



THE PROCEEDS OF CRIME REGULATIONS 1992

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 22nd day of June 1992

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 89 of the Proceeds of Crime Act 1991, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Proceeds of Crime Regulations 1992.

(2) These regulations shall come into force on the 1st day of July 1992.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Proceeds of Crime Act 1991;

“Court” means a Court exercising jurisdiction under the Act.

(2) Expressions not defined in these regulations but defined in the Act have, in these regulations, the meaning so defined.

3. Forms—(1) The forms set out in the Schedule to these regulations are the forms to be used in respect of the proceedings or matters under the Act to which those forms relate.

(2) Such variations may be made in any prescribed form as the circumstances of any particular case may require.

(3) Strict compliance with the prescribed forms is not necessary, and substantial compliance, or such compliance as the particular circumstances of the case allow, is sufficient.

4. Service—(1) Except where a Court directs otherwise, and subject to subclauses (2) and (3) of this regulation and to regulation 5 of these regulations, any notice or other document that is required, under the provisions of the Act, to be served on any person shall be served—

- (a) By personally delivering the notice or document to the person to be served or by bringing it to his or her attention if he or she refuses to accept it; or
- (b) In the case of the Solicitor-General, by leaving it at the office of the Solicitor-General in Wellington; or
- (c) In the case of the Official Assignee, by leaving it at the office of the Official Assignee in Wellington.

(2) Where any solicitor represents that the solicitor is authorised to accept service of any notice or document on behalf of any person, it shall be sufficient to deliver the notice or document to the solicitor, if that solicitor signs a memorandum stating that he or she accepts service of the document on behalf of the person to be served.

(3) If, in any document filed in any proceeding under the Act, any party to the proceeding has specified an address for service, any notice or other document that is required, under the provisions of the Act, to be served on that person may, subject to any direction of a Court, be served—

- (a) By leaving it at the address for service so given; or
- (b) Where the address for service is the office of a solicitor,—
 - (i) If that solicitor has an exchange box in a document exchange, by leaving the notice or document, addressed to that solicitor, in that exchange box or at another exchange box for transmission to that exchange box; or
 - (ii) If that solicitor has a number to which documents may be sent by facsimile transmission, by transmitting it to that solicitor by facsimile transmission.

5. Substituted service—If it appears to a Court that reasonable efforts have been made to effect service of any notice or document by any of the modes permitted or required under regulation 4 of these regulations and either that the notice or document has come to the knowledge of the person to be served or that prompt personal service thereof cannot be effected, the Court may—

- (a) Direct—
 - (i) That instead of service, such steps as are specified in the order be taken for the purpose of bringing the notice or document to the notice of the person to be served; and
 - (ii) That the notice or document be deemed to have been served on the happening of any specified event, or on the expiry of any specified time:
- (b) Where steps have been taken for the purpose of bringing, or which have a tendency to bring, the notice or document to the notice of the person on whom it is required to be served, direct that the notice or document be deemed to have been served on that person on a date specified in the order:

- (c) Subject to such conditions as the Court thinks fit to impose, dispense with service of any notice or document on any person and give leave to the party by whom the notice or document is required to be served to proceed as if service thereof had been effected on that person.

Cf. High Court Rules, r. 211

6. Costs recoverable by Official Assignee—For the purposes of section 63 of the Act, the costs that the Official Assignee is entitled to recover, in accordance with section 51 (2) or section 54 (1) (d) of the Act, in respect of the exercise or performance, by the Official Assignee or any delegate of the Official Assignee, of functions, duties, or powers under the Act in respect of property of which the Official Assignee has taken custody and control pursuant to a restraining order are as follows:

- (a) For the exercise or performance, by the Official Assignee or any delegate of the Official Assignee, of functions, duties, or powers under the Act in respect of the property, remuneration of \$50 per hour or part of an hour:
 - (b) All costs, charges, and expenses properly incurred or payable by or on behalf of the Official Assignee in connection with the exercise or performance, by the Official Assignee or any delegate of the Official Assignee, of functions, duties, or powers under the Act in respect of the property.
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Reg. 3

SCHEDULE
FORMS

Form 1

No./19....

WARRANT TO SEARCH AND SEIZE
DOCUMENTS OF TITLE

Section 15 (6), Proceeds of Crime Act 1991

To [Full name], an officer of this Court.

I am satisfied that a forfeiture order was made on the day of 19... in the Court at against the following property:
[Here insert description of property forfeited].

I am also satisfied that there are reasonable grounds for believing that there is in (or on) [Here describe place or thing that may be searched pursuant to the warrant] the following document [Here insert description of the kind of document to be searched for and seized], being a document that is required to effect the transfer of the above-mentioned property to the Crown.

This warrant authorises you, at any time by day or night within [Here specify the period during which the warrant may be executed, which may not exceed 14 days from the date of issue] days of the date of issue of this warrant, to enter and search the said

In exercising the authority conferred by this warrant, you may—

- (a) Use such assistants as may be reasonable in the circumstances for the purpose of the entry and search; and
- (b) Use such force as is reasonable in the circumstances for the purposes of effecting entry, and for breaking open anything in or on the place searched; and
- (c) Search for and seize any document of the kind described in this warrant that you believe, on reasonable grounds, to be required to effect the transfer of the property specified in this warrant.

This warrant is subject to the following special conditions:
[Specify].

When executing this warrant you are required to comply with section 33 of the Proceeds of Crime Act 1991.

If you seize any property pursuant to this warrant, you are required to comply with section 34 of the Proceeds of Crime Act 1991.

Dated at this day of 19.....

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High Court Judge (or District Court Judge)



SCHEDULE—*continued*FORMS—*continued*

Form 2

No./19....

WARRANT TO SEARCH AND SEIZE
TAINTED PROPERTY*Section 30, Proceeds of Crime Act 1991*

To every member of the Police:

(Or To [*Insert class of members of the Police*]:)

(Or To [*Full Name*], member of the Police:)

I am satisfied on an application in writing made on oath by [*Full Name*], a commissioned officer of the Police, that there are reasonable grounds for believing that there is in (or on) [*Here describe place or thing that may be searched pursuant to the warrant*] the following property [*Here insert description of the kind of property to be searched for and seized*], being tainted property in respect of the following serious offence [*State offence, being an offence punishable by imprisonment for a term of 5 years or more*].

I am also satisfied that an information has been laid in respect of the above-mentioned serious offence.

OR

I am also satisfied that, although an information has not been laid in respect of the above-mentioned serious offence at the time when the application for the issue of this warrant was made, an information will be laid in respect of that offence within 48 hours of the issue of this warrant.

This warrant authorises you, at any time by day or night within [*Here specify the period during which the warrant may be executed, which may not exceed 14 days from the date of issue*] days of the date of issue of this warrant, to enter and search the said

In exercising the authority conferred by this warrant, you may—

- (a) Use such assistants as may be reasonable in the circumstances for the purpose of the entry and search; and
- (b) Use such force as is reasonable in the circumstances for the purposes of effecting entry, and for breaking open anything in or on the place searched; and
- (c) Search for and seize any property of the kind described in this warrant that you believe, on reasonable grounds, to be tainted property in respect of the serious offence specified in this warrant.

This warrant is subject to the following special conditions:
[*Specify*].

If, in the course of executing this warrant, you find any property that you believe, on reasonable grounds, to be—

SCHEDULE—continued

FORMS—continued

- (a) Tainted property in respect of a serious offence other than the offence specified in this warrant; or
 - (b) Tainted property in relation to the offence specified in this warrant, although not of a kind specified in this warrant,—
- this warrant is sufficient authority for you to seize that property if you believe, on reasonable grounds, that seizure is necessary to prevent the loss, destruction, or concealment of the property.

When executing this warrant you are required to comply with section 33 of the Proceeds of Crime Act 1991.

If you seize any property pursuant to this warrant, you are required to comply with section 34 of the Proceeds of Crime Act 1991.

Dated at this day of 19....

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District Court Judge

BOB MacFARLANE,
Acting for Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations make provision for various matters under the Proceeds of Crime Act 1991. They prescribe various forms, set out the procedure for the service of notices and other documents, and provide for the costs recoverable by the Official Assignee in respect of the exercise or performance of functions, duties, and powers under the Act.

These regulations, and the Proceeds of Crime Act 1991, come into force on 1 July 1992.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 25 June 1992.
These regulations are administered in the Department of Justice.