



Civil Forfeiture of Criminal Property

Legal Measures for Targeting the Proceeds of Crime



Edited by
Simon N.M. Young

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*Associate Professor and Director, Centre for Comparative and
Public Law, Faculty of Law, University of Hong Kong*

Edward Elgar

Cheltenham, UK • Northampton, MA, USA

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Published by
Edward Elgar Publishing Limited
The Lypiatts
15 Lansdown Road
Cheltenham
Glos GL50 2JA
UK

Edward Elgar Publishing, Inc.
William Pratt House
9 Dewey Court
Northampton
Massachusetts 01060
USA

A catalogue record for this book
is available from the British Library

Library of Congress Control Number: 2008939749



ISBN 978 1 84720 826 2

Typeset by Cambrian Typesetters, Camberley, Surrey
Printed and bound in Great Britain by MPG Books Ltd, Bodmin, Cornwall

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Preface

In 2000 when I was still working for the Ontario government I witnessed the political process of how civil forfeiture laws were proposed, deliberated upon, marketed to the public and introduced into the provincial legislature. It was a cornerstone of the then Conservative government's get tough on crime platform. The government's political resolve to pass the law notwithstanding real constitutional concerns over provincial authority to enact such a law was impressive. The proposed law was also controversial from a rights perspective and a lively public debate both inside and outside the legislature ensued.

When I left Canada for Hong Kong in 2001, about a year before the Ontario law was passed, I was hoping to find a similar debate in this new jurisdiction. Not only was such a debate non-existent but many had not heard of civil forfeiture. Over the next few years the introduction of civil forfeiture in the United Kingdom and Australia did little to stimulate public discussion of the topic in Hong Kong. Thus in 2005–2006, I applied for and was successful in obtaining a research grant to study the topic in a new government initiative to promote better public policy research. This was an opportunity not only to research what would be best for Hong Kong (in terms of both the need and manner of reform) but also to stimulate interest and discussion in the community.

The project, which became known as the Hong Kong Civil Forfeiture Project, was housed in the Centre for Comparative and Public Law (CCPL) in the Faculty of Law, University of Hong Kong. The project invited leading practitioner experts from Ireland, Canada, Australia, New Zealand, United Kingdom, Macau and Taiwan to visit CCPL in 2006. Each expert spoke in a public seminar and also in a private meeting where they engaged with a specially established local focus group of experts. The aim of the private meetings was for key local stakeholders to gain a full and candid understanding of not only the laws and practices in the foreign jurisdiction but also in the international expert's estimation of how well those processes worked in practice. The papers presented by the experts were revised after the visit and all except one have become chapters in this book. As explained in the Introduction, the paper on New Zealand could not be finalized before the manuscript deadline due to uncertainties in the legislative progress of their civil forfeiture bill. With the assistance of Jeffrey Simser, for which we are most grateful, we were fortunate to obtain chapter contributions from leading experts from the United States and South Africa, two very important civil forfeiture jurisdictions.

I need to thank a number of people who contributed to both the project and the book. First, there are the international experts and members of the local focus group. Secondly, there are the CCPL researchers and staff who provided invaluable research and other assistance. Thanks to Jennifer Stone, Cheng Yulin, Kung Shun Fong, Kate Egan, Xing Fei, Jonathan Ah-weng and Flora Leung. Finally, I thank my family for their patience during the time I had to spend away from them.

I hope this book will help to stimulate more international debate and study on the global proliferation of civil asset forfeiture systems.

Simon N.M. Young
University of Hong Kong
August 2008

Acknowledgements

The project that made this book possible was fully supported by a grant from the Central Policy Unit of the Government of the Hong Kong Special Administrative Region and the Research Grants Council of the Hong Kong Special Administrative Region, China (Project No. HKU 7023-PPR-20051).

Some of the writing in Chapters 2 and 3 was based on previously published works which are duly acknowledged below:

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Stefan D. Cassella (2003), 'The Development of Asset Forfeiture Law in the United States', *Acta Juridica* (University of Cape Town, South Africa) 314.

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Fachtna Murphy and Barry Galvin, 'Targeting the financial wealth of criminals in Ireland: the law and practice' in J. P. McCutcheon and D. Walsh (eds) (1999), *The Confiscation of Criminal Assets: Law and Procedure*, Dublin, Ireland: Round Hall Sweet & Maxwell, pp. 9–35.

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