

South Australia

Criminal Assets Confiscation Regulations 1997

under the *Criminal Assets Confiscation Act 1996*

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Legislative history

1—Short title

These regulations may be cited as the *Criminal Assets Confiscation Regulations 1997*.

2—Commencement

These regulations will come into operation on the day on which the *Criminal Assets Confiscation Act 1996* comes into operation.

3—Revocation

All regulations previously made under the *Crimes (Confiscation of Profits) Act 1986* are revoked.

4—Interpretation

In these regulations—

Act means the *Criminal Assets Confiscation Act 1996*;

DPP means the Director of Public Prosecutions.

5—Procedure to dispute allegations on application for forfeiture order

- (1) A written statement to be submitted in evidence under section 13(3) of the Act—
 - (a) must identify the application (or proposed application) to which the statement relates; and
 - (b) if it contains more than one allegation of fact—must be divided into numbered paragraphs, each containing only one such allegation; and
 - (c) must be signed by the DPP or the defendant (as the case requires).

- (2) If the allegations are made by the DPP, the defence must be given an opportunity to dispute the allegations as follows:
- (a) a copy of the statement must be given to the defendant (personally or by certified mail) at least 28 days before the application or proposed application is to be heard or determined;
 - (b) a letter addressed to the defendant must be sent with the copy—
 - (i) explaining how the allegations made in the statement may be disputed; and
 - (ii) specifying a date (which must be at least 14 days after the copy of the statement is given) by which the defendant must notify the DPP of a dispute; and
 - (iii) explaining the consequences of not disputing the allegations;
 - (c) the defendant may dispute all or any of the allegations contained in the statement by giving written notice to the DPP stating which allegations are disputed (by lodging the notice at the DPP's office or by sending it by certified mail addressed to the DPP) before the date specified in the statement for that purpose.
- (3) If the allegations are made by the defendant, the DPP must be given an opportunity to dispute the allegations as follows:
- (a) a copy of the statement must be given to the DPP by lodging it at the DPP's office or by sending it by certified mail addressed to the DPP at least 28 days before the application or proposed application is to be heard or determined; and
 - (b) a letter addressed to the DPP must be sent with the copy stating that the defendant may submit the statement in evidence under section 13(3) of the Act; and
 - (c) the DPP may dispute all or any of the allegations contained in the statement by giving (personally or by certified mail) written notice stating which allegations are disputed to the defendant (or the defendant's solicitor) at least 14 days before the application is to be heard.

6—Forms

The Schedule sets out forms for the purposes of Part 5 of the Act.

Schedule—Forms

Form 1

Warrant for seizure of property (Part 5 Division 2)

Warrant under *Criminal Assets Confiscation Act 1996*

Name of magistrate issuing warrant:

Police officer applying for warrant:

name:		2
rank:		3
number:		4

Type of application: *[tick one box and, if by telephone, fill in details]*

personal

telephone

In my opinion a warrant is urgently required and there is not enough time to make the application personally.

In my opinion the following facts justify the issue of the warrant:

[attach additional pages if insufficient space]

Terms of warrant: *[tick one box and fill in details]*

⁸ Property

This warrant authorises any member of the police force, with assistants the officer considers necessary to seize—

and documents and other material relevant to identifying, tracing, locating or quantifying that property.

⁸ Person

This warrant authorises any member of the police force, with assistants the officer considers necessary to search—

and seize anything that the police officer executing the warrant suspects on reasonable grounds to be property that is liable to forfeiture under the *Criminal Assets Confiscation Act 1996*, or a document or other material relevant to identifying, tracing, locating or quantifying property that is liable to forfeiture under that Act.

¹⁰ Premises

This warrant authorises any member of the police force, with assistants the officer considers necessary to enter and search—

and anything in the premises and seize anything that the police officer executing the warrant suspects on reasonable grounds to be property that is liable to forfeiture under the *Criminal Assets Confiscation Act 1996*, or a document or other material relevant to identifying, tracing, locating or quantifying property that is liable to forfeiture under that Act.

Hours during which warrant may be executed: *[tick one box]*

¹² Day—This warrant must not be executed between 7 pm and 7 am in the following morning.

¹³ Day/night—This warrant may be executed between 7 pm and 7 am in the following morning.

This warrant expires one month from the date of issue.

Date of issue:		14
Time of issue:		15
Signature of magistrate:		16

I am satisfied that there are, in the circumstances of the case, reasonable grounds for issuing the warrant.

Form 2

Duplicate warrant for seizure of property (Part 5 Division 2)

Duplicate warrant under *Criminal Assets Confiscation Act 1996*

Name of magistrate issuing original warrant:

Police officer applying for warrant:

name:	
rank:	
number:	

Facts that justify issue of warrant:

The magistrate has informed me that, in the opinion of the magistrate, the following facts justify the issue of the warrant:

[attach additional pages if insufficient space]

I undertake to make an affidavit verifying those facts.

The magistrate has informed me that the following are the terms of the warrant.

Terms of warrant: *[tick one box and fill in details]*

<input type="checkbox"/> ⁶ Property	The warrant authorises any member of the police force, with assistants the officer considers necessary to seize— and documents and other material relevant to identifying, tracing, locating or quantifying that property.
<input type="checkbox"/> ⁸ Person	The warrant authorises any member of the police force, with assistants the officer considers necessary to search— and seize anything that the police officer executing the warrant suspects on reasonable grounds to be property that is liable to forfeiture under the <i>Criminal Assets Confiscation Act 1996</i> , or a document or other material relevant to identifying, tracing, locating or quantifying property that is liable to forfeiture under that Act.
<input type="checkbox"/> ¹⁰ Premises	The warrant authorises any member of the police force, with assistants the officer considers necessary to enter and search— and anything in the premises and seize anything that the police officer executing the warrant suspects on reasonable grounds to be property that is liable to forfeiture under the <i>Criminal Assets Confiscation Act 1996</i> , or a document or other material relevant to identifying, tracing, locating or quantifying property that is liable to forfeiture under that Act.

Hours during which warrant may be executed: *[tick one box]*

¹² Day—The warrant must not be executed between 7 pm and 7 am in the following morning.

¹³ Day/night—The warrant may be executed between 7 pm and 7 am in the following morning.

The warrant expires one month from the date of issue.

Date of issue of original warrant:	
Time of issue of original warrant:	
Signature of police officer:	

Form 3

Notice of execution of warrant (section 32(4)(a))

Notice of execution of warrant under *Criminal Assets Confiscation Act 1996*

To:

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[use this box if a person was searched—insert the name and address of the person]

The occupier of premises situated at—

[use this box in any other case]

Details of issue of warrant:

Name of magistrate who issued warrant:	
Date of issue of warrant:	
Time of issue of warrant:	

Terms of warrant: *[tick one box]*

- Property—The warrant authorises the seizure of particular property that may be liable to forfeiture under the *Criminal Assets Confiscation Act 1996* and documents and other material relevant to identifying, tracing, locating or quantifying that property.
- Person—The warrant authorises the search of the person to whom this notice is given and seizure of property that may be liable to forfeiture under the *Criminal Assets Confiscation Act 1996*, or a document or other material relevant to identifying, tracing, locating or quantifying property that is liable to forfeiture under that Act found in the course of the search.
- Premises—The warrant authorises the search of the premises identified above and anything in the premises and the seizure of property that may be liable to forfeiture under the *Criminal Assets Confiscation Act 1996*, or a document or other material relevant to identifying, tracing, locating or quantifying property that is liable to forfeiture under that Act found in the course of the search.

Details of execution of warrant:

Police officer who executed warrant:	name:	
	rank:	
	number:	

Date of execution of warrant:

Seizure of property: *[tick one box and, if property seized, fill in details]*

- No property was seized under the warrant.
- The following items of property were seized under the warrant:

[attach additional pages if insufficient space]

Signature of police officer who executed warrant:

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Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Revocation of regulations

The *Criminal Assets Confiscation Regulations 1997* were revoked by Sch 1 of the *Criminal Assets Confiscation Regulations 2006* on 2.4.2006.

Principal regulations

Year	No	Reference	Commencement
1997	156	<i>Gazette 12.6.1997 p2987</i>	7.7.1997: r 2