



Australian Capital Territory

# **Confiscation of Criminal Assets Regulation 2003**

**SL2003-25**

made under the

**Confiscation of Criminal Assets Act 2003**

**Republication No 3**

**Effective: 15 August 2019 – 2 May 2022**

Republication date: 15 August 2019

Last amendment made by [A2019-23](#)

## About this republication

### The republished law

This is a republication of the *Confiscation of Criminal Assets Regulation 2003*, made under the *Confiscation of Criminal Assets Act 2003* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 15 August 2019. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 15 August 2019.

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

### Kinds of republications

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

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

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

### Editorial changes

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

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

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

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

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Confiscation of Criminal Assets Regulation 2003

made under the

**Confiscation of Criminal Assets Act 2003**

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Australian Capital Territory

# Confiscation of Criminal Assets Regulation 2003

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made under the

**Confiscation of Criminal Assets Act 2003**

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## Part 1 Preliminary

### 1 Name of regulation

This regulation is the *Confiscation of Criminal Assets Regulation 2003*.

### 3 Notes

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

## Part 2 Corresponding laws and orders

### 4 Corresponding laws—Act, dict, def *corresponding law*

The following laws are declared to be corresponding laws:

- (a) *Confiscation of Proceeds of Crime Act 1989* (NSW);
- (b) *Criminal Assets Recovery Act 1990* (NSW);
- (c) *Confiscation Act 1997* (Vic);
- (d) *Criminal Proceeds Confiscation Act 2002* (Qld);
- (e) *Criminal Property Confiscation Act 2000* (WA);
- (f) *Criminal Assets Confiscation Act 1996* (SA);
- (g) *Crime (Confiscation of Profits) Act 1993* (Tas);
- (h) *Criminal Property Forfeiture Act 2002* (NT).

### 5 Corresponding law orders—Act, dict, def *interstate restraining order*

(1) Corresponding law orders under the following provisions are prescribed:

- (a) *Confiscation of Proceeds of Crime Act 1989* (NSW), section 43;
- (b) *Criminal Assets Recovery Act 1990* (NSW), section 10;
- (c) *Confiscation Act 1997* (Vic), section 18;
- (d) *Criminal Proceeds Confiscation Act 2002* (Qld), section 31, section 122 and section 208 (6);
- (e) *Criminal Property Confiscation Act 2000* (WA), section 34 and section 43;
- (f) *Criminal Assets Confiscation Act 1996* (SA), section 15;
- (g) *Crime (Confiscation of Profits) Act 1993* (Tas), section 26;

(h) *Criminal Property Forfeiture Act 2002* (NT), section 40, section 43 and section 44.

(2) The following corresponding law orders are also prescribed:

(a) an order consenting to the making of an order prescribed under subsection (1);

(b) an order varying an order prescribed under subsection (1);

(c) an order varying the property to which an order prescribed under subsection (1) relates.

**6 Corresponding law orders—Act, dict, def *interstate automatic forfeiture decision***

(1) Corresponding law orders under the following provisions are prescribed:

(a) *Criminal Proceeds Confiscation Act 2002* (Qld), section 163;

(b) *Confiscation Act 1997* (Vic), section 35;

(c) *Criminal Property Confiscation Act 2000* (WA), section 7 and section 8;

(d) *Criminal Property Forfeiture Act 2002* (NT), section 94.

(2) The following corresponding law orders are also prescribed:

(a) an order varying an order prescribed under subsection (1);

(b) an order varying the property to which an order prescribed under subsection (1) relates.

**7 Corresponding law orders—Act, dict, def *interstate civil forfeiture order***

(1) Corresponding law orders under the following provisions are prescribed:

(a) *Criminal Assets Recovery Act 1990* (NSW), section 22;



- (b) *Confiscation Act 1997* (Vic), part 4;
  - (c) *Criminal Proceeds Confiscation Act 2002* (Qld), section 58;
  - (d) *Criminal Property Confiscation Act 2000* (WA)—
    - (i) section 22 if the order is made otherwise than in relation to a relevant confiscation offence for which a person has been convicted; and
    - (ii) section 28 if the order is made otherwise than in relation to a relevant confiscation offence for which a person has been convicted;
  - (e) *Criminal Property Forfeiture Act 2002* (NT), section 96 and section 97.
- (2) The following corresponding law orders are also prescribed:
- (a) an order consenting to the making of an order prescribed under subsection (1);
  - (b) an order varying an order prescribed under subsection (1);
  - (c) an order varying the property to which an order prescribed under subsection (1) relates.

## **8 Corresponding law orders—Act, dict, def *interstate conviction forfeiture order***

- (1) Corresponding law orders under the following provisions are prescribed:
- (a) *Criminal Assets Recovery Act 1990* (NSW), section 18;
  - (b) *Confiscation Act 1997* (Vic), division 3.1;
  - (c) *Criminal Proceeds Confiscation Act 2002* (Qld), section 151;

- (d) *Criminal Property Confiscation Act 2000* (WA)—
    - (i) section 22 if the order is made in relation to a relevant confiscation offence for which a person has been convicted; and
    - (ii) section 28 if the order is made in relation to a relevant confiscation offence for which a person has been convicted;
  - (e) *Criminal Assets Confiscation Act 1996* (SA), section 8;
  - (f) *Crime (Confiscation of Profits) Act 1993* (Tas), section 16.
- (2) The following corresponding law orders are also prescribed:
- (a) an order consenting to the making of an order prescribed under subsection (1);
  - (b) an order varying an order prescribed under subsection (1);
  - (c) an order varying the property to which an order prescribed under subsection (1) relates.

## **9 Corresponding law orders—Act, dict, def *interstate penalty order***

- (1) Corresponding law orders under the following provisions are prescribed:
- (a) *Confiscation of Proceeds of Crime Act 1989* (NSW), section 24 and section 29;
  - (b) *Criminal Assets Recovery Act 1990* (NSW), section 27;
  - (c) *Confiscation Act 1997* (Vic), part 8;
  - (d) *Criminal Proceeds Confiscation Act 2002* (Qld), section 78, section 184 and section 202;
  - (e) *Criminal Property Confiscation Act 2000* (WA), section 12, section 16, section 17 and section 22;

- (f) *Criminal Assets Confiscation Act 1996* (SA), section 9;
  - (g) *Crime (Confiscation of Profits) Act 1993* (Tas), section 21;
  - (h) *Criminal Property Forfeiture Act 2002* (NT), section 71, section 75, section 76 and section 81.
- (2) The following corresponding law orders are also prescribed:
- (a) an order consenting to the making of an order prescribed under subsection (1);
  - (b) an order varying an order prescribed under subsection (1).

## Part 3 Miscellaneous

### 10 Police officer to give DPP notice of proposal to restrain property

- (1) If a police officer proposes that property should be restrained under the Act, a police officer must give the director of public prosecutions written notice of—
  - (a) the property to which the proposal relates; and
  - (b) the name and address of anyone whom the police officer believes has an interest in the property.

*Note* If a form is approved under the [Act](#), s 259 for a notice, the form must be used.

- (2) The notice may include any other information the police officer considers appropriate.
- (3) A failure by a police officer to comply with this section does not invalidate an application for a restraining order under the [Act](#).

### 11 Other narcotic substances—Act, s 90, def *narcotic substance*

The substances mentioned in schedule 1 are prescribed.

### 12 Confiscated assets trust fund—public trustee's annual management fee—Act, s 132 (1) (d)

The annual fee is 1.1% of the amount paid into the trust fund each financial year.

## Schedule 1 Other narcotic substances

(see s 11)

### 1.1 Meaning of *cannabis food product*—sch 1

In this schedule:

*cannabis food product*—see the *Drugs of Dependence Act 1989*, section 6.

column 1 item	column 2 substance
1	1.4 Butandiol
2	2,5-Dimethoxy-4-Methyl Amphetamine
3	3-Methylfentanyl
4	Acetorphine
5	Alphamethyl
6	Amphetamine
7	Benzylmorphine
8	Cannabis, other than a cannabis food product
9	Cocaine
10	Codeine
11	Dexamphetamine
12	Diacetylmorphine (Heroin)
13	Dihydromorphine
14	DMA (2,5-Dimethoxyamphetamine)
15	DOET (2,5-Dimethoxy-4-Ethyl Amphetamine)
16	Ethylmorphine
17	Fentanyl
18	Hydroxy Amphetamine

**Schedule 1**      Other narcotic substances

Section 1.1

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<b>column 1 item</b>	<b>column 2 substance</b>
19	Ketamine
20	Lysergide (LSD)
21	MBDB (N-Methyl-3,4-Methylenedioxyphenyl-2-Butanamine)
22	MDA (3,4-Methylene Dioxy Amphetamine)
23	MDMA (Ecstasy) (3,4-Methylene Dioxymethamphetamine)
24	Methadone
25	Methamphetamine
26	Methaqualone
27	Methyl Amphetamine
28	Morphine
29	Nexus (4-Bromo-2,5-Dimethoxyphenethylamine)
30	Opium
31	PCP (Phencyclidine),(1-(1-Phenylcyclohexyl)Piperadine)
32	Pethidine
33	Racemate

## Endnotes

### 1 About the endnotes

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

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

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

This regulation was originally the [Confiscation of Criminal Assets Regulations 2003](#). It was renamed under the [Legislation Act 2001](#).

#### **Confiscation of Criminal Assets Regulation 2003 SL2003-25**

notified LR 14 August 2003

s 1, s 2 commenced 14 August 2003 (LA s 75 (1))

remainder commenced 15 August 2003 (s 2 and see [Confiscation of Criminal Assets Act 2003](#) A2003-8, s 2 and [CN2003-7](#))

as amended by

#### **Crimes Legislation Amendment Act 2019 A2019-23 pt 4**

notified LR 8 August 2019

s 1, s 2 commenced 8 August 2019 (LA s 75 (1))

pt 4 commenced 15 August 2019 (s 2 (1))

### 4 Amendment history

#### **Name of regulation**

s 1 am R2 LA

#### **Commencement**

s 2 om LA s 89 (4)

#### **Other narcotic substances**

sch 1 am [A2019-23](#) s 22, s 23



## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 15 Aug 2003	15 Aug 2003– 31 Oct 2004	not amended	new regulation
R2 1 Nov 2004	1 Nov 2004– 14 Aug 2019	not amended	editorial amendments under <a href="#">Legislation Act</a>

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