

**Reprint
as at 1 July 2014**



**Criminal Proceeds (Recovery)
Regulations 2009**
(SR 2009/311)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 19th day of October 2009

Present:
His Excellency the Governor-General in Council

Pursuant to section 173 of the Criminal Proceeds (Recovery) Act 2009, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

		Page
1	Title	2
2	Commencement	2
3	Interpretation	2

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Justice.

	<i>Forms</i>	
4	Restraining orders	3
5	Orders associated with restraining orders	3
6	Civil forfeiture orders	4
7	Orders associated with civil forfeiture orders	5
8	Search warrants <i>[Revoked]</i>	6
9	Production orders <i>[Revoked]</i>	6
10	Examination orders <i>[Revoked]</i>	6
11	Variation of prescribed forms	6
	<i>Service</i>	
12	Court may dispense with service	6
	<i>Costs</i>	
13	Costs recoverable by Official Assignee	7
	Schedule	9
	Forms	

Regulations

- 1 Title**
These regulations are the Criminal Proceeds (Recovery) Regulations 2009.
- 2 Commencement**
These regulations come into force on 1 December 2009.
- 3 Interpretation**
 - (1) In these regulations, unless the context otherwise requires, **Act** means the Criminal Proceeds (Recovery) Act 2009.
 - (2) A reference in these regulations to a numbered form is a reference to the form with that number as set out in the Schedule.
 - (3) Words or expressions not defined in these regulations but defined in the Act have, in these regulations, the same meanings as in the Act.

Forms

4 Restraining orders

- (1) An application by the Commissioner, in accordance with section 18(a) of the Act, of the kind specified in one of the following paragraphs must be in the form specified in that paragraph:
 - (a) an application under section 21 of the Act for a restraining order on notice under section 24 or 25 (or both) of the Act—form 1:
 - (b) an application under section 22 of the Act for a restraining order without notice under section 24 or 25 (or both) of the Act—form 2.
- (2) An application by a prosecutor, in accordance with section 18(b) of the Act, of the kind specified in one of the following paragraphs must be in the form specified in that paragraph:
 - (a) an application under section 21 of the Act for a restraining order on notice under section 26 of the Act—form 3:
 - (b) an application under section 22 of the Act for a restraining order without notice under section 26 of the Act—form 4.
- (3) A restraining order made under section 24, 25, or 26 of the Act must be in form 5.

5 Orders associated with restraining orders

- (1) An application of the kind specified in one of the following paragraphs must be in the form specified in that paragraph:
 - (a) an application by a person, under section 30 of the Act, to have that person's severable interest in proposed restrained property or restrained property excluded from a proposed restraining order or restraining order—form 6:
 - (b) an application by the Commissioner or a prosecutor, under section 32 of the Act, to have a disposition or dealing set aside in relation to restrained property—form 8:
 - (c) an application by a person specified in section 33(1)(a) to (d), under section 33 of the Act, for a further order associated with a restraining order—form 10:
 - (d) an application under section 41 of the Act to extend the duration of a restraining order—form 12:

- (e) an application by the Commissioner, under section 58 of the Act, to have the respondent's effective control over property treated as an interest in property—form 27.
- (2) An order specified in one of the following paragraphs must be in the form specified in that paragraph:
- (a) an order excluding a severable interest from proposed restrained property or restrained property, under section 30 of the Act—form 7:
 - (b) an order setting aside a disposition or dealing in relation to restrained property, under section 32 of the Act—form 9:
 - (c) a further order in relation to a restraining order, under section 35 of the Act—form 11:
 - (d) an order extending the duration of a restraining order, under section 41 of the Act—form 13:
 - (e) an order under section 58 of the Act that the respondent's effective control over property be treated as an interest in property—form 28.

6 Civil forfeiture orders

- (1) An application, by the Commissioner, of the kind specified in one of the following paragraphs must be in the form specified in that paragraph:
- (a) an application under sections 43, 44, and 49 of the Act for an assets forfeiture order—form 14:
 - (b) an application under section 52 of the Act for a profit forfeiture order—form 21.
- (2) If the Commissioner proposes under section 47(1)(b) of the Act to request the High Court to amend an application for a civil forfeiture order the Commissioner must give notice of the request in form 15.
- (3) An order specified in one of the following paragraphs must be in the form specified in that paragraph:
- (a) an order under section 48(2) of the Act to enter on the register a note of an application for a civil forfeiture order—form 16:
 - (b) an order under section 48(3) of the Act to cancel an entry made on the register under section 48(2) of the Act—form 17:

- (c) an assets forfeiture order under section 50 of the Act—form 18:
- (d) a profit forfeiture order under section 55 of the Act—form 22.

7 Orders associated with civil forfeiture orders

- (1) An application, by the respondent, of the kind specified in one of the following paragraphs must be in the form specified in that paragraph:
 - (a) an application under section 51 of the Act to have property excluded from an assets forfeiture order because of undue hardship—form 19:
 - (b) an application under section 56 of the Act to have property excluded from a profit forfeiture order because of undue hardship—form 23.
- (2) An application, by the Commissioner, of the kind specified in one of the following paragraphs must be in the form specified in that paragraph:
 - (a) an application under section 54 of the Act to vary the maximum recoverable amount under a profit forfeiture order—form 25:
 - (b) an application under section 58 of the Act to have the respondent's effective control over property treated as an interest in property—form 27.
- (3) An application under section 61 or 62 of the Act by a person (other than the respondent) who claims an interest in the property sought to be forfeited, or to which a civil forfeiture order relates, for an order for relief under section 66 or 67 of the Act must be in form 29.
- (4) An order specified in one of the following paragraphs must be in the form specified in that paragraph:
 - (a) an order under section 51 of the Act excluding property from an assets forfeiture order because of undue hardship—form 20:
 - (b) an order under section 56 of the Act excluding property from a profit forfeiture order because of undue hardship—form 24:

- (c) an order under section 54 of the Act varying the maximum recoverable amount under a profit forfeiture order—form 26:
- (d) an order under section 58 of the Act that the respondent's effective control over property be treated as an interest in property—form 28:
- (e) an order under section 66 or 67 of the Act granting relief from a civil forfeiture order—form 30.

8 Search warrants

[Revoked]

Regulation 8: revoked, on 1 October 2012, by regulation 4 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

9 Production orders

[Revoked]

Regulation 9: revoked, on 1 October 2012, by regulation 4 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

10 Examination orders

[Revoked]

Regulation 10: revoked, on 1 October 2012, by regulation 4 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

11 Variation of prescribed forms

A form prescribed by these regulations is used in accordance with them even if the form is used with either or both of the following, so long as the form is not misleading:

- (a) additional information included because it is required for identification or other official purposes:
- (b) any variations that the circumstances may require.

Service

12 Court may dispense with service

- (1) This regulation applies to a court hearing or determining proceedings under the Act, or to which an application under the Act has been or is to be made, if the court is satisfied, on an application made to it for the purpose,—

- (a) that reasonable efforts have been made to effect service of a document under the Act by any of the modes permitted or required by or under rules of court; and
 - (b) either that the document has come to the knowledge of the person to be served or that prompt personal service of the document cannot be effected.
- (2) A court to which this regulation applies may, subject to any conditions it thinks fit to impose,—
- (a) dispense with service of the document on any person under the Act; and
 - (b) give leave to the party by whom the document is required to be served to proceed as if service of the document had been effected on that person under the Act.

Compare: SR 1992/167 r 5

Costs

13 Costs recoverable by Official Assignee

- (1) This regulation applies to property if the Official Assignee—
- (a) takes custody and control of the property under a restraining order, forfeiture order, or foreign forfeiture order registered in New Zealand; or
 - (b) deals with or disposes of the property under a forfeiture order, or under a foreign forfeiture order registered in New Zealand.
- (2) For the purposes of section 87(1) of the Act, the costs that the Official Assignee is entitled to recover, in accordance with all or any of sections 82(1)(a), 83(1)(a), 85(a), and 86(1)(a) of the Act, in respect of the exercise or performance by the Official Assignee or any delegate of the Official Assignee of functions or powers under the Act in respect of the property are—
- (a) 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 or powers under the Act in respect of the property:
 - (b) for work undertaken by the Official Assignee or any Deputy Official Assignee in connection with the exercise or performance of functions or powers under the

Act in respect of the property, remuneration of \$200 per hour or part of an hour.

- (3) This regulation also applies, in accordance with section 51(e) of the Terrorism Suppression Act 2002, to property that is the subject of a direction under section 48 of that Act—
- (a) as if the direction were a restraining order made under section 24, 25, or 26 of the Act; and
 - (b) with any other necessary modifications.

Compare: SR 1992/167 r 6

**Schedule
Forms
Contents**

rr 4–11

		Page
1	On notice application for restraining order (prior to civil forfeiture order)	11
2	Without notice application for restraining order (prior to civil forfeiture order)	13
3	On notice application for restraining order relating to instrument of crime	15
4	Without notice application for restraining order relating to instrument of crime	17
5	Restraining order	20
6	Application to have severable interest in restrained property excluded from restraining order	22
7	Order excluding severable interest from proposed restrained property or restrained property	24
8	Application to have disposition or dealing set aside	26
9	Order setting aside disposition or dealing	27
10	Application for further order(s) associated with restraining order	29
11	Further order(s) associated with restraining order	31
12	Application to extend duration of restraining order	33
13	Order extending duration of restraining order	34
14	Application for assets forfeiture order	36
15	Notice of request to amend application for civil forfeiture order	38
16	Order to enter on register note of application for civil forfeiture order	40
17	Order to cancel entry on register under section 48(2) of Act	41
18	Assets forfeiture order	42
19	Application to have property excluded from assets forfeiture order because of undue hardship	44
20	Order excluding property from assets forfeiture order because of undue hardship	45
21	Application for profit forfeiture order	47
22	Profit forfeiture order	49
23	Application to have property excluded from profit forfeiture order because of undue hardship	51
24	Order excluding property from profit forfeiture order because of undue hardship	52

Schedule	Criminal Proceeds (Recovery) Regulations 2009	Reprinted as at 1 July 2014
25	Application to vary maximum recoverable amount	54
26	Order varying maximum recoverable amount	56
27	Application to have respondent's effective control over property treated as interest in property	58
28	Order that respondent's effective control over property be treated as interest in property	60
29	Application for relief from civil forfeiture order	62
30	Order for relief from civil forfeiture order	65
31	Warrant authorising officer of court to search for and seize document(s) to effect transfer of property <i>[Revoked]</i>	67
32	Application for warrant authorising constables to search for and seize evidence and property <i>[Revoked]</i>	67
33	Warrant authorising constables to search for and seize evidence and property <i>[Revoked]</i>	67
34	Application for warrant authorising Commissioner and constables to search for and seize evidence and property <i>[Revoked]</i>	67
35	Warrant authorising Commissioner and constables to search for and seize evidence and property <i>[Revoked]</i>	67
36	Application for warrant authorising Commissioner and constables to search for and seize evidence and property for non-compliance with production order or examination order <i>[Revoked]</i>	68
37	Warrant authorising Commissioner and constables to search for and seize evidence and property for non-compliance with production order or examination order <i>[Revoked]</i>	68
38	Application for warrant authorising Official Assignee and his or her delegates to search for and seize evidence and property <i>[Revoked]</i>	68
39	Warrant authorising Official Assignee and his or her delegates to search for and seize evidence and property <i>[Revoked]</i>	68
40	Application for production order <i>[Revoked]</i>	68
41	Production order <i>[Revoked]</i>	69
42	Application for examination order <i>[Revoked]</i>	69
43	Examination order <i>[Revoked]</i>	69

Form 1
On notice application for restraining order
(prior to civil forfeiture order)
*Sections 21, 24, and 25, Criminal Proceeds (Recovery)
Act 2009*

To the Registrar

and

***To** the respondent

and

***To** *[full name of any other person who, to the applicant's knowledge, has an interest in the proposed restrained property]*

**Omit if no respondent or, as the case may be, other person who, to the applicant's knowledge, has an interest in the proposed restrained property.*

and

To the Official Assignee

This document notifies you that—

- 1 The applicant will on *[date]* apply to the court for an order that the property specified in paragraph 2—
 - (a) is not to be disposed of, or dealt with, other than as is provided for in the restraining order; and
 - (b) is to be under the Official Assignee's custody and control.
- 2 The property referred to in paragraph 1 is as follows: *[specify and, if there is more than 1 item of property, number (a), (b), etc, the proposed restrained property, including the full legal description where appropriate, and including the full name of every person who, to the applicant's knowledge, has an interest in the particular property (including, if applicable, the respondent), and the nature and extent of that interest, if known].*
- 3 *For this paragraph select the statement that applies.*
Statement A
The ground on which the order is sought is as follows:
The property identified in *[specify paragraph, for example, in "paragraph 2(a), (b), and (e) of"]* this application is tainted property.

Form 1—*continued**Statement B*

The ground on which the order is sought is as follows:

The respondent [*full name*] has unlawfully benefited from significant criminal activity.

Statement C

The grounds on which the order is sought are as follows:

- (a) the property identified in [*specify paragraph, for example, in “paragraph 2(a), (b), and (e) of”*] this application is tainted property; and
- (b) the respondent [*full name*] has unlawfully benefited from significant criminal activity.

- 4 The application is to be made in reliance on sections 21 and [*specify section 24 or 25 or both*] of the Criminal Proceeds (Recovery) Act 2009 [*and specify any particular provision of any other enactment, principle of law, or judicial decision relied on*].

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Form 2
Without notice application for restraining order
(prior to civil forfeiture order)
*Sections 22, 24, and 25, Criminal Proceeds (Recovery)
Act 2009*

To the Registrar
and
To the Official Assignee

This document notifies you that—

- 1 The applicant applies to the court for an order that the property specified in paragraph 2—
 - (a) is not to be disposed of, or dealt with, other than as is provided for in the restraining order; and
 - (b) is to be in the Official Assignee’s custody and control.
- 2 The property referred to in paragraph 1 is as follows: [*specify and, if there is more than 1 item of property, number (a), (b), etc, the proposed restrained property, including the full legal description where appropriate, and including the full name of every person who, to the applicant’s knowledge, has an interest in the particular property (including, if applicable, the respondent), and the nature and extent of that interest, if known*].
- 3 *For this paragraph select the statement that applies.*

Statement A

The grounds on which the order is sought are as follows:

- (a) the property identified in [*specify paragraph, for example, “paragraph 2(a), (b), and (e) of”*] this application is tainted property; and
- (b) there is a risk of the proposed restrained property being destroyed, disposed of, altered, or concealed if notice were given to any or all of the persons who, to the applicant’s knowledge, have an interest in the proposed restrained property (including, if applicable, the respondent).

Statement B

The grounds on which the order is sought are as follows:

- (a) the respondent [*full name*] has unlawfully benefited from significant criminal activity; and

Form 2—*continued*

- (b) there is a risk of the proposed restrained property being destroyed, disposed of, altered, or concealed if notice were given to any or all of the persons who, to the applicant's knowledge, have an interest in the proposed restrained property (including, if applicable, the respondent).

Statement C

The grounds on which the order is sought are as follows:

- (a) the property identified in [*specify paragraph, for example, "paragraph 2(a), (b), and (e) of"*] this application is tainted property; and
- (b) the respondent [*full name*] has unlawfully benefited from significant criminal activity; and
- (c) there is a risk of the proposed restrained property being destroyed, disposed of, altered, or concealed if notice were given to any or all of the persons who, to the applicant's knowledge, have an interest in the proposed restrained property (including, if applicable, the respondent).
- 4 The application is made in reliance on sections 22 and [*specify section 24 or 25 or both*] of the Criminal Proceeds (Recovery) Act 2009 [*and specify any other enactment, principle of law, or judicial decision relied on*].

As required by rule 19.10(1)(e) of the High Court Rules/rule 20.17(e) of the District Courts Rules 2014*, I certify that this application complies with the rules.

*Select one.

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Schedule form 2: amended, on 1 July 2014, by regulation 4 of the Criminal Proceeds (Recovery) Amendment Regulations 2014 (LI 2014/159).

Form 3
On notice application for restraining order
relating to instrument of crime

Sections 21 and 26, Criminal Proceeds (Recovery) Act 2009

To the Registrar

and

***To** the respondent(s)

and

***To** *[full name of any other person who, to the applicant's knowledge, has an interest in the proposed restrained property]*

*Omit if no respondent or, as the case may be, other person who, to the applicant's knowledge, has an interest in the proposed restrained property.

and

To the Official Assignee

This document notifies you that—

- 1 The applicant will on *[date]* apply to the court for an order that the property specified in paragraph 2—
 - (a) is not to be disposed of, or dealt with, other than as is provided for in the restraining order; and
 - (b) is to be in the Official Assignee's custody and control.
- 2 The property referred to in paragraph 1 is as follows: *[specify and, if there is more than 1 item of property, number (a), (b), etc, the proposed restrained property, including the full legal description where appropriate, and including the full name of every person who to the knowledge of the applicant has an interest in the particular property (including, if applicable, the respondent) and the nature and extent of that interest, if known]*.
- 3 The grounds on which the order is sought are as follows:
Select the statement that applies.
Statement A
 - (a) the respondent *[full name]* has been charged with a qualifying instrument forfeiture offence, namely, *[specify and, if more than 1, number (i), (ii), etc, the qualifying instrument forfeiture offence(s)]*; and

Form 3—*continued*

- (b) the property identified in this application is an instrument of crime used to facilitate that/those* qualifying instrument forfeiture offence(s).

*Select one.

Statement B

- (a) the respondent will be charged within 48 hours of the order being made with a qualifying instrument forfeiture offence, namely, [*specify and, if more than 1, number (i), (ii), etc, the qualifying instrument forfeiture offence(s)*]; and
- (b) the property identified in this application is an instrument of crime used to facilitate that/those* qualifying instrument forfeiture offence(s).

*Select one.

- 4 The application is made in reliance on sections 21 and 26 of the Criminal Proceeds (Recovery) Act 2009 [*and specify any particular provision of any other enactment, principle of law, or judicial decision relied on*].

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Form 4

Without notice application for restraining order
relating to instrument of crime

Sections 22 and 26, Criminal Proceeds (Recovery) Act 2009

To the Registrar

and

To the Official Assignee

This document notifies you that—

- 1 The applicant will on [*date*] apply to the court for an order that the property specified in paragraph 2—
 - (a) is not to be disposed of, or dealt with, other than as is provided for in the restraining order; and
 - (b) is to be in the Official Assignee's custody and control.
- 2 The property referred to in paragraph 1 is as follows: [*specify and, if there is more than 1 item of property, number (a), (b), etc, the proposed restrained property, including the full legal description where appropriate, and including the full name of every person who to the knowledge of the applicant has an interest in the particular property (including, if applicable, the respondent), and the nature and extent of that interest, if known*].
- 3 *For this paragraph select the statement that applies.*
Statement A
The grounds on which the order is sought are as follows:
 - (a) the respondent [*full name*] has been charged with a qualifying instrument forfeiture offence, namely, [*specify and, if more than 1, number (i), (ii), etc, the qualifying instrument forfeiture offence(s)*]; and
 - (b) the property identified in this application is an instrument of crime used to facilitate that/those* qualifying instrument forfeiture offence(s); and

Form 4—*continued*

- (c) there is a risk of the proposed restrained property being destroyed, disposed of, altered, or concealed if notice were given to any or all of the persons who, to the applicant's knowledge, have an interest in the proposed restrained property (including, if applicable, the respondent).

*Select one.

Statement B

The grounds on which the order is sought are as follows:

- (a) the respondent [*full name*] will be charged within 48 hours of the order being made with a qualifying instrument forfeiture offence, namely, [*specify and, if more than 1, number (i), (ii), etc, the qualifying instrument forfeiture offence(s)*]; and
- (b) the property identified in this application is an instrument of crime used to facilitate that/those* qualifying instrument forfeiture offence(s); and
- (c) there is a risk of the proposed restrained property being destroyed, disposed of, altered, or concealed if notice were given to any or all of the persons who, to the applicant's knowledge, have an interest in the proposed restrained property (including, if applicable, the respondent).

*Select one.

- 4 The application is made in reliance on sections 22 and 26 of the Criminal Proceeds (Recovery) Act 2009 [*and specify any particular provision of any other enactment, principle of law, or judicial decision relied on*].

As required by rule 19.10(1)(e) of the High Court Rules/rule 20.17(e) of the District Courts Rules 2014*, I certify that this application complies with the rules.

*Select one.

Form 4—*continued*

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Schedule form 4: amended, on 1 July 2014, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2014 (LI 2014/159).

Form 5

Restraining order

*Sections 24 to 26, 28, 37(2)(b), and 39, Criminal Proceeds
(Recovery) Act 2009*

To [*the Commissioner, the New Zealand Police, or the prosecutor's name*]

and

***To** [*every other party who has given an address for service and any other person affected by the order*]

*Omit if no other parties have given an address for service and no other person is affected by the order.

and

To the Official Assignee

1 The application for a restraining order made by [*the Commissioner, the New Zealand Police, or the prosecutor's name*] on [*date*] was determined by the Honourable Justice/Judge* [*name*] on [*date*].

*Select one.

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on [*date(s)*] at which the following people appeared: [*List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.*]

Statement B

The determination was made without notice to any or all of the persons who, to the applicant's knowledge, have an interest in the proposed restrained property (including, if applicable, the respondent).

Statement C

The determination was made with the consent of the parties.

3 As a result of the determination, the court made the following order:

The property to which this order applies—

(a) is not to be disposed of, or dealt with, other than as is provided for in the restraining order; and

Form 5—*continued*

(b) is to be in the Official Assignee's custody and control. The property to which this order applies is as follows: [*specify the restrained property, including the full legal description where appropriate*].

- 4 *Include this paragraph only if the restraining order is made subject to any conditions (for example, conditions of the kinds specified in section 28(1)(a) to (d) of the Act).*

This restraining order is subject to the following conditions: [*specify*].

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Include whichever of the following notes apply.

Note(s)

- 1 As this order has been made without notice to you, it will cease to be in force on [*specify the date that is the end of the period of 7 days commencing on the date on which this order is made*], unless before it expires an application for another restraining order is made on notice in relation to the same property to which this order relates, in which case this order continues in force until the application on notice is finally disposed of. At the hearing of the application on notice you or your counsel or solicitor may appear and adduce evidence in opposition to that application.
- 2 An undertaking as to costs or damages, or both, given by the applicant (whether required by a court under section 29 of the Act or not) is attached.

Form 6
Application to have severable interest
in restrained property excluded from
restraining order

Section 30, Criminal Proceeds (Recovery) Act 2009

To the Registrar

and

To [*the Commissioner, the New Zealand Police, or the prosecutor's name*]

and

***To** the respondent(s)

*Omit if no respondents.

and

To the Official Assignee

This document notifies you that—

1 The applicant, [*full name*], will on [*date*] apply to the court for an order that the following severable interest be excluded from a restraining order that the court may make/has made*, namely, [*specify the property and the severable interest in it the applicant seeks to have excluded*].

*Select one.

2 The grounds on which the order is sought are as follows:

(a) the applicant has a severable interest in property to which the application for a restraining order/the restraining order made on [*date*]* relates; and

*Select one.

(b) *For this paragraph select the statement that applies.*

Statement A (for a restraining order made or to be made under section 24 or 25 of the Act)

the applicant has not unlawfully benefited from the significant criminal activity to which the application or restraining order relates.

Form 6—*continued*

Statement B (for a restraining order made or to be made under section 26 of the Act)

the applicant was not involved in the qualifying instrument forfeiture offence to which the application or restraining order relates.

- (c) *Omit this paragraph if the applicant intends only to rely on either of the statements in paragraph (b).*

It is in the public interest, having regard to all the circumstances, for the court to exclude the applicant's severable interest from proposed restrained property or restrained property.

- 3 The application is made in reliance on section 30 of the Criminal Proceeds (Recovery) Act 2009 [*and specify any other enactment, principle of law, or judicial decision relied on*].

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Form 7

Order excluding severable interest
from proposed restrained property
or restrained property

Section 30, Criminal Proceeds (Recovery) Act 2009

To [*the Commissioner, the New Zealand Police, or the prosecutor's name*]

and

***To** [*every other party who has given an address for service and any other person affected by the order*]

*Omit if no other parties have given an address for service and no other person is affected by the order.

and

To the Official Assignee

1 The application made by [*full name*] on [*date*] for an order to exclude a severable interest from proposed restrained property or restrained property was determined by the Honourable Justice/Judge* [*name*] on [*date*].

*Select one.

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on [*date(s)*] at which the following people appeared: [*List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.*]

Statement B

The determination was made without a hearing.

Statement C

The determination was made with the consent of the parties.

Form 7—*continued*

- 3 As a result of the determination, the court made the following order:

The following severable interest is excluded from any restraining order that the court may make in response to the application for one made on [date]/the restraining order that the court made on [date]*: [*specify the property and the severable interest in that property that is excluded*].

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [date]

Form 8
Application to have disposition or dealing
set aside

Section 32, Criminal Proceeds (Recovery) Act 2009

To the Registrar

and

***To** the respondent(s)

*Omit if no respondents.

and

To the Official Assignee

This document notifies you that—

- 1 The applicant, [*the Commissioner, the New Zealand Police, or the prosecutor's name*], will on [*date*] apply to the court for an order—
 - (i) setting aside the following disposition of, or dealing with, restrained property: [*specify the disposition or dealing sought to be set aside, including, if known, its nature, parties, and date*]; and
 - (ii) setting that disposition or dealing aside as from [*specify either the day on which the disposition or dealing took place, or the day of this order*].
- 2 The order is sought on the ground that the disposition, or dealing, was in contravention of a restraining order successfully applied for by the applicant.
- 3 The application is made in reliance on section 32 of the Criminal Proceeds (Recovery) Act 2009 [*and specify any other enactment, principle of law, or judicial decision relied on*].

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Form 9

Order setting aside disposition or dealing

Section 32, Criminal Proceeds (Recovery) Act 2009

To *[the Commissioner, the New Zealand Police, or the prosecutor's name]*

and

***To** *[every other party who has given an address for service and any other person affected by the order]*

*Omit if no other parties have given an address for service and no other person is affected by the order.

and

To the Official Assignee

1 The application for an order setting aside a disposition or dealing in respect of restrained property made by *[full name]* on *[date]* was determined by the Honourable Justice/Judge* *[name]* on *[date]*.

*Select one.

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on *[date(s)]* at which the following people appeared: *[List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.]*

Statement B

The determination was made without a hearing.

Statement C

The determination was made with the consent of the parties.

3 As a result of the determination, the court made under section 32 of the Criminal Proceeds (Recovery) Act 2009 the following order:

The court orders that—

(a) the following disposition of, or dealing with, restrained property, is set aside: *[specify the disposition or dealing sought set aside, including, if known, its nature, parties, and date]*; and

Form 9—*continued*

(b) that disposition or dealing is set aside as from [*specify either the day on which the disposition or dealing took place, or the day of this order*].

- 4 *Include this paragraph if the court under section 32(2)(b) of the Criminal Proceeds (Recovery) Act 2009 declares the respective rights of any person who acquired interests in the property on or after the day on which the disposition or dealing took place and before the day of the order.*

The court declares that [*full name of person(s)*] acquired the following interests in the property on or after the day on which the disposition or dealing took place and before the day of this order: [*specify*].

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Form 10
**Application for further order(s) associated with
restraining order**

Section 33, Criminal Proceeds (Recovery) Act 2009

To the Registrar

and

***To** [*the Commissioner, the New Zealand Police, or the prosecutor's name*]

*Omit if any of those is the applicant for further orders.

and

***To** [*full name of every other person not already named (except the applicant for further orders) who is a party to the proceedings connected with the associated restraining order*]

*Omit if this does not apply.

and

***To** the Official Assignee

*Omit if the Official Assignee is the applicant for further orders.

This document notifies you that—

- 1 The applicant, [*full name*], will on [*date*] apply to the court for the following further order(s): [*specify and, if more than 1, number (a), (b), etc.*].
- 2 The grounds on which the further order is/orders are* sought are as follows: [*specify and, if more than 1, number (a), (b), etc, the grounds on which each order is sought*].
*Select one.
- 3 The application is made in reliance on section 33 of the Criminal Proceeds (Recovery) Act 2009 [*and specify any other enactment, principle of law, or judicial decision relied on*].

Form 10—*continued*

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Form 11

Further order(s) associated with restraining order
Sections 34 to 38, Criminal Proceeds (Recovery) Act 2009

To *[applicant for the further order(s)]*

and

***To** *[every other party who has given an address for service and any other person affected by the order(s)]*

*Omit if no other parties have given an address for service and no other person is affected by the order(s).

and

To the Official Assignee

1 The application for 1 or more further orders made by *[full name]* on *[date]* was determined by the Honourable Justice/Judge* *[name]* on *[date]*.

*Select one.

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on *[date(s)]* at which the following people appeared: *[List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.]*

Statement B

The determination was made without a hearing.

Statement C

The determination was made with the consent of the parties.

3 As a result of the determination, the court made the following further order(s): *[specify and, if more than 1, number (a), (b), etc, further order(s) which may, but need not, be orders of the types specified in section 35 of the Criminal Proceeds (Recovery) Act 2009].*

Form 11—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Form 12
Application to extend duration of
restraining order

Section 41, Criminal Proceeds (Recovery) Act 2009

To the Registrar

and

To the Official Assignee

and

***To** [*full name of any other person who, to the applicant's knowledge, has an interest in the proposed restrained property*]

*Omit if no respondent or, as the case may be, other person who, to the applicant's knowledge, has an interest in the proposed restrained property.

This document notifies you that—

- 1 The applicant, [*the Commissioner, the New Zealand Police, or the prosecutor's name*], will on [*date*] apply to the court for an order extending the duration of the restraining order for a period of [*specify period of extension, not exceeding 1 year, sought*].
- 2 The grounds on which the order is sought are: [*specify and, if more than 1, number (a), (b), etc, the grounds on which the order is sought*].
- 3 The application is made in reliance on section 41 of the Criminal Proceeds (Recovery) Act 2009 [*and specify any other enactment, principle of law, or judicial decision relied on*].

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Form 13

Order extending duration of restraining order

Section 41, Criminal Proceeds (Recovery) Act 2009

To [*the Commissioner, the New Zealand Police, or the prosecutor's name*]

and

To the Official Assignee

and

***To** [*every other party who has given an address for service and any other person affected by the order*]

*Omit if no other parties have given an address for service and no other person is affected by the order.

1 The application for an order extending the duration of a restraining order made by [*the Commissioner, the New Zealand Police, or the prosecutor's name*] on [*date*] was determined by the Honourable Justice [*name*] on [*date*].

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on [*date(s)*] at which the following people appeared: [*List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.*]

Statement B

The determination was made without a hearing.

Statement C

The determination was made with the consent of the parties.

3 As a result of the determination, the court made the following order:

The duration of the restraining order made on [*date*] is extended for a period of [*specify*] so that it now expires on [*date*].

4 *Omit this paragraph if it does not apply.*

The court varied the restraining order made on [*date*] and extended by this order in the following manner: [*specify how order varied*].

Form 13—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Form 14
Application for assets forfeiture order
*Sections 43, 44, and 49, Criminal Proceeds (Recovery)
Act 2009*

To the Registrar

and

***To** the respondent(s)

*Omit if no respondents.

and

To the Official Assignee

and

***To** [*full name of any other person who, to the Commissioner's knowledge, has an interest in the proposed forfeited property*]

*Omit if no other person who, to the Commissioner's knowledge, has an interest in the proposed forfeited property.

This document notifies you that—

- 1 The Commissioner will on [*date*] apply to the court for an order that the property specified in paragraph 2—
 - (a) vests in the Crown absolutely; and
 - (b) is to be in the Official Assignee's custody and control.
- 2 The property referred to in paragraph 1 is as follows, namely, [*specify the proposed forfeited property, including the full legal description where appropriate, and including the full name(s) of the respondent(s) (if any) and of every person who, to the Commissioner's knowledge, has an interest in the particular property and, if known, the nature and extent of that interest*].
- 3 The order is sought on the grounds that the proposed forfeited property is tainted property because: [*specify and, if more than 1, number (a), (b), etc, the grounds for the Commissioner's belief that the property is tainted property*].
- 4 The application is made in reliance on sections 43, 44, and 49 of the Criminal Proceeds (Recovery) Act 2009 [*and specify any other enactment, principle of law, or judicial decision relied on*].

Form 14—*continued*

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Form 15
Notice of request to amend application for
civil forfeiture order

Section 47(1)(b), Criminal Proceeds (Recovery) Act 2009

To the Registrar

and

***To** the respondent(s)

*Omit if no respondents.

and

To *[any other person on whom the application for a civil forfeiture order was served]*

and

***To** *[any other person who claims an interest in the property to which that application relates or who the Commissioner has reason to believe may have an interest in any additional property that would be included in the application by the amendment]*

*Omit if this does not apply.

and

To the Official Assignee

This document notifies you that—

- 1 The Commissioner will on *[date]* request that the court amend the Commissioner's application made on *[date]* for a civil forfeiture order in the following manner: *[specify and, if more than 1, number (a), (b), etc, the proposed amendment(s)].*
- 2 The request for the amendment(s) is to be made on the following ground(s): *[specify and, if more than 1, number (a), (b), etc, the ground(s), including, if relevant, how section 47(2) of the Act is to be complied with].*
- 3 The amendment is to be requested in reliance on section 47 of the Criminal Proceeds (Recovery) Act 2009 *[and specify any other enactment, principle of law, or judicial decision relied on].*

Form 15—*continued*

Date:

Signature:

(solicitor for Commissioner/counsel for Commissioner/Commissioner*)

*Select one.

Form 16

Order to enter on register note of application
for civil forfeiture order

Section 48(2), Criminal Proceeds (Recovery) Act 2009

To [*the authority responsible for administering the New Zealand enactment that enables the registration of title to, or charges over, the specified property*]

- 1 The Commissioner on [*date*] made an application for a civil forfeiture order against the following property: [*specify*].
- 2 The High Court by this order requires you to enter on the register a note of the fact that an application has been made for a civil forfeiture order against that property.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Form 17

Order to cancel entry on register under
section 48(2) of Act

Section 48(3), Criminal Proceeds (Recovery) Act 2009

To *[the authority responsible for administering an enactment that enables the registration of title to property or charges over property]*

- 1 You were required by an order of the High Court made under section 48(2) of the Criminal Proceeds (Recovery) Act 2009 on *[date]* to enter on the register a note of the fact that an application has been made for a civil forfeiture order against the following property: *[specify]*.
- 2 The High Court by this order requires you to cancel any entry made on the register in accordance with that order.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: *[date]*

Form 18
Assets forfeiture order
*Sections 50 and 59(1), Criminal Proceeds (Recovery)
Act 2009*

To the Commissioner

and

***To** [every other party who has given an address for service and any other person affected by the order]

*Omit if no other parties have given an address for service and no other person is affected by the order.

and

To the Official Assignee

1 The application for an assets forfeiture order made by the Commissioner on [date] was determined by the Honourable Justice [name] on [date].

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on [date(s)] at which the following people appeared: [List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.]

Statement B

The determination was made without a hearing.

Statement C

The determination was made with the consent of the parties.

3 As a result of the determination, the High Court made the following order:

The property to which this order applies—

- (a) vests in the Crown absolutely; and
- (b) is to be in the Official Assignee's custody and control.

This order applies to the following property, namely, [specify the forfeited property in a comprehensive list, with description adequate to identify each asset].

Form 18—*continued*

- 4 *Include this paragraph only if the court makes any further declarations or directions not already set out above.*
The court made the following declarations or directions: [*specify and, if more than 1, number (a), (b), etc, the further declarations or directions made in accordance with section 59(1) of the Act*].

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Form 19
Application to have property excluded from
assets forfeiture order because of undue hardship
Section 51, Criminal Proceeds (Recovery) Act 2009

To the Registrar

and

To the Commissioner

and

***To** [full name of any other respondents apart from the applicant for this order]

*Omit if no other respondents.

and

To the Official Assignee

This document notifies you that—

- 1 [Full name] is a respondent in relation to an application for an assets forfeiture order, and will on [date] apply to the court for an order excluding from an assets forfeiture order that the court may make the following property: [specify].
- 2 The grounds on which the order excluding that property from the assets forfeiture order (if any) is sought are that, having regard to all of the circumstances, undue hardship is reasonably likely to be caused to [full name] if the property is included in the order.
- 3 The application to have property excluded from any assets forfeiture order is made in reliance on section 51 of the Criminal Proceeds (Recovery) Act 2009 [and specify any other enactment, principle of law, or judicial decision relied on].

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Form 20
**Order excluding property from assets forfeiture
order because of undue hardship**

Section 51, Criminal Proceeds (Recovery) Act 2009

To *[the Commissioner]*

and

***To** *[every other party who has given an address for service and any other person affected by the order]*

*Omit if no other parties have given an address for service and no other person is affected by the order.

and

To the Official Assignee

1 The application made by *[full name]* on *[date]* for an order to exclude property was determined by the Honourable Justice *[name]* on *[date]*.

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on *[date(s)]* at which the following people appeared: *[List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.]*

Statement B

The determination was made without a hearing.

Statement C

The determination was made with the consent of the parties.

3 As a result of the determination, the High Court made the following order:

The High Court excludes from any assets forfeiture order that may be made the following property: *[specify]*.

Form 20—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Form 21
Application for profit forfeiture order
*Sections 43, 44, and 52, Criminal Proceeds (Recovery)
Act 2009*

To the Registrar

and

***To** the respondent(s)

*Omit if no respondents.

and

To the Official Assignee

and

***To** [*full name of any other person who, to the Commissioner's knowledge, has an interest in the property to which the application relates*]

*Omit if no other person who, to the Commissioner's knowledge, has an interest in the property to which the application relates.

This document notifies you that—

- 1 The Commissioner will on [*date*] apply to the High Court for an order that—
 - (a) the value of the benefit determined in accordance with section 53 of the Act is, as the case requires,—
 - (i) [*state in accordance with section 52(c) of the Act*] (or, in accordance with section 53(1)(b) of the Act, another value stated in any amendment(s) to this application); or
 - (ii) another value the respondent proves in accordance with section 53(2) of the Act; and
 - (b) the maximum recoverable amount is [*specify amount taking into account any deduction required by section 54(1)(b) of the Act*]; and
 - (c) the following property is to be realised: [*specify the property, including full legal description where appropriate, to be disposed of in accordance with section 83(1) of the Act, being property in which the respondent has, or is treated as having, interests, and that is not excluded from forfeiture by an order under section 56 of the Act because of undue hardship*].

Form 21—*continued*

- 2 The grounds on which the order is sought are as follows:
- (a) the respondent [*full name*] has in the relevant period of criminal activity (as defined in section 5(1) of the Act), namely, [*specify*], unlawfully benefited to the value of [*value of benefit*] from significant criminal activity, namely, [*specify*]; and
 - (b) the respondent has the following interests in property, namely, [*specify and, if more than 1, number (i), (ii), etc, the respondent's interests in property, with description adequate to identify the specific interest and property*].
- 3 The application is made in reliance on sections 43, 44, and 52 of the Criminal Proceeds (Recovery) Act 2009 [*and specify any other enactment, principle of law, or judicial decision relied on*].

Date:

Signature:

(solicitor for Commissioner/counsel for Commissioner/Commissioner*)

*Select one.

Form 22
Profit forfeiture order

Section 55, Criminal Proceeds (Recovery) Act 2009

To the Commissioner
and

***To** *[every other party who has given an address for service and any other person affected by the order]*

and

To the Official Assignee

1 The application for a profit forfeiture order made by the Commissioner on *[date]* was determined by the Honourable Justice *[name]* on *[date]*.

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on *[date(s)]* at which the following people appeared: *[List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.]*

Statement B

The determination was made without a hearing.

Statement C

The determination was made with the consent of the parties.

3 As a result of the determination, the High Court made the following order:

- (a) the value of the benefit is *[value determined in accordance with section 53 of the Act]*;
- (b) the maximum recoverable amount is *[amount determined in accordance with section 54 of the Act]*;
- (c) the following property is to be realised: *[specify the property, including full legal description where appropriate, that is to be disposed of in accordance with section 83(1) being property in which the respondent has, or is treated as having, interests, and that is not excluded from forfeiture by an order under section 56 of the Act because of undue hardship]*.

Form 22—*continued*

- 4 *Include this paragraph only if the court makes any further declarations or directions not already set out above.*

The court made the following declarations or directions: [*specify and, if more than 1, number (a), (b), etc, the further declarations or directions of the court made in accordance with section 59(1) of the Act*].

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Form 23

Application to have property excluded from
profit forfeiture order because of undue hardship

Section 56, Criminal Proceeds (Recovery) Act 2009

To the Registrar

and

To the Commissioner

and

***To** [*full name of any other respondents apart from the applicant for this order*]

*Omit if no other respondents.

and

To the Official Assignee

This document notifies you that—

- 1 [*Full name*] is a respondent in relation to an application for a profit forfeiture order, and will on [*date*] apply to the High Court for an order excluding the following property from being able to be realised under a profit forfeiture order: [*specify*].
- 2 The grounds on which the order excluding that property from a profit forfeiture order is sought are that, having regard to all of the circumstances, undue hardship is reasonably likely to be caused to [*full name*] if the property is included in the order.
- 3 The application to have property excluded from a profit forfeiture order is made in reliance on section 56 of the Criminal Proceeds (Recovery) Act 2009 [*and specify any other enactment, principle of law, or judicial decision relied on*].

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Form 24

Order excluding property from profit forfeiture
order because of undue hardship*Section 56, Criminal Proceeds (Recovery) Act 2009***To** *[the Commissioner, the New Zealand Police, or the prosecutor's name]*

and

To** *[every other party who has given an address for service and any other person affected by the order]Omit if no other parties have given an address for service and no other person is affected by the order.*

and

To the Official Assignee

1 The application made by *[full name]* on *[date]* for an order to exclude property was determined by the Honourable Justice *[name]* on *[date]*.

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on *[date(s)]* at which the following people appeared: *[List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.]*

Statement B

The determination was made without a hearing.

Statement C

The determination was made with the consent of the parties.

3 As a result of the determination, the High Court made the following order:

The High Court excludes the following property from being able to be realised under any profit forfeiture order that may be made: *[specify]*.

Form 24—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Form 25
Application to vary
maximum recoverable amount

Section 54(3), Criminal Proceeds (Recovery) Act 2009

To the Registrar

and

To the respondent

and

To the Official Assignee

This document notifies you that—

- 1 The Commissioner will on *[date]* apply to the High Court for an order varying the maximum recoverable amount under a profit forfeiture order made by the Honourable Justice *[name]* on *[date]* so that the maximum recoverable amount is *[value of the benefit without deduction, which is calculated in accordance with section 53 of the Act]*.
- 2 The grounds on which the variation is sought are as follows:
 - (a) an assets forfeiture order, relating to the same significant criminal activity to which the profit forfeiture order relates, has been discharged on appeal by the *[specify]* court at *[place, date]*;
 - (b) in determining the maximum recoverable amount for the relevant profit forfeiture order, a deduction was made of *[value]* relating to the now discharged assets forfeiture order;
 - (c) there is no longer a deduction to be made on account of the assets forfeiture order.
- 3 The application is made in reliance on section 54(3) of the Criminal Proceeds (Recovery) Act 2009 *[and specify any other enactment, principle of law, or judicial decision relied on]*.

Form 25—*continued*

Date:

Signature:

(solicitor for Commissioner/counsel for Commissioner/Commissioner*)

*Select one.

Form 26

Order varying maximum recoverable amount

*Section 54(3), Criminal Proceeds (Recovery) Act 2009***To** the Commissioner

and

To** *[every other party who has given an address for service and any other person affected by the order]*Omit** if no other parties have given an address for service and no other person is affected by the order.

and

To the Official Assignee

1 The application to vary the maximum recoverable amount made by the Commissioner on *[date]* was determined by the Honourable Justice *[name]* on *[date]*.

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on *[date(s)]* at which the following people appeared: *[List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.]*

Statement B

The determination was made without a hearing.

Statement C

The determination was made with the consent of the parties.

3 As a result of the determination, the High Court made the following order:

The maximum recoverable amount is varied to be *[amount determined in accordance with section 54 of the Act, taking into account that there is no longer a deduction on account of an assets forfeiture order]*.

Form 26—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Form 27

Application to have respondent's
effective control over property treated as
interest in property*Section 58, Criminal Proceeds (Recovery) Act 2009***To** the Registrar

and

To the respondent

and

***To** [*any person who claims an interest in the property*]

*Omit if no such persons at the time this application is made.

and

***To** [*every other person who, to the Commissioner's knowledge, has an interest in the property*]

*Omit if no such persons at the time this application is made.

and

To the Official Assignee**This document notifies you that—**

- 1 The Commissioner will on [*date*] apply to the High Court for an order under section 58 of the Criminal Proceeds (Recovery) Act 2009 that the following property be treated as though [*full name*] had the following interest in it: [*specify the property that the applicant seeks to have included in any profit forfeiture order and in any restraining order because of the respondent's effective control over that property, and the respondent's interest in it*].
- 2 The grounds on which the order under section 58 of the Criminal Proceeds (Recovery) Act 2009 is sought are as follows:
 - (a) the High Court will be satisfied that [*full name*] has effective control over the property; and
 - (b) the Court should exercise its discretion to make the order because: [*specify and, if more than 1, number (i), (ii), etc, the reasons*].
- 3 This application is also made in reliance on [*specify any other enactment, principle of law, or judicial decision relied on*].

Form 27—*continued*

Date:

Signature:

(solicitor for Commissioner/counsel for Commissioner/Commissioner*)

*Select one.

Form 28

Order that respondent's effective control over
property be treated as interest in property*Section 58, Criminal Proceeds (Recovery) Act 2009***To** the Commissioner

and

***To** *[every other party who has given an address for service and any other person affected by the order]*

*Omit if no other parties have given an address for service and no other person is affected by the order.

and

To the Official Assignee

1 The application to treat *[full name]*'s effective control over property as an interest in property made by the Commissioner on *[date]* was determined by the Honourable Justice *[name]* on *[date]*.

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on *[date(s)]* at which the following people appeared: *[List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.]*

Statement B

The determination was made without a hearing.

Statement C

The determination was made with the consent of the parties.

3 As a result of the determination, the High Court made the following order: The following property is property over which the Court is satisfied that *[respondent's full name]* has effective control, and is to be treated as though *[respondent's full name]* had the following interest in it: *[specify property and interest]*.

Form 28—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Form 29

Application for relief from civil forfeiture order
Sections 61 to 64, Criminal Proceeds (Recovery) Act 2009

To the Registrar

and

To the Commissioner

and

***To** the respondent

*Omit if no respondent.

and

***To** [*any other person (including any former interest holder) who claims an interest in the property*]

*Omit if no such persons at the time this application is made.

and

To the Official Assignee

This document notifies you that—

1 [Full name] (the applicant) will on [date] apply to the court for an order for relief from a civil forfeiture order that the court may make/has made*, namely,—

Select the paragraph(s) that apply.

(a) *This order may be sought before a civil forfeiture order has been determined and if the interest in respect of which relief is sought is severable.*

that the following property or severable interest in property is not to be included in any civil forfeiture order to which this matter relates: [*specify the property and interest in respect of which the applicant seeks relief*].

(b) *This order may be sought after a civil forfeiture order has been made and if the interest in respect of which relief is sought is severable.*

that the Official Assignee transfer to the applicant the following property or severable interest in property: [*specify the property and interest in respect of which the applicant seeks relief*].

Form 29—*continued*

- (c) *This order may be sought if the interest in respect of which relief is sought is not severable.*
that the Crown is to pay the applicant [*value of the interest in respect of which relief is sought*].

*Select one.

- 2 The grounds on which the order for relief is sought are as follows:

Select the paragraph(s) that apply.

- (a) in accordance with section 67 of the Criminal Proceeds (Recovery) Act 2009, the applicant—
- (i) has an interest in the following property to which the application for a civil forfeiture order relates, namely, [*specify the property and the applicant's interest in it in respect of which relief is sought, including whether the interest is severable and, if it is not severable, its value*]; and
 - (ii) has not unlawfully benefited from the significant criminal activity to which the application for a civil forfeiture order relates:
- (b) in accordance with section 68 of the Criminal Proceeds (Recovery) Act 2009, having regard to all of the circumstances, undue hardship is reasonably likely to be caused to the applicant if relief is not granted:
- (c) even though the applicant who seeks relief appeared at the hearing of the application or amended application for the civil forfeiture order or was served with that application, special reasons exist that enable the Court to grant relief in accordance with section 62(3) of the Criminal Proceeds (Recovery) Act 2009.

- 3 The application is made in reliance on sections 61 to 64 of the Criminal Proceeds (Recovery) Act 2009 [*and specify any other enactment, principle of law, or judicial decision relied on*].

Form 29—*continued*

Date:

Signature:

(solicitor for applicant/counsel for applicant/applicant*)

*Select one.

Form 30
Order for relief from civil forfeiture order

Sections 66 to 69, Criminal Proceeds (Recovery) Act 2009

To the Commissioner

and

***To** *[every other party who has given an address for service and any other person affected by the order]*

*Omit if no other parties have given an address for service and no other person is affected by the order.

and

To the Official Assignee

1 The application for an order for relief from a civil forfeiture order made by *[full name]* on *[date]* was determined by the Honourable Justice *[name]* on *[date]*.

2 *For this paragraph select the statement that applies.*

Statement A

The determination was made following a hearing held on *[date(s)]* at which the following people appeared: *[List names of counsel or solicitors who represented the respective parties at the hearing and state whether any party appeared in person at the hearing.]*

Statement B

The determination was made without a hearing.

Statement C

The determination was made with the consent of the parties.

3 As a result of the determination, the High Court made the following order:

Select the paragraph(s) that apply.

- (a) that the following property or severable interest in property is not to be included in any civil forfeiture order to which this matter relates: *[specify the property or interest]*;
- (b) that the Official Assignee transfer the following property or severable interest in property to the applicant: *[specify the property or interest]*;
- (c) that the Crown is to pay the applicant *[value of interest]*.

Form 30—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Form 31
Warrant authorising officer of court to
search for and seize document(s) to effect
transfer of property
[Revoked]

Schedule form 31: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

Form 32
Application for warrant authorising constables
to search for and seize evidence and property
[Revoked]

Schedule form 32: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

Form 33
Warrant authorising constables to search for and
seize evidence and property
[Revoked]

Schedule form 33: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

Form 34
Application for warrant authorising
Commissioner and constables to search for and
seize evidence and property
[Revoked]

Schedule form 34: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

Form 35
Warrant authorising Commissioner
and constables to search for and seize
evidence and property
[Revoked]

Schedule form 35: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

Form 36

Application for warrant authorising
Commissioner and constables to search for and
seize evidence and property for non-compliance
with production order or examination order

[Revoked]

Schedule form 36: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

Form 37

Warrant authorising Commissioner and
constables to search for and seize evidence and
property for non-compliance with production
order or examination order

[Revoked]

Schedule form 37: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

Form 38

Application for warrant authorising Official
Assignee and his or her delegates to search for
and seize evidence and property

[Revoked]

Schedule form 38: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

Form 39

Warrant authorising Official Assignee and his or
her delegates to search for and seize evidence
and property

[Revoked]

Schedule form 39: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

Form 40

Application for production order

[Revoked]

Schedule form 40: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

Reprinted as at
1 July 2014

**Criminal Proceeds (Recovery)
Regulations 2009**

**Form 41
Production order
*[Revoked]***

Schedule form 41: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

**Form 42
Application for examination order
*[Revoked]***

Schedule form 42: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

**Form 43
Examination order
*[Revoked]***

Schedule form 43: revoked, on 1 October 2012, by regulation 5 of the Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232).

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 22 October 2009.

Reprints notes

1 *General*

This is a reprint of the Criminal Proceeds (Recovery) Regulations 2009 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Criminal Proceeds (Recovery) Amendment Regulations 2014 (LI 2014/159)
Criminal Proceeds (Recovery) Amendment Regulations 2012 (SR 2012/232)
