

WESTERN AUSTRALIA

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**ACTS AMENDMENT  
(CONFISCATION OF CRIMINAL  
PROFITS) ACT 1992**

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**No. 15 of 1992**

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**AN ACT to amend the *Crimes (Confiscation of Profits) Act 1988* and *The Criminal Code*.**

*[Assented to 16 June 1992.]*

**The Parliament of Western Australia enacts as follows:**

**PART 1 — PRELIMINARY**

**Short title**

1. This Act may be cited as the *Acts Amendment (Confiscation of Criminal Profits) Act 1992*.

**Commencement**

2. This Act shall come into operation on the day on which it receives the Royal Assent.

**PART 2 — CRIMES (CONFISCATION OF PROFITS)  
ACT 1988**

**Principal Act**

3. In this Part, the *Crimes (Confiscation of Profits) Act 1988\** is referred to as the principal Act.

[\* *Act No. 47 of 1988.*

*For subsequent amendments, see 1990 Index to Legislation of Western Australia, p.39, and Gazette 8 March 1991.]*

**Section 3 amended**

4. Section 3 of the principal Act is amended —

(a) by inserting after subsection (1a) the following subsection —

“ (1b) A reference in this Act (except section 12) to “reasonable grounds” or “grounds” includes a reference to reasonable grounds or grounds, as the case requires, based on hearsay evidence or hearsay information. ”;

(b) in subsection (5) (b) by inserting after “that complaint” the following —

“ , or the person is arrested without warrant, whether before or after the making of that complaint ”;

and

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- (c) in subsection (5) (c) by deleting subparagraph (i) and substituting the following subparagraph —

“      (i) the person dies without the warrant being executed or after the execution of the warrant or, in the case of a person arrested without warrant, after that arrest;      ”.

**Section 5 amended**

5. Section 5 of the principal Act is amended in subsection (3) by inserting after “1990” the following —

“      and the *Acts Amendment (Confiscation of Criminal Profits) Act 1992*      ”.

**Section 9 amended**

6. Section 9 of the principal Act is amended in subsection (1) by deleting the passage beginning with “have regard to” and ending with “for the offence.” and substituting the following —

“      have regard —

- (a) in the case of an offence tried on indictment, to copies of written statements which have been served, or which would, had the person not absconded before the charge of that offence had been finally determined, have been served, on the person in accordance with a direction given under section 101A (1) (b) of the *Justices Act 1902* in respect of that offence, to any statements, depositions, exhibits or other material before the court in any proceeding against the person for the offence and to any transcript of any such proceeding; or

- (b) in the case of an offence not tried on indictment, to any statements, depositions, exhibits or other material before the court in any proceeding against the person for the offence and to any transcript of any such proceeding. ”.

## **Section 20 amended**

### **7. Section 20 of the principal Act is amended —**

- (a) in subsection (2) by inserting after —

- (i) “specified property” in paragraph (b) the following —

“ of the person or specified property subject to the effective control of the person ”;

- (ii) “property of” in paragraph (b) (ii) the following —

“ , or is subject to the effective control of, ”;

and

- (iii) “the property of a person” in paragraph (c) the following —

“ or all property subject to the effective control of a person ”;

- (b) in subsection (6) by deleting “In an urgent” and substituting the following —

“ Subject to subsection (6a), in an urgent ”;

and

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- (c) by inserting after subsection (6) the following subsection —

“ (6a) The Supreme Court may, within the period of 21 days referred to in subsection (6), on good cause shown extend that period for such additional period not exceeding 21 days as it thinks fit. ”.

**Minor amendments**

8. A provision of the principal Act specified in the second column of the Table to this section is amended in the manner indicated opposite to that provision in the third column of that Table.

**TABLE**

**MINOR AMENDMENTS**

<u>Item</u>	<u>Provision amended</u>	<u>Manner of amendment</u>
1	Section 3 (1) (definition of “effective control”)	Deletion of “, a special forfeiture order”.
2	Section 35 (5) (b)	Deletion of “directing that”.
3	Section 37 (3)	Deletion of “17 (2)” and substitution of the following —  “ 52A (2) ”.
4	Section 41 (3)	Deletion of “17 (2)” and substitution of the following —  “ 52A (2) ”.

**PART 3 — THE CRIMINAL CODE**

**Principal Act**

9. In this Part, “the Code” means *The Criminal Code*\*.

[\* Reprinted as at 31 May 1991 as the Schedule to the *Criminal Code Act 1913* appearing in Appendix B to the *Criminal Code Compilation Act 1913*.  
For subsequent amendments, see Acts Nos. 37 of 1991 and 1 of 1992.]

**Heading of Chapter LIX amended**

10. The heading of Chapter LIX of the Code is amended by inserting after “ACCESSORIES AFTER THE FACT” the following —

“ AND PROPERTY LAUNDERING ”.

**Section 563A inserted**

11. Part VII of the Code is amended by inserting after section 563 the following section —

**Property laundering**

“ 563A. (1) A person who —

- (a) in Western Australia engages, directly or indirectly, in a transaction that involves; or
- (b) brings into Western Australia, or in Western Australia receives, possesses, conceals, disposes of or deals with,

any money or other property that is the proceeds of a major offence is guilty of a crime and is liable to imprisonment for 20 years.

(2) It is a defence in proceedings for a crime under subsection (1) —

(a) to prove that the defendant —

(i) did not know; and

(ii) did not believe or suspect; and

(iii) did not have reasonable grounds to believe or suspect,

that the relevant money or other property was the proceeds of an offence;

or

(b) to prove that the defendant engaged in the act or omission alleged to constitute that crime in order to assist the enforcement of a law of the Commonwealth or of a State or Territory.

(3) In this section —

**“major offence”** means —

(a) indictable offence; or

(b) act or omission that occurred outside Western Australia and would, if it had occurred inside Western Australia, have constituted an indictable offence;



**“proceeds”**, in relation to an offence or a major offence, means money or other property that is derived or realized, directly or indirectly, by any person from the commission of the offence or major offence, as the case requires;

**“transaction”** includes the receiving or making of a gift.

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