

Reprint
as at 1 July 2013



Proceeds of Crime Regulations 1992

(SR 1992/167)

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.

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Justice.

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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 1 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 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 sub-clauses (2) and (3) and to regulation 5, 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 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.

Compare: 1908 No 89 Schedule 2 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) or section 66E(4) 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 or a registered foreign restraining order are as follows:

- (a) for work done by any person (being the Official Assignee or any delegate of the Official Assignee or any other member of the staff 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, remuneration as follows:

- (i) for work done by the Official Assignee or any delegate of the Official Assignee, \$50 per hour or part of an hour:
 - (ii) for work done by a member of the staff of the Official Assignee who is employed as a solicitor or an accountant, \$52 per hour or part of an hour:
 - (iii) for work done by any other member of the staff of the Official Assignee, \$32 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.

Regulation 6: substituted, on 1 June 1993, by regulation 2 of the Proceeds of Crime Regulations 1992, Amendment No 1 (SR 1993/100).

Schedule

r 3

Forms

Form 1

Warrant to search and seize documents of title

Section 15(6), Proceeds of Crime Act 1991

No:

Date:

To *[full name]*, an officer of this court.

I am satisfied that a forfeiture order was made on *[date]* in the *[name of court]* Court at *[place]* against the following property: *[describe property forfeited]*.

I am also satisfied that there are reasonable grounds for believing that there is in (or on) *[describe place or thing that may be searched pursuant to the warrant]* the following document *[describe 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 *[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 *[specify]*.

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.

Form 1—*continued*

Dated at [*place, date*]

High Court Judge (*or* District Court Judge):

Form 2
Warrant to search and seize tainted property
Section 30, Proceeds of Crime Act 1991

No:

Date:

To every constable:

(or **To** [*insert class of constables*]:)

(or **To** [*full name*], constable:)

I am satisfied on an application in writing made on oath by [*full name*], a constable who is of or above the level of position of inspector, that there are reasonable grounds for believing that there is in (or on) [*describe place or thing that may be searched pursuant to the warrant*] the following property [*describe 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 a charging document has been filed in respect of the above-mentioned serious offence.

or

I am also satisfied that, although a charging document has not been filed in respect of the above-mentioned serious offence at the time when the application for the issue of this warrant was made, a charging document will be filed 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 [*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 [*specify*].

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.

Form 2—*continued*

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—

- (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 [*place, date*]

District Court Judge:

Schedule form 2: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Schedule form 2: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Schedule form 2: amended, on 1 October 2008, pursuant to section 116(b) of the Policing Act 2008 (2008 No 72).

Bob MacFarlane,
Acting for Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 25 June 1992.

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Notes**1 General**

This is a reprint of the Proceeds of Crime Regulations 1992. The reprint incorporates all the amendments to the regulations as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint (most recent first)*

Criminal Procedure Act 2011 (2011 No 81): section 413

Policing Act 2008 (2008 No 72): section 116(a)(ii), (b)

Proceeds of Crime Regulations 1992, Amendment No 1 (SR 1993/100)
