairperson; or	10
(b) a police officer of at least the rank of inspector; or	11
(c) an authorised commission officer under the <i>Crime and</i>	12
<i>Misconduct Act 2001</i> , section 272. ²⁰	13
“chairperson” means the chairperson of the commission.	14
“commission” means the Crime and Misconduct Commission under the	15
<i>Crime and Misconduct Act 2001</i> .	16
“confiscation order” means—	17
(a) an assets forfeiture order; or	18
(b) a proceeds assessment order.	19
“dangerous drug” means a dangerous drug under the <i>Drugs Misuse Act</i>	20
1986.	21
“dealing” , for an interest in property, includes—	22
(a) if the interest is a debt, making a payment to any person to reduce	23
the amount of the debt; and	24

18 Section 14 (Court to which particular applications may be made)

19 Section 34 (Making an assets forfeiture order)

20 *Crime and Misconduct Act*, section 272 (Authorised commission officer)

SCHEDULE (continued)

- (b) removing the property in which the interest is held from the State; and 1
2
- (c) receiving or making a gift of the interest; and 3
- (d) vesting the interest in a person while administering the estate of a deceased. 4
5
- “de facto spouse”** of a person means a person who— 6
 - (a) has lived in a connubial relationship with the person concerned for a continuous period of at least 5 years ending at the relevant time; or 7
8
9
 - (b) within the period of 6 years ending at the relevant time, has lived in a connubial relationship with the person concerned for periods totalling at least 5 years that include a period ending at the relevant time. 10
11
12
13
- “director”** of a financial institution or corporation— 14
 - (a) includes— 15
 - (i) if the institution or corporation is incorporated for a public purpose by a law of the Commonwealth or a State, a member of the body corporate; and 16
17
18
 - (ii) any person occupying or acting in the position of director of the institution or corporation, by whatever name called and whether or not validly appointed to occupy or properly authorised to act in the position; and 19
20
21
22
 - (iii) other than as provided by paragraph (b), any person under whose directions or instructions the directors of the institution or corporation are accustomed to act; and 23
24
25
 - (b) does not include a person under whose directions or instructions the directors of the institution or corporation are accustomed to act only because the directors act on advice given by that person in the proper performance of functions attaching to the person’s professional capacity. 26
27
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29
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SCHEDULE (continued)

“drug offence” means an offence against the <i>Drug Misuse Act 1986</i> . ²¹	1
“effective control” of an interest in property includes effective control of the interest because of section 9. ²²	2 3
“encumbrance” over property includes any interest, mortgage, charge, right, claim and demand in relation to the property.	4 5
“illegal activity” means—	6
(a) a serious crime related activity; or	7
(b) an act or omission that is an offence against the law of the State or the Commonwealth; or	8 9
(c) an act or omission that happens outside Queensland, is an offence against the law of the place where it happens and is of a kind that, if it happened in Queensland, would be an offence mentioned in paragraph (b).	10 11 12 13
“illegally acquired property” means property that is illegally acquired property because of section 10. ²³	14 15
“money” means money in the form of cash.	16
“monitoring order” see section 70. ²⁴	17
“officer” means a director, secretary, executive officer or employee.	18
“owner” of an interest in property includes a person who has effective control of the interest.	19 20
“premises” includes all or part of any structure, building, aircraft, vehicle, vessel and place.	21 22
“proceeds” of an activity includes an interest in property, and any service, advantage or benefit, derived or realised, directly or indirectly, because of the activity—	23 24 25
(a) by the person engaged in the activity; and	26

21 *Drugs Misuse Act 1986*, sections 5 (Trafficking in dangerous drugs), 6 (Supplying dangerous drugs), 8 (Producing dangerous drugs) and 12 (Parties to offences committed outside Queensland)

22 Section 9 (When does a person have effective control of property)

23 Section 10 (When property is “illegally acquired property”)

24 Section 70 (Monitoring order)

SCHEDULE (continued)

(b) by another person at the direct or indirect direction or request of the person engaged in the activity.	1 2
“proceeds account” means the Confiscated Proceeds Account established under section 45. ²⁵	3 4
“proceeds assessment order” see section 39. ²⁶	5
“production order” means an order made under section 46. ²⁷	6
“property” of a person, see section 8. ²⁸	7
“property-tracking document” means—	8
(a) a document relevant to identifying, locating or quantifying—	9
(i) an interest in property of a person who might reasonably be suspected of being, or of having been, engaged in a serious crime related activity; or	10 11 12
(ii) an interest in property that might reasonably be suspected of being an interest that is serious crime derived property; or	13 14
(b) a document relevant to identifying or locating—	15
(i) a document necessary for the transfer of an interest in property of a person who might reasonably be suspected of being, or of having been, engaged in a serious crime related activity; or	16 17 18 19
(ii) a document necessary for the transfer of an interest in property that might reasonably be suspected of being an interest that is serious crime derived property.	20 21 22
“reasonably believe” means believe on grounds that are reasonable in the circumstances.	23 24
“reasonably suspect” means suspect on grounds that are reasonable in the circumstances.	25 26
“restrained property” see section 17. ²⁹	27

25 Section 45 (Establishment and use of proceeds account)
26 Section 39 (Application for proceeds assessment order)
27 Section 46 (Application for production order)
28 Section 8 (What does “property” include)
29 Section 17 (Restraining order may make other provision)

SCHEDULE (continued)

“restraining order” see section 15. ³⁰	1
“rules of court” means rules made under the <i>Supreme Court of Queensland Act 1991</i> .	2 3
“serious crime derived property” means property that is serious crime derived property because of section 12. ³¹	4 5
“serious crime related activity” of a person means anything done by the person that was, when it was done, a serious criminal offence, whether or not the person has been charged with the offence or, if charged—	6 7 8
(a) has been tried; or	9
(b) has been tried and acquitted; or	10
(c) has been convicted, even if the conviction has been quashed or set aside.	11 12
“serious criminal offence” means—	13
(a) a drug offence; or	14
(b) a prescribed indictable offence, or an indictable offence of a prescribed kind, that is of a similar nature to a drug trafficking offence, including in either case an offence against a law of the Commonwealth or another State; or	15 16 17 18
(c) an offence punishable by imprisonment for at least 5 years and involving—	19 20
(i) stealing; or	21
(ii) fraud; or	22
(iii) obtaining financial benefit from the crime of someone else; or	23 24
(iv) money laundering; or	25
(v) extortion; or	26
(vi) violence; or	27
(vii) bribery; or	28

30 Section 15 (Application for restraining order)

31 Section 12 (What is “serious crime derived property”)

SCHEDULE (continued)

(viii) corruption; or	1
(ix) harbouring escaped prisoners; or	2
(x) blackmail; or	3
(xi) obtaining or offering a secret commission; or	4
(xii) perverting the course of justice; or	5
(xiii) tax or revenue evasion; or	6
(xiv) illegal gambling; or	7
(xv) forgery; or	8
(xvi) homicide; or	9
(d) an offence against the <i>Weapons Act 1990</i> , section 65 ³² ; or	10
(e) an offence of attempting to commit, or of conspiracy to commit, an offence mentioned in paragraph (a), (b), (c) or (d).	11 12
“spouse” includes a de facto spouse.	13
“transaction” includes—	14
(a) any kind of sale, disposition, dealing or acquisition; and	15
(b) a transaction happening outside Queensland.	16

32 *Weapons Act 1990*, section 65 (Unlawful trafficking in weapons)