

Version No. 001
Confiscation Regulations 2008

S.R. No. 57/2008

Version as at 22 June 2008

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PART 1—PRELIMINARY

1 Objectives

The objectives of these Regulations are—

- (a) to prescribe certain persons to exercise certain powers or perform certain functions under the **Confiscation Act 1997**; and
- (b) to declare corresponding laws, interstate forfeiture orders, interstate pecuniary penalty orders and interstate restraining orders for the purposes of the **Confiscation Act 1997**; and
- (c) to prescribe particulars of a restraining order to be recorded by a registration authority; and
- (d) to prescribe property which may be the subject of a disposal order; and
- (e) to prescribe forms of search warrant and certain other forms.

2 Authorising provision

These Regulations are made under section 146 of the **Confiscation Act 1997**.

3 Commencement

These Regulations come into operation on 22 June 2008.

4 Revocation

The Confiscation Regulations 1998¹, the Confiscation (Amendment) Regulations 2002², the Confiscation (Amendment) Regulations 2004³, the Confiscation (Further Amendment) Regulations 2004⁴ and the Confiscation (Amendment) Regulations 2007⁵ are **revoked**.

5 Definitions

(1) In these Regulations—

Infringement Management and Enforcement

Services means the Infringement Management and Enforcement Services business unit in the Department of Justice of Victoria;

the Act means the **Confiscation Act 1997**.

(2) A reference in these Regulations to an order under an Act of another State or of a Territory includes a reference to—

- (a) an order varying that order; and
 - (b) an order setting aside that order.
-

PART 2—PRESCRIBED FORMS

6 Notice requiring declaration of property interests

The prescribed form of a notice requiring a declaration of property interests under section 19A of the Act is the form set out in Schedule 1.

7 Freezing order

The prescribed form of a freezing order under section 31F of the Act is the form set out in Schedule 2.

8 Notice to accompany copy of freezing order

The prescribed form of a notice to accompany a copy of a freezing order under section 31G(1) of the Act is the form set out in Schedule 3.

9 Notice of freezing order

The prescribed form of a notice of freezing order under section 31G(2) of the Act is the form set out in Schedule 4.

10 Secretary's certificate of responsibility and power

The prescribed form of a Secretary's certificate of responsibility and power under section 78B of the Act is the form set out in Schedule 5.

11 Search warrant

The prescribed form of a search warrant issued under section 79 of the Act is the form set out in Schedule 6.

12 Seizure warrant

The prescribed form of a seizure warrant issued under section 79A of the Act is the form set out in Schedule 7.

13 Notice to occupier

An occupier's notice under section 83 of the Act may be in the form set out in Schedule 8.

14 Notice of execution of seizure warrant

The prescribed form of a notice of execution of seizure warrant under section 88A of the Act is the form set out in Schedule 9.

15 Report on execution of warrant

A report on execution of a warrant under section 89(1) of the Act may be in the form set out in Schedule 10.

16 Embargo notice

The prescribed form of embargo notice issued under section 93 of the Act is the form set out in Schedule 11.

17 Notice of property retention declaration

The prescribed form of a notice of property retention declaration under section 95D of the Act is the form set out in Schedule 12.

18 Search and inspection warrant

The prescribed form of a search and inspection warrant issued under section 97B of the Act is the form set out in Schedule 13.

19 Report on execution of search and inspection warrant

The prescribed form of a report on execution of a search and inspection warrant under section 97I of the Act is the form set out in Schedule 14.

20 Search and seizure warrant

The prescribed form of a search and seizure warrant issued under section 97N of the Act is the form set out in Schedule 15.

21 Report on execution of search and seizure warrant

The prescribed form of a report on execution of a search and seizure warrant under section 97U of the Act is the form set out in Schedule 16.

22 Search warrant for property-tracking documents

The prescribed form of search warrant for property-tracking documents issued under section 110 of the Act is the form set out in Schedule 17.

23 Information notice

The prescribed form of an information notice under section 118H of the Act is the form set out in Schedule 18.

24 Document request

The prescribed form of a document request under section 120B of the Act is the form set out in Schedule 19.

PART 3—GENERAL

25 Appropriate officer

- (1) For the purposes of paragraph (b) of the definition of *appropriate officer* in section 3(1) of the Act, the following applications and classes of applications are prescribed—
- (a) applications for the fixing of a period longer than 6 months for the purposes of the definition of *relevant period* in section 3(1) of the Act;
 - (b) applications under any of the following provisions of the Act—
 - (i) section 16(1)(b);
 - (ii) section 32(1);
 - (iii) section 58(2);
 - (iv) section 70(1);
 - (v) section 77(1);
 - (vi) section 97(3) for the purposes of section 97(4)(a);
 - (vii) section 131(3) for the purposes of section 131(4).
- (2) For the purposes of paragraph (b) of the definition of *appropriate officer* in section 3(1) of the Act, the following persons and classes of persons are prescribed—
- (a) the Secretary to the Department of Sustainability and Environment, being the body corporate established by Part 2 of the **Conservation, Forests and Lands Act 1987**;
 - (b) the Secretary to the Department of Primary Industries;
-

-
- (c) authorised officers within the meaning of the **Fisheries Act 1995**;
 - (d) the Victorian Commission for Gambling Regulation established by the **Gambling Regulation Act 2003**.

26 Corresponding law

For the purposes of the definition of *corresponding law* in section 3(1) of the Act, each of the following laws is declared to be a law that corresponds to the Act—

- (a) the Proceeds of Crime Act 1987 of the Commonwealth;
- (b) the Proceeds of Crime Act 2002 of the Commonwealth;
- (c) the Proceeds of Crime Act 1991 of the Australian Capital Territory;
- (d) the Confiscation of Criminal Assets Act 2003 of the Australian Capital Territory;
- (e) the Confiscation of Proceeds of Crime Act 1989 of New South Wales;
- (f) the Criminal Assets Recovery Act 1990 of New South Wales;
- (g) the Criminal Property Forfeiture Act 2002 of the Northern Territory;
- (h) the Criminal Proceeds Confiscation Act 2002 of Queensland;
- (i) the Criminal Assets Confiscation Act 1996 of South Australia;
- (j) the Criminal Assets Confiscation Act 2005 of South Australia;
- (k) the Crime (Confiscation of Profits) Act 1993 of Tasmania;

-
- (l) the Crimes (Confiscation of Profits) Act 1988 of Western Australia;
 - (m) the Criminal Property Confiscation Act 2000 of Western Australia.

27 Interstate forfeiture order

The following kinds of orders are declared to be within the definition of *interstate forfeiture order* in section 3(1) of the Act—

- (a) orders under section 19 of the Proceeds of Crime Act 1987 of the Commonwealth;
 - (b) orders under section 47, 48 or 49 of the Proceeds of Crime Act 2002 of the Commonwealth;
 - (c) orders under section 19 of the Proceeds of Crime Act 1991 of the Australian Capital Territory;
 - (d) orders under section 54, 59, 60, 67 or 250 of the Confiscation of Criminal Assets Act 2003 of the Australian Capital Territory;
 - (e) orders under section 18 of the Confiscation of Proceeds of Crime Act 1989 of New South Wales;
 - (f) orders under section 22 of the Criminal Assets Recovery Act 1990 of New South Wales;
 - (g) orders under section 94, 96, 97, 99, 100 or 101 of the Criminal Property Forfeiture Act 2002 of the Northern Territory;
 - (h) orders under section 58 or 151 of the Criminal Proceeds Confiscation Act 2002 of Queensland;
 - (i) orders under section 8 of the Criminal Assets Confiscation Act 1996 of South Australia;
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- (j) orders under section 47 of the Criminal Assets Confiscation Act 2005 of South Australia;
 - (k) orders under section 16 of the Crime (Confiscation of Profits) Act 1993 of Tasmania;
 - (l) orders under section 10 of the Crimes (Confiscation of Profits) Act 1988 of Western Australia;
 - (m) orders under section 22, 28 or 30 of the Criminal Property Confiscation Act 2000 of Western Australia.

28 Interstate pecuniary penalty order

The following kinds of orders are declared to be within the definition of *interstate pecuniary penalty order* in section 3(1) of the Act—

- (a) orders under section 26 of the Proceeds of Crime Act 1987 of the Commonwealth;
- (b) orders under section 116 or 152 of the Proceeds of Crime Act 2002 of the Commonwealth;
- (c) orders under section 25 of the Proceeds of Crime Act 1991 of the Australian Capital Territory;
- (d) orders under section 84, 85 or 250 of the Confiscation of Criminal Assets Act 2003 of the Australian Capital Territory;
- (e) orders under section 24 of the Confiscation of Proceeds of Crime Act 1989 of New South Wales;
- (f) orders under section 27 of the Criminal Assets Recovery Act 1990 of New South Wales;

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- (g) orders under section 78, 184 or 202 of the Criminal Proceeds Confiscation Act 2002 of Queensland;
 - (h) orders under section 9 of the Criminal Assets Confiscation Act 1996 of South Australia;
 - (i) orders under section 95 of the Criminal Assets Confiscation Act 2005 of South Australia;
 - (j) orders under section 21 of the Crime (Confiscation of Profits) Act 1993 of Tasmania;
 - (k) orders under section 15 of the Crimes (Confiscation of Profits) Act 1988 of Western Australia;
 - (l) orders under section 12, 16, 17 or 22 of the Criminal Property Confiscation Act 2000 of Western Australia.

29 Interstate restraining order

The following kinds of orders are declared to be within the definition of *interstate restraining order* in section 3(1) of the Act—

- (a) orders under section 43 or 44 of the Proceeds of Crime Act 1987 of the Commonwealth;
 - (b) orders under section 17, 18, 19 or 20 of the Proceeds of Crime Act 2002 of the Commonwealth;
 - (c) orders under section 45 of the Proceeds of Crime Act 1991 of the Australian Capital Territory;
 - (d) orders under section 30, 31 or 39 of the Confiscation of Criminal Assets Act 2003 of the Australian Capital Territory;
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- (e) orders under section 43 of the Confiscation of Proceeds of Crime Act 1989 of New South Wales;
 - (f) orders under section 10 of the Criminal Assets Recovery Act 1990 of New South Wales;
 - (g) orders under section 40, 43 or 44 of the Criminal Property Forfeiture Act 2002 of the Northern Territory;
 - (h) orders under section 31, 37, 122, 129 or 208 of the Criminal Proceeds Confiscation Act 2002 of Queensland;
 - (i) orders under section 15 of the Criminal Assets Confiscation Act 1996 of South Australia;
 - (j) orders under section 24 of the Criminal Assets Confiscation Act 2005 of South Australia;
 - (k) orders under section 26 of the Crime (Confiscation of Profits) Act 1993 of Tasmania;
 - (l) orders under section 20 of the Crimes (Confiscation of Profits) Act 1998 of Western Australia;
 - (m) orders under section 34 or 43 of the Criminal Property Confiscation Act 2000 of Western Australia.

30 Law enforcement agency

- (1) For the purposes of the definition of *law enforcement agency* in section 3(1) of the Act, the following authorities and persons are prescribed—
 - (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;

-
- (b) the Assistant Director, Enforcement, Asset Confiscation Operations, Infringement Management and Enforcement Services;
 - (c) a person employed in Asset Confiscation Operations, Infringement Management and Enforcement Services in the administration of the Act;
 - (d) the Secretary to the Department of Sustainability and Environment, being the body corporate established by Part 2 of the **Conservation, Forests and Lands Act 1987**;
 - (e) the Secretary to the Department of Primary Industries of Victoria;
 - (f) authorised officers within the meaning of the **Fisheries Act 1995**;
 - (g) the Victorian Commission for Gambling Regulation established by the **Gambling Regulation Act 2003**.
- (2) In relation to section 119A of the Act, in addition to the authorities and persons prescribed by subregulation (1), for the purposes of the definition of *law enforcement agency* in section 3(1) of the Act, the following persons are prescribed—
- (a) the Minister;
 - (b) the Secretary;
 - (c) the Executive Director, Legal and Equity, Department of Justice of Victoria.

31 Application for restraining order

For the purposes of section 16(2) of the Act, the following persons are prescribed—

-
- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
 - (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

32 Further orders

For the purposes of section 26(2)(da) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

33 Particulars of restraining order to be recorded on register

The prescribed particulars to be recorded under section 28(1) of the Act are—

- (a) the name of the applicant;
- (b) the name of the court by which the order was made;
- (c) the date of the order;
- (d) a description of the affected property that is sufficient to identify it.

34 Application for civil forfeiture

For the purposes of section 37(1) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;

-
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

35 Effect of forfeiture

For the purposes of sections 41(3)(c) and 41(4) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

36 Power to discharge mortgage or charge

For the purposes of section 42(1)(a) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

37 Disposal of forfeited property

For the purposes of sections 44(1), 44(4) and 44(6) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

38 Application to Minister for return of property

For the purposes of section 55(8) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

39 Buying back interest in forfeited property

For the purposes of section 56(5) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

40 Buying out other interests in forfeited property

For the purposes of section 57(5) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

41 Application for pecuniary penalty order

For the purposes of section 63(1) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;

- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

42 Assessment of benefits in relation to civil forfeiture offences

For the purposes of section 68(1) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

43 Declaration that property available to satisfy pecuniary penalty order

For the purposes of section 70(1) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

44 Particulars of declaration under section 70(1) to be recorded on register

The prescribed particulars to be recorded under section 72(7) of the Act are—

- (a) a description of the affected property that is sufficient to identify it;
- (b) the name of the registered owner of the property;
- (c) the date on which the declaration was made;

-
- (d) the name of the court by which the declaration was made;
 - (e) the name of the defendant;
 - (f) the name of any other person to whom notice of the application for the declaration was given under section 70(3) of the Act.

45 Disposal of property obtained to satisfy pecuniary penalty order

For the purposes of sections 73(1), 73(4) and 73(6) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

46 Trustees

For the purposes of sections 76(1) and 76(7) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

47 Disposal order

For the purposes of section 77(1) of the Act, the following property is prescribed—

- (a) a dangerous article within the meaning of the **Control of Weapons Act 1990**;
- (b) a controlled weapon within the meaning of the **Control of Weapons Act 1990**;

- (c) a prohibited weapon within the meaning of the **Control of Weapons Act 1990**;
- (d) any article of clothing or of disguise;
- (e) any document.

48 Disposal of livestock or perishable property

For the purposes of section 96 of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

49 Return of property seized under a warrant

(1) For the purposes of sections 97(1) and 97(2) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

(2) For the purposes of section 97(3A) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

(3) For the purposes of section 97(4)(a) of the Act, the following persons are prescribed—

-
- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
 - (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

50 Application for search and inspection warrant

For the purposes of section 97A(1) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

51 Application for search and seizure warrant

For the purposes of section 97M(1) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

52 Order for examination

For the purposes of section 98(1) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

53 Monitoring order

For the purposes of section 118(2) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

54 Information notice

For the purposes of section 118C(b) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

55 Registration of interstate orders

For the purposes of section 125(1) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

56 Appeals

For the purposes of section 142(5) of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;

-
- (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.

57 Delegation

For the purposes of section 143A of the Act, the following persons are prescribed—

- (a) the Director Policy & Strategic Services, Infringement Management and Enforcement Services;
 - (b) the Assistant Director, Asset Confiscation Operations, Infringement Management and Enforcement Services.
-

SCHEDULES

SCHEDULE 1

Regulation 6

NOTICE REQUIRING DECLARATION OF PROPERTY INTERESTS Section 19A

IMPORTANT: DO NOT IGNORE THIS DOCUMENT

As soon as you get this notice you should get legal advice to help you understand the notice and your obligations under the notice. Contact your lawyer or a community legal centre for advice.

(Information to the effect of the above advice to be printed in the English, Arabic, Cambodian, Chinese, Croatian, Greek, Italian, Macedonian, Polish, Serbian, Spanish, Turkish and Vietnamese languages.)

To: *(insert name and address)*

WHY YOU HAVE RECEIVED THIS NOTICE

A court has made a restraining order in respect of certain property under the **Confiscation Act 1997**. A copy of the restraining order should be attached to this notice. The restraining order describes the property that has been restrained.

You have received this notice because the person who applied for the restraining order believes that you have an interest in some or all of the property described in the restraining order.

WHAT YOU MUST DO

You must make a declaration in writing. You may use the attached form to make your declaration.

The declaration must state—

- whether or not you have an interest in the property described in the restraining order; and
- whether or not you believe that any other person has an interest in the property described in the restraining order.

If you believe that any other person has an interest in the property described in the restraining order, you must state the name of every such person in the declaration.

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Sch. 1

You must give the declaration to a member of the police force within **14 days** after you were given this notice.

An interest in property includes a right, power or privilege over the property.

Address for delivery of
declaration:

WARNING

If you fail, without reasonable excuse, to make a declaration and give the declaration to a member of the police force within 14 days, you may be charged with a criminal offence and prosecuted under section 19C(1) of the **Confiscation Act 1997**. If you make a false or misleading statement in your declaration, you may be charged and prosecuted under section 19C(2) of the **Confiscation Act 1997**. If you are found guilty of either of these offences, you may be liable to a maximum penalty of 60 penalty units.

A statement made by you in a declaration of property interests is admissible against you in a proceeding for making a false or misleading statement in the declaration or in any proceeding under the **Confiscation Act 1997**, but is not otherwise admissible in evidence against you.

Sch. 1

ATTACHED FORM OF DECLARATION OF PROPERTY INTERESTS

I (*insert full name*)

of (*address*)

declare that—

- I have an interest in property described in the restraining order which I have been given; or
- I do not have an interest in property described in the restraining order which I have been given;

and

- I believe that the person named below has an interest in the property described in the restraining order which I have been given; or
- I do not believe that any other person has an interest in the property described in the restraining order which I have been given.

Name of person(s) with an interest in restrained property—

(*insert name(s)*)

Signature

*Signature of witness**

Date

**Declaration may be witnessed
by any adult.*

SCHEDULE 2

Regulation 7

FREEZING ORDER

Section 31F

Court Ref.

A freezing order under Part 2A of the **Confiscation Act 1997** was made
at am/pm on / / by Magistrate.

Name of financial institution with which account is held

Number or description of account to be frozen

Conditions, if any, to which order is subject

This freezing order is issued to—

Name, Rank, No.

Address

being *a member of the police force/*a member of a class of member of the
police force, authorised under section 31B of the **Confiscation Act 1997** for
the purposes of applying for a freezing order.

The application for the freezing order was made
*in writing/*by telephone/*by facsimile.

An affidavit in support of the application for the freezing order was
*provided/*not provided.

The freezing order was *transmitted/*not transmitted by facsimile machine.

**Delete whichever is inapplicable.*

A freezing order is a court order that a financial institution must not allow a
person to make withdrawals from a specified account held with that
institution, except in the manner and circumstances specified in the freezing
order.

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Sch. 2

If the application for a freezing order has been made before an affidavit is prepared or sworn, the applicant for the freezing order must, not later than the day following the making of the application, send a duly sworn affidavit to the venue of the Magistrates' Court that determined the application, irrespective of whether a freezing order has been made (section 31D(4) of the **Confiscation Act 1997**).

If the Magistrates' Court provides the applicant with a copy of the freezing order in writing or by facsimile at the time the order is made, a member of the police force must, not more than 72 hours after a freezing order was made, give to the financial institution specified above a copy of the freezing order and a notice in the prescribed form specifying the matters set out in section 31G(1)(b) of the **Confiscation Act 1997**.

If the Magistrates' Court does not provide the applicant with a copy of the freezing order in writing or by facsimile at the time the order is made, a member of the police force must, not more than 72 hours after the freezing order was made, give to the financial institution specified above a notice in the prescribed form specifying the matters set out in section 31G(2) of the **Confiscation Act 1997**.

SCHEDULE 3

Regulation 8

NOTICE TO ACCOMPANY COPY OF FREEZING ORDER

Section 31G(1)

To (*insert name of financial institution*)

of (*insert address of financial institution*)

A copy of a freezing order should be given to you with this notice.

You must not allow a person to make withdrawals from the account specified in the freezing order, except in the manner and circumstances specified in the freezing order.

The freezing order takes effect at the time that this notice is given to you. The freezing order lasts for 72 hours unless you are otherwise advised by a member of the police force that the order has ceased to have effect or has been extended by court order.

IMPORTANT

A financial institution that has been given notice of a freezing order must not, without reasonable excuse, fail to comply with the order. This is a summary offence. The maximum penalty for this offence is a fine of 1200 penalty units (section 31K(1) of the **Confiscation Act 1997**).

While a freezing order is in force, a financial institution that has been given notice of the order must not disclose the existence or operation of the order to any person except—

- (a) a member of the police force; or
- (b) an officer or agent of the financial institution, for the purpose of ensuring that the freezing order is complied with; or
- (c) a legal practitioner acting for the financial institution, for the purpose of obtaining legal advice or representation in relation to the freezing order; or
- (d) a person in whose name the account is held or who has an interest in the account in respect of which the freezing order is made.

This is a summary offence. The maximum penalty for this offence is a fine of 1200 penalty units (section 31L(1) of the **Confiscation Act 1997**).

Sch. 3

While a freezing order is in force, a member of the police force to whom the existence or operation of the freezing order is disclosed must not disclose the existence or operation of the freezing order to any person except to another member of the police force for the purpose of the performance of the member's duties. This obligation applies for such time as the first-mentioned member of the police force continues to be a member of the police force. When the first-mentioned member of the police force is no longer a member of the police force, he or she must not make a record of, or disclose, the existence or operation of the freezing order in any circumstances.

While a freezing order is in force, an officer or agent of the financial institution to whom the existence or operation of the freezing order is disclosed, must not disclose the existence or operation of the freezing order to any person except to another officer or agent of the financial institution for the purpose of ensuring that the freezing order is complied with or obtaining legal advice or representation in relation to the freezing order. This obligation applies for such time as the first-mentioned officer or agent of the financial institution continues to be an officer or agent of the financial institution. When the first-mentioned officer or agent of the financial institution is no longer an officer or agent of the financial institution, he or she must not make a record of, or disclose, the existence or operation of the freezing order in any circumstances.

While a freezing order is in force, a legal practitioner acting for the financial institution to whom the existence or operation of the freezing order is disclosed, must not disclose the existence or operation of the freezing order to any person except to another legal practitioner for the purpose of giving legal advice or providing legal representation in relation to the freezing order. This obligation applies for such time as the first-mentioned legal practitioner continues to be a legal practitioner acting for the financial institution. When the first-mentioned legal practitioner is no longer a legal practitioner acting for the financial institution, he or she must not make a record of, or disclose, the existence or operation of the freezing order in any circumstances.

Failure to comply with these obligations constitutes an offence.

The maximum penalty for this offence is 2 years imprisonment or a fine of 240 penalty units or both (section 31L(2) of the **Confiscation Act 1997**).

However, the obligations described above do not prevent a person disclosing the existence or operation of a freezing order for the purposes of, or in connection with, legal proceedings or in the course of proceedings before a court. While a freezing order is in force, a member of the police force must not be required to disclose to any court the existence or operation of the freezing order.

A member of the police force may disclose the existence or operation of a freezing order for the purposes of a report to the Minister under section 139A(1) of the **Confiscation Act 1997**.

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Sch. 3

A reference in this notice to disclosing the existence or operation of a freezing 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 freezing order.

Sch. 4

SCHEDULE 4

Regulation 9

NOTICE OF FREEZING ORDER

Section 31G(2)

To (*insert name of financial institution*)

of (*insert address of financial institution*)

A freezing order under Part 2A of the **Confiscation Act 1997** was made
at am/pm on / / by Magistrate.

You must not allow a person to make withdrawals from the account specified
below except in the manner and circumstances specified below.

Number or description of account to be frozen

--

Conditions, if any, to which order is subject

--

The freezing order takes effect at the time that this notice is given to you.
The freezing order lasts for 72 hours unless you are otherwise advised by a
member of the police force that the order has ceased to have effect or has
been extended by court order.

IMPORTANT

A financial institution that has been given notice of a freezing order must not,
without reasonable excuse, fail to comply with the order. This is a summary
offence. The maximum penalty for this offence is a fine of 1200 penalty
units (section 31K(1) of the **Confiscation Act 1997**).

While a freezing order is in force, a financial institution that has been given
notice of the order must not disclose the existence or operation of the order to
any person except—

- (a) a member of the police force; or
- (b) an officer or agent of the financial institution, for the purpose of
ensuring that the freezing order is complied with; or
- (c) a legal practitioner acting for the financial institution, for the purpose
of obtaining legal advice or representation in relation to the freezing
order; or
- (d) a person in whose name the account is held or who has an interest in
the account in respect of which the freezing order is made.

This is a summary offence. The maximum penalty for this offence is a fine of 1200 penalty units (section 31L(1) of the **Confiscation Act 1997**).

While a freezing order is in force, a member of the police force to whom the existence or operation of the freezing order is disclosed must not disclose the existence or operation of the freezing order to any person except to another member of the police force for the purpose of the performance of the member's duties. This obligation applies for such time as the first-mentioned member of the police force continues to be a member of the police force. When the first-mentioned member of the police force is no longer a member of the police force, he or she must not make a record of, or disclose, the existence or operation of the freezing order in any circumstances.

While a freezing order is in force, an officer or agent of the financial institution to whom the existence or operation of the freezing order is disclosed must not disclose the existence or operation of the freezing order to any person except to another officer or agent of the financial institution for the purpose of ensuring that the freezing order is complied with or obtaining legal advice or representation in relation to the freezing order. This obligation applies for such time as the first-mentioned officer or agent of the financial institution continues to be an officer or agent of the financial institution. When the first-mentioned officer or agent of the financial institution is no longer an officer or agent of the financial institution, he or she must not make a record of, or disclose, the existence or operation of the freezing order in any circumstances.

While a freezing order is in force, a legal practitioner acting for the financial institution to whom the existence or operation of the freezing order is disclosed must not disclose the existence or operation of the freezing order to any person except to another legal practitioner for the purpose of giving legal advice or providing legal representation in relation to the freezing order. This obligation applies for such time as the first-mentioned legal practitioner continues to be a legal practitioner acting for the financial institution. When the first-mentioned legal practitioner is no longer a legal practitioner acting for the financial institution, he or she must not make a record of, or disclose, the existence or operation of the freezing order in any circumstances.

Failure to comply with these obligations constitutes an offence. The maximum penalty for this offence is 2 years imprisonment or a fine of 240 penalty units or both (section 31L(2) of the **Confiscation Act 1997**).

However, the obligations described above do not prevent a person disclosing the existence or operation of a freezing order for the purposes of, or in connection with, legal proceedings, or in the course of proceedings before a court. While a freezing order is in force, a member of the police force must not be required to disclose to any court the existence or operation of the freezing order.

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Sch. 4

A member of the police force may disclose the existence or operation of a freezing order for the purposes of a report to the Minister under section 139A(1) of the **Confiscation Act 1997**.

A reference in this notice to disclosing the existence or operation of a freezing 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 freezing order.

SCHEDULE 5

Regulation 10

**SECRETARY'S CERTIFICATE OF RESPONSIBILITY AND
POWER**

Section 78B

Pursuant to section 78B of the **Confiscation Act 1997**, I, *(insert name)*,
Secretary to the Department of Justice, certify that I have responsibility for,
and power in relation to, the property described below by virtue of a
memorandum of understanding entered into with a law enforcement agency
under section 78A of that Act.

Description of property

--

The details of the memorandum of understanding are as follows—

Law enforcement agency

Date entered into

*Specified property or class of property
to which the memorandum of
understanding relevantly refers

*Specified person who has an interest in
property or against whom an order or
declaration is made under the
Confiscation Act 1997, and to whom
the memorandum of understanding
relevantly refers

**Delete whichever is inapplicable.*

Signed:

Secretary to the Department of Justice

Date:

Sch. 6

SCHEDULE 6

Regulation 11

SEARCH WARRANT

Section 79

Court Ref.

Purpose for which warrant is issued

- to search for the tainted property described below
 to search for the forfeited property described below

Description of tainted or forfeited property

Premises which may be searched for tainted or forfeited property

Number and name of street
suburb

Nature of offence in reliance on which warrant is issued

(insert statement of nature of offence)

- person charged with offence
 person likely to be charged with offence within the next 48 hours
 person convicted of offence

Reasons for issue of warrant

Reasonable grounds for believing that there—

- is
 may be within the next 72 hours—

in or on the premises described above the tainted or forfeited property described above.

This warrant is issued to—

Name, Rank, No.

Address

The application for the search warrant was made *in writing/*by telephone.

The search warrant was *transmitted/*not transmitted by facsimile machine.

This warrant authorises any member of the police force, with the aid of any assistants considered necessary, to break and enter the premises described above and to—

- search the premises described above for any tainted or forfeited property described above;
- search any person found in or on the premises described above suspected on reasonable grounds of having on his or her person any tainted or forfeited property described above—

and to seize any such property.

The power to seize property includes the power to remove the property, to guard the property in or on the premises, to make copies of the whole or part of the property and to issue an embargo notice under section 93 of the **Confiscation Act 1997** in respect of the property.

A member of the police force executing this warrant may also seize other property not of the kind described above if the member believes on reasonable grounds that the property is of a kind that could have been included in this search warrant or will afford evidence about the commission of another Schedule 1 offence and the member believes on reasonable grounds that it is necessary to seize that property in order to prevent its concealment, loss or destruction or its use in committing or continuing a Schedule 1 offence.

If reasonably necessary to do so, the person authorised to search may break open any receptacle in or on the premises for the purposes of the search.

This warrant ceases to have effect at the end of one month after its issue, or if it is recalled and cancelled by the magistrate or judge who issued it or when it is executed, whichever occurs first.

The member of the police force executing this warrant is required to produce this warrant for inspection by an occupier of, or a person who is in charge of, the premises if requested to do so. The member of the police force executing this warrant must serve the occupier's notice attached to the execution copy of this warrant on a person who appears to be an occupier of, or to be in charge of, the premises and to be aged 18 years or more. (If no such person is in attendance the attached occupier's notice must be served as soon as practicable after the execution of this warrant, unless otherwise ordered by the judicial officer issuing this warrant).

Confiscation Regulations 2008
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Sch. 6

This warrant is issued under section 79 of the **Confiscation Act 1997**.

Issued at

am/pm on / /
at

by

*Magistrate
*Judge of the County Court
*Judge of the Supreme Court

**Delete whichever is inapplicable.*

SCHEDULE 7

Regulation 12

SEIZURE WARRANT

Section 79A

Court Ref.

Purpose for which warrant is issued

- to seize tainted property described below
 to seize forfeited property described below

Description of tainted or forfeited property

Description of public place from which tainted or forfeited property may be seized

Nature of offence in reliance on which warrant is issued

(insert statement of nature of offence)

- person charged with offence
 person likely to be charged with offence within the next 48 hours
 person convicted of offence

Reasons for issue of warrant

Reasonable grounds for believing that there—

- is
 may be within the next 72 hours—

at the public place described above the tainted or forfeited property described above

Confiscation Regulations 2008
S.R. No. 57/2008

Sch. 7

This warrant is issued to—

Name, Rank, No.

Address

The application for the seizure warrant was made *in writing/*by telephone.

The seizure warrant was *transmitted/*not transmitted by facsimile machine.

This warrant authorises any member of the police force, with the aid of any assistants considered necessary, to seize the tainted or forfeited property described above. Nothing in this warrant authorises the seizure of any property not specified in the warrant, the arrest of any person, or the entry of any premises to seize property.

This warrant ceases to have effect at the end of one month after its issue, or if it is recalled and cancelled by the magistrate or judge who issued it, or when it is executed, whichever occurs first.

The member of the police force executing this warrant is required to produce this warrant for inspection by any person present during the execution of the warrant, if that person has an interest in the property being seized or is in charge of the property being seized.

The applicant for this warrant must give notice of the execution of the warrant to all persons known to have an interest in the property seized under the warrant as soon as practicable, but not more than 7 days after execution.

This warrant is issued under section 79A of the **Confiscation Act 1997**.

Issued at

am/pm on / /
at

by

*Magistrate
*Judge of the County Court
*Judge of the Supreme Court

**Delete whichever is inapplicable.*

SCHEDULE 8

Regulation 13

NOTICE TO OCCUPIER

Section 83

A search warrant authorised by Part 11 of the **Confiscation Act 1997** was

issued at

am/pm on / /

by

*Magistrate

at

*Judge of the County Court

*Judge of the Supreme Court

**Delete whichever is inapplicable.*

Purpose for which warrant was issued

- to search for the tainted property described below
- to search for the forfeited property described below

Description of tainted or forfeited property

--

Premises which may be searched for tainted or forfeited property

Number and name of street
suburb

Nature of offence in reliance on which warrant was issued

(Insert statement of nature of offence)

- person charged with offence
- person likely to be charged with offence within the next 48 hours
- person convicted of offence

The warrant was issued to

Name, Rank, No.

Address

Sch. 8

The warrant authorises any member of the police force with the aid of any assistants considered necessary to break and enter the premises described above and to—

- search the premises described above for any tainted or forfeited property described above;
- search any person found in or on the premises described above suspected on reasonable grounds of having on his or her person any tainted or forfeited property described above—

and to seize any such property.

The power to seize property includes the power to remove the property, to guard the property in or on the premises, to make copies of the whole or part of the property and to issue an embargo notice under section 93 of the **Confiscation Act 1997** in respect of the property.

A member of the police force executing the warrant may also seize other property not of the kind described above if the member believes on reasonable grounds that the property is of a kind that could have been included in this search warrant or will afford evidence about the commission of another Schedule 1 offence and the member believes on reasonable grounds that it is necessary to seize that property in order to prevent its concealment, loss or destruction or its use in committing or continuing a Schedule 1 offence.

If reasonably necessary to do so, the person authorised to search may break open any receptacle in or on the premises for the purposes of the search.

Seized property may be returned in certain circumstances under section 97 of the **Confiscation Act 1997**. Victoria Police or Asset Confiscation Operations, Infringement Management and Enforcement Services in the Department of Justice may be contacted for more information.

(Insert contact details)

The warrant ceases to have effect at the end of one month after its issue, or if it is recalled and cancelled by the magistrate or judge who issued it or when it is executed, whichever occurs first.

The member of the police force executing the warrant is required to produce the warrant for inspection by an occupier of, or a person who is in charge of, the premises if requested to do so. The member of the police force executing the warrant must serve this occupier's notice on a person who appears to be an occupier of, or to be in charge of, the premises and to be aged 18 years or more. (If no such person is in attendance the occupier's notice must be served as soon as practicable after the execution of the warrant, unless otherwise ordered by the judicial officer who issued the warrant.)

SCHEDULE 9

Regulation 14

NOTICE OF EXECUTION OF SEIZURE WARRANT

Section 88A

A seizure warrant was issued under section 79A of the **Confiscation Act 1997** at—

am/pm on / / at	by	*Magistrate *Judge of the County Court *Judge of the Supreme Court
--------------------	----	--

**Delete whichever is inapplicable.*

The seizure warrant authorised any member of the police force, with the aid of any assistants considered necessary, to seize the tainted or forfeited property described below from the public place described below.

Purpose for which warrant was issued

<input type="checkbox"/> to seize tainted property described below <input type="checkbox"/> to seize forfeited property described below
--

Description of tainted or forfeited property seized

--

Description of public place from which tainted or forfeited property was seized

--

Nature of offence in reliance on which warrant was issued

<i>(insert statement of nature of offence)</i>
<input type="checkbox"/> person charged with offence <input type="checkbox"/> person likely to be charged with offence within the next 48 hours <input type="checkbox"/> person convicted of offence

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Sch. 9

The seizure warrant was executed at _____ am/pm on _____ by—

Name, Rank, No.

Address

Seized property may be returned in certain circumstances under section 97 of the **Confiscation Act 1997**. Victoria Police or Asset Confiscation Operations, Infringement Management and Enforcement Services in the Department of Justice may be contacted for more information.

(Insert contact details.)

The member of the police force who executed the seizure warrant was required to produce the warrant for inspection by any person present during the execution of the warrant, if that person had an interest in the property being seized or was in charge of the property being seized.

SCHEDULE 10

Regulation 15

REPORT ON EXECUTION OF WARRANT

Section 89(1)

To the issuing Judge/Magistrate

I, *(complete Name, Rank, No. and Address)*
being the person to whom the *search warrant/*seizure warrant (a copy of
which is attached) was issued, report the following outcome in relation to the
warrant—

*The warrant was executed by

(complete Name, Rank, No. and Address)

at am/pm on

(set out briefly the result of the execution of the warrant)

The following items were seized *(number and describe each item)*

(If insufficient room attach extra page(s))

Are there any pages attached?

No

Yes

In the case of a search warrant, an occupier's notice

*was served on *(insert name of person served and
whether occupier of, or in charge of, premises)*

*was not served

An embargo notice *was issued in relation to the following property by

*serving a copy on *(insert name of person served)*

*affixing a copy to the property

(describe property)

*was not issued

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Sch. 10

In the case of a seizure warrant, a notice of execution of seizure warrant was
*given/*not given in accordance with section 88A.

*The warrant was not executed because

(set out briefly the reasons why the warrant was not executed)

**Delete whichever is inapplicable.*

Date:

Signature:

SCHEDULE 11

Regulation 16

EMBARGO NOTICE

Section 93

A search warrant authorised by Part 11 of the **Confiscation Act 1997** was

issued at

am/pm on / /

 by

*Magistrate
*Judge of the County Court
*Judge of the Supreme Court

**Delete whichever is inapplicable.*

Purpose for which warrant was issued

- | |
|--|
| <input type="checkbox"/> to search for the tainted property described below
<input type="checkbox"/> to search for the forfeited property described below |
|--|

Description of tainted or forfeited property

--

Premises which may be searched for tainted or forfeited property

Number and name of street suburb

Nature of offence in reliance on which warrant was issued

<i>(Insert statement of nature of offence)</i>
<input type="checkbox"/> person charged with offence
<input type="checkbox"/> person likely to be charged with offence within the next 48 hours
<input type="checkbox"/> person convicted of offence

This embargo notice is issued by

Name, Rank, No.	
Address	

Sch. 11

The search warrant authorised any member of the police force with the aid of any assistants considered necessary to break and enter the premises described above and to—

- search the premises described above for any tainted or forfeited property described above;
- search any person found in or on the premises described above suspected on reasonable grounds of having on his or her person any tainted or forfeited property described above—

and to seize any such property.

The power to seize property includes the power to remove the property, to guard the property in or on the premises, to make copies of the whole or part of the property and to issue an embargo notice under section 93 of the **Confiscation Act 1997** in respect of the property.

A member of the police force executing the warrant may also seize other property not of the kind described above if the member believes on reasonable grounds that the property is of a kind that could have been included in the search warrant or will afford evidence about the commission of another Schedule 1 offence and the member believes on reasonable grounds that it is necessary to seize that property in order to prevent its concealment, loss or destruction or its use in committing or continuing a Schedule 1 offence.

If reasonably necessary to do so, the person authorised to search may break open any receptacle in or on the premises for the purposes of the search.

An embargo notice may be issued by a member of the police force in relation to property that he or she is authorised to seize if the property cannot, or cannot readily, be physically seized and removed.

It is an offence punishable by a maximum penalty of 10 years imprisonment or a fine of 1200 penalty units or both for a person who knows that an embargo notice relates to property to—

- sell
- lease
- move without the written consent of the member of the police force who issued the embargo notice
- transfer
- otherwise deal with—

the property or any part of the property while the embargo notice is in force (section 93(3) of the **Confiscation Act 1997**).

It is a defence to a prosecution for such an offence to prove that the property was moved for the purpose of protecting and preserving it.

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Sch. 11

This embargo notice ceases to be in force 21 days after its issue unless an application for a restraining order in respect of the property to which it relates has been made within that time, in which case the notice continues in force until that application is determined.

SCHEDULE 12

Regulation 17

NOTICE OF PROPERTY RETENTION DECLARATION

Section 95D

You have received this notice because the Magistrates' Court has made a declaration under section 95C of the **Confiscation Act 1997**.

The declaration was made at—

 am/pm on / / at by Magistrate

The applicant for the declaration was—

Name, Rank, No.

Address

The declaration relates to property in which you have an interest, which has been seized by a member of the police force under a warrant issued under—

- section 465 of the **Crimes Act 1958**
- section 81 of the **Drugs, Poisons and Controlled Substances Act 1981**

The effect of the declaration is that the property described below is being held or retained by police under the **Confiscation Act 1997** as if it were tainted property seized under a warrant under section 79 of that Act.

Property to which the declaration applies

(insert description of property)

Seized property may be returned to you in certain circumstances under section 97 of the **Confiscation Act 1997**.

Victoria Police or Asset Confiscation Operations, Infringement Management and Enforcement Services in the Department of Justice may be contacted for more information at *(insert contact details)*.

The member of the police force who applied for the declaration must give notice of the declaration to all persons known to have an interest in the property. Notice must be given within 7 days after the declaration has been made (section 95D of the **Confiscation Act 1997**).

SCHEDULE 13

Regulation 18

SEARCH AND INSPECTION WARRANT

Section 97B

Court Ref.

Purpose for which warrant is issued

- to search for and inspect the restrained property described below
- to search for and inspect the property described below to which an embargo notice relates
- to search for and inspect the forfeited property described below

Description of restrained, embargoed or forfeited property which may be inspected

Premises which may be entered to search for restrained, embargoed or forfeited property

Number and name of street
suburb
or other description of premises

Reasons for issue of warrant

Reasonable grounds for believing that it is necessary to inspect the property described above for the purposes of maintaining it, and that the property (other than real property)—

- is
 - may be within the next 72 hours—
- in or on the premises described above.

Confiscation Regulations 2008
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Sch. 13

This warrant is issued to the following person(s)

Name

Address

being a *prescribed person/*a person who belongs to a prescribed class of persons for the purposes of section 97A of the **Confiscation Act 1997**.

**Delete whichever is inapplicable.*

This warrant authorises the person(s) named above, with the aid of any assistants considered reasonably necessary to achieve the purpose for which the warrant was issued, to—

- enter the premises described above
- search for and inspect the property described above
- break open any receptacle in or on the premises described above for the purposes of the search and inspection of the property described above, if it is reasonably necessary to do so
- photograph or record by other means the property described above
- make an inventory of the property described above.
- This warrant also authorises the sheriff or a person directed by the sheriff to break and enter the premises described above.

Nothing in this warrant authorises the seizure of property or the arrest of a person.

This warrant ceases to have effect if it is recalled and cancelled by the magistrate who issued it. If it is not recalled and cancelled, this warrant ceases to have effect at the end of one month after its issue or when it is executed, whichever occurs first.

The person who executes this warrant must announce that he or she is authorised by the warrant to enter the premises and must give any person at the premises an opportunity to allow entry to the premises before force is used to enter.

If the occupier is present at the premises where this warrant is being executed, the person executing the warrant must identify himself or herself to the occupier and give the occupier a copy of the warrant. If the occupier is not present at the premises where this warrant is being executed, the person executing the warrant must identify himself or herself to any other person at the premises and give that person a copy of the warrant.

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Sch. 13

If the person who executes this warrant believes that no person is present at the premises or has given a copy of the warrant to a person at the premises other than the occupier, the person who executes the warrant must give the occupier a copy of the warrant as soon as practicable, but not more than 7 days after the warrant is executed.

The person who executes this warrant must, within a reasonable time after execution, give any person with an interest in the property inspected a copy of any inventory made of the property and a written notice stating that the person may request a copy of any photograph or other record made of the property.

This warrant is issued under section 97B of the **Confiscation Act 1997**.

Issued at am/pm on / / at by Magistrate.

SCHEDULE 14

Regulation 19

**REPORT ON EXECUTION OF SEARCH AND INSPECTION
WARRANT**

Section 97I

To the registrar of the Magistrates' Court

I, *(insert name and address)*
being the person to whom this search and inspection warrant (a copy of
which is attached) was issued, report the following outcome in relation to the
warrant—

*The warrant was executed by *(insert name and address)*

at _____ am/pm on _____

(set out briefly the result of the execution of the warrant)

The following property was inspected—

(insert brief description of each item of property inspected)

(If insufficient room, attach extra page(s))

Are there any pages attached?

Yes

No

A copy of the warrant

*was given to the occupier

*was given to a person at the premises other than the occupier

*was not given to the occupier or any other person at the premises
because—

(set out reasons why copy of warrant not given)

An inventory of the property inspected

*was not made

*was made and a copy of the inventory was given to each person
with an interest in the property

*was made and a copy of the inventory was not given to each person
with an interest in the property because—

(set out reasons why copy of inventory not given)

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Sch. 14

Written notice under section 97J(1)(b) of the **Confiscation Act 1997**

*was given to each person with an interest in the property inspected

*was not given to each person with an interest in the property inspected because—

(set out reasons why written notice not given)

**Delete whichever is inapplicable.*

*The warrant was not executed because—

(set out briefly the reasons why the warrant was not executed)

Date:

Signature:

Sch. 15

SCHEDULE 15

Regulation 20

SEARCH AND SEIZURE WARRANT

Section 97N

Court Ref.

This warrant is issued for the purpose of searching for and seizing the forfeited property described below.

Description of forfeited property which may be seized

Premises which may be searched for forfeited property

Number and name of street suburb or other description of premises

Reasons for issue of warrant

Reasonable grounds for believing that the property described above— <input type="checkbox"/> is <input type="checkbox"/> may be within the next 72 hours— in or on the premises described above.

This warrant is issued to the following person(s)—

Name

Address

<input type="text"/>
<input type="text"/>

being a *prescribed person/*a person who belongs to a prescribed class of persons for the purposes of section 97M of the **Confiscation Act 1997**.

**Delete whichever is inapplicable.*

This warrant authorises the person(s) named above, with the aid of any assistants considered reasonably necessary to achieve the purpose for which the warrant was issued, to—

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Sch. 15

-
- enter the premises described above
 - break open any receptacle in or on the premises described above for the purposes of the search and seizure of the property described above, if it is reasonably necessary to do so
 - search for and seize the property described above.
 - This warrant also authorises the sheriff or a person directed by the sheriff to break and enter the premises described above.

Nothing in this warrant authorises the seizure of property not described above or the arrest of a person.

This warrant ceases to have effect if it is recalled and cancelled by the magistrate who issued it. If it is not recalled and cancelled, this warrant ceases to have effect at the end of one month after its issue or when it is executed, whichever occurs first.

The person who executes this warrant must announce that he or she is authorised by the warrant to enter the premises and must give any person at the premises an opportunity to allow entry to the premises before force is used to enter.

If the occupier is present at the premises where this warrant is being executed, the person executing the warrant must identify himself or herself to the occupier and give the occupier a copy of the warrant. If the occupier is not present at the premises where this warrant is being executed, the person executing the warrant must identify himself or herself to any other person at the premises and give that person a copy of the warrant.

If the person who executes this warrant believes that no person is present at the premises or has given a copy of the warrant to a person at the premises other than the occupier, the person who executes the warrant must give the occupier a copy of the warrant as soon as practicable, but not more than 7 days after the warrant is executed.

This warrant is issued under section 97N of the **Confiscation Act 1997**.

Issued at am/pm on / / at by Magistrate.

SCHEDULE 16

Regulation 21

**REPORT ON EXECUTION OF SEARCH AND SEIZURE
WARRANT**
Section 97U

To the registrar of the Magistrates' Court

I, *(insert name and address)*

being the person to whom this search and seizure warrant (a copy of which is attached) was issued, report the following outcome in relation to the warrant—

*The warrant was executed by
(insert name and address)

at am/pm on

(set out briefly the result of the execution of the warrant)

The following property was seized—

(insert brief description of each item of property seized)

(If insufficient room, attach extra page(s))

Are there any pages attached?

Yes

No

A copy of the warrant

*was given to the occupier

*was given to a person at the premises other than the occupier

*was not given to the occupier or any other person at the premises
because—

(set out reasons why a copy of the warrant was not given)

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*The warrant was not executed because—

(set out briefly the reasons why the warrant was not executed)

**Delete whichever is inapplicable.*

Date:

Signature:

Sch. 17

SCHEDULE 17

Regulation 22

**SEARCH WARRANT FOR PROPERTY-TRACKING
DOCUMENTS**

Section 110

Court Ref.

This warrant is issued for the purpose of searching for property-tracking document(s)

Description of property-tracking document(s)

Description of property to which property-tracking document(s) relate(s)

Premises which may be searched for property-tracking document(s)

Number and name of street
suburb

Nature of offence in reliance on which warrant is issued

- Schedule 1 offence
- Schedule 2 offence
- (Insert statement of nature of offence)*
- person convicted of offence
- reasonable grounds for believing offence committed by a person

This warrant is issued to—

*Director of Public Prosecutions for Victoria

*Member of the Police Force

Name, Rank, No.

Address

on an application made in writing.

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This warrant authorises the person to whom it is directed with the aid of any assistants and by any force that is necessary and reasonable—

- to break, enter and search the premises described above for any document of the kind described above.
- to seize any document found in the course of the search that the person executing this warrant believes, on reasonable grounds, to be a document of that kind.

The power to seize any document found in the course of the search includes the power to seize any document or thing that the person executing this warrant believes, on reasonable grounds—

- to be a property-tracking document in relation to the offence (although not of a kind described in this warrant) or in relation to another Schedule 1 offence or Schedule 2 offence;
- to be a thing that will afford evidence about the commission of a Schedule 1 offence—

and that he or she believes, on reasonable grounds, is necessary to be seized in order to prevent its concealment, loss or destruction.

This warrant ceases to have effect at the end of one month after its issue, or if it is recalled and cancelled by the magistrate or judge who issued it or when it is executed, whichever occurs first.

This warrant is authorised by Division 2 of Part 13 of the **Confiscation Act 1997**.

Issued at

am/pm on / /

by

*Magistrate

*Judge of the County Court

*Judge of the Supreme Court

**Delete whichever is inapplicable.*

Sch. 18

SCHEDULE 18

Regulation 23

INFORMATION NOTICE

Section 118H

To (*insert name of financial institution*)

of (*insert address of financial institution*)

This information notice is issued to you under—

*section 118D of the **Confiscation Act 1997** by—

Name, Rank, No.

Address

being a member of the police force of the rank of inspector or above authorised in writing by the Chief Commissioner of Police under section 118B of the **Confiscation Act 1997** to issue information notices.

*section 118E of the **Confiscation Act 1997** by—

Name

Address

--

being a person prescribed for the purposes of section 118C of the **Confiscation Act 1997** to issue information notices.

Information you are required to provide

- | |
|---|
| <input type="checkbox"/> whether an account is held in the name(s) specified below, and if so, the number and balance of that account |
| <input type="checkbox"/> the name(s) in which the account specified below is held and the balance of the account |

Name/number of account

*Name(s) in which account held

*Account number

Other details that may assist you to identify the account

--

You must provide this information in writing to—

*Victoria Police/*Asset Confiscation Operations, Infringement Management and Enforcement Services, Department of Justice, (the law enforcement agency whose member or officer issued you with this information notice) by am/pm on (being not less than 3 business days after the date on which this notice is given to you).

**Delete whichever is inapplicable.*

Date:

Signature:

IMPORTANT

Obligations of financial institution

A financial institution that has been given an information notice must not—

- (a) without reasonable excuse, fail to comply with the information notice;
or
- (b) in purported compliance with the information notice, knowingly give information that is false or misleading in a material particular.

These are summary offences. The maximum penalty for these offences is a fine of 1200 penalty units (section 118J(1) of the **Confiscation Act 1997**).

Unless and until the existence of the information notice is made known in any proceedings in open court, a financial institution that has been given an information notice must not disclose the existence of the notice to any person (including the person(s) to whom the notice relates) except—

- (a) a member of the police force, if the notice specifies Victoria Police as the law enforcement agency to which the information must be given;
or
- (b) a member, officer or employee of another authority or person specified as the law enforcement agency, if the notice specifies that authority or person as the authority to which the information must be given; or
- (c) an officer or agent of the financial institution, for the purpose of ensuring that the notice is complied with; or
- (d) a legal practitioner acting for the financial institution, for the purpose of obtaining legal advice or representation in relation to the notice.

This is a summary offence. The maximum penalty for this offence is a fine of 1200 penalty units (section 118K(1) of the **Confiscation Act 1997**).

Obligations of people to whom existence of information notice is disclosed

A person to whom the existence of an information notice is disclosed in accordance with the above must not disclose the existence of the notice to any person other than in the circumstances described below.

A member of the police force or a member, officer or employee of another law enforcement agency may disclose the existence of the notice to another person of that kind for the purpose of the performance of his or her duties.

An officer or agent of the financial institution may disclose the existence of the notice to another officer or agent of the financial institution for the purpose of ensuring that the notice is complied with, or obtaining legal advice or representation in relation to the notice.

A legal practitioner acting for the financial institution may disclose the existence of the notice for the purpose of giving legal advice or providing representation in relation to the notice.

When the member of the police force, member, officer or employee of another law enforcement agency, officer or agent of the financial institution or legal practitioner acting for the financial institution (as the case may be) ceases to be such a person, he or she must not make a record of, or disclose, the existence of the information notice in any circumstances.

Failure to comply with these obligations constitutes an offence.

The maximum penalty for this offence is 2 years imprisonment or a fine of 240 penalty units or both (section 118K(2) of the **Confiscation Act 1997**).

It is not an offence to disclose the existence of an information notice if the existence of the notice has been made known in any proceedings in open court. It is also not an offence for a person to disclose the existence of an information notice for the purposes of, or in connection with, legal proceedings or in the course of proceedings before a court.

A reference to disclosing the existence of an information notice to a person includes a reference to disclosing information to the person from which the person could reasonably be expected to infer the existence of the notice.

Immunity from suit

No civil proceeding lies against a financial institution or an officer, employee or agent of the financial institution acting in the course of his or her duties, in relation to any action taken or information given by the institution or person in compliance with an information notice (section 118L of the **Confiscation Act 1997**).

SCHEDULE 19

Regulation 24

DOCUMENT REQUEST

Section 120B

IMPORTANT: DO NOT IGNORE THIS DOCUMENT

As soon as you get this notice you should get legal advice to help you understand the notice and your obligations under the notice. Contact your lawyer or a community legal centre for advice.

(Information to the effect of the above advice to be printed in the English, Arabic, Cambodian, Chinese, Croatian, Greek, Italian, Macedonian, Polish, Serbian, Spanish, Turkish and Vietnamese languages.)

To: *(Name and address)*

You have received this document request because the Secretary to the Department of Justice, Victoria, believes that you have possession or control of documents relating to the maintenance and management of the property described below.

The Secretary has responsibility for this property under a memorandum of understanding entered into under section 78A of the **Confiscation Act 1997**.

Description of property

--

WHAT YOU MUST DO

You are requested to produce the documents or types of documents specified below to the Secretary.

Documents requested

--

The documents are sought for the maintenance and management of the property by or on behalf of the Secretary. The documents will be provided to such delegates or agents of the Secretary as required for the purposes of the maintenance and management of the property.

You are required to comply with this request within **14 days** after the day on which the document request is given to you.

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Address for delivery of
documents:

A document that you produce to the Secretary must be returned to you within 7 days after you produce it. If the Secretary believes on reasonable grounds that it is necessary for the purposes of the **Confiscation Act 1997** to retain the document for more than 7 days, the Secretary must give you a copy of the document certified in writing to be a true copy of the document (section 120E of the **Confiscation Act 1997**).

WARNING

It is an offence for a person who is given a document request to fail, without reasonable excuse, to comply with the request within 14 days after the day on which the request is given (section 120C(1) of the **Confiscation Act 1997**).

It is also an offence for a person who is given a document request to provide any document that is false or misleading in a material particular (section 120C(2) of the **Confiscation Act 1997**).

The maximum penalty for these offences is a fine of 60 penalty units.

ENDNOTES

1. General Information

The Confiscation Regulations 2008, S.R. No. 57/2008 were made on 17 June 2008 by the Administrator of the State of Victoria as the Governor's Deputy, with the advice of the Executive Council under section 146 of the **Confiscation Act 1997**, No. 108/1997 and came into operation on 22 June 2008: regulation 3.

The Confiscation Regulations 2008 will sunset 10 years after the day of making on 17 June 2018 (see section 5 of the **Subordinate Legislation Act 1994**).

Endnotes

2. Table of Amendments

There are no amendments made to the Confiscation Regulations 2008 by statutory rules, subordinate instruments and Acts.

3. Explanatory Detail

¹ Reg. 4: S.R. No. 67/1998. Reprint No. 1 as at 10 March 2005. Reprinted to S.R. No. 164/2004 and subsequently amended by S.R. No. 99/2007.

² Reg. 4: S.R. No. 67/2002.

³ Reg. 4: S.R. No. 57/2004.

⁴ Reg. 4: S.R. No. 164/2004.

⁵ Reg. 4: S.R. No. 99/2007.