

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 56

Senator Ludwig asked the following question at the hearing on 24 May 2006:

- a) What is the process followed of moneys that are seized or forfeited and ending in the Confiscated Assets Account?
- b) What is the breakdown of moneys provided to the states from the Confiscated Assets Account?

The answer to the honourable senator's question is as follows:

- a) If the Court orders the Official Trustee under s38 of the *Proceeds of Crime Act 2002* to take custody and control of moneys, the Official Trustee will claim those funds and hold them in trust accounts with the Commonwealth Bank of Australia until further orders are obtained.

If forfeiture orders are obtained, and the Official Trustee has custody and control of the moneys, the net proceeds are paid into the Confiscated Assets Account after recovery of costs, charges and fees due to the Official Trustee.

If forfeiture orders are obtained and the Official Trustee does not have custody and control of the moneys (where there is only a forfeiture order and no preceding custody and control order), those funds will be claimed from the custodian and, when recovered, paid into the Confiscated Assets Account after recovery of costs, charges and fees due to the Official Trustee.

- b) There has only been one payment to an Australian State under the equitable sharing scheme of \$94,622.74, which was paid to Queensland Police in 2004.

All States and Territories have proceeds of crime legislation. Only South Australia, the Australian Capital Territory, Tasmania and the Commonwealth have provisions in their proceeds of crime legislation which provide for equitable sharing.