

Queensland



*Drugs Misuse Act 1986*

# **DRUGS MISUSE REGULATION 1987**

**Reprinted as in force on 23 April 1993  
(includes amendments up to regulation published Gazette 6 May  
1989)**

**Reprint No. 1**

This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy

# Information about this reprint

This regulation is reprinted as at 23 April 1993. As required by section 5 of the *Reprints Act 1992*, it—

- shows the law as amended by all amendments that commenced before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the *Reprints Act 1992*, the reprint includes, in a suitable place, a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the *Reprints Act 1992*, to do the following—

- omit the words of notification as permitted by section 7(1)(a) of that Act;
- use citations and references permitted by Division 2 of that Act;
- express gender specific provisions in a way consistent with current legislative drafting practice as permitted by section 24 of that Act;
- correct spelling, and use different spelling consistent with current legislative drafting practice, as permitted by section 26 of that Act;
- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- use the names for instruments and provision units permitted by sections 31 and 32 of that Act;
- relocate marginal or cite notes as permitted by section 34 of that Act;
- use aspects of format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit provisions that are no longer required as permitted by sections 39 and 40 of that Act;
- omit unnecessary referential words as permitted by section 41 of that Act.

**Also see Endnotes for—**

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

# Queensland



## DRUGS MISUSE REGULATION 1987

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# **DRUGS MISUSE REGULATION 1987**

[as amended by all amendments that commenced before 23 April 19932]

## **Short title**

1. This regulation may be cited as the *Drugs Misuse Regulation 1987*<sup>3-4</sup>.

## **Commencement**

2. This regulation shall commence on 31 October 1987.

## **Interpretation**

4. In this regulation—

“**occupier’s notice**” means an occupier’s notice referred to in section 7;

“**record of proceedings**” means a record of proceedings referred to in section 6;

“**search warrant**” means a search warrant issued under section 18 of the Act;

“**the Act**” means the *Drugs Misuse Act 1986*.

## **Notice to justice before whom a complaint to ground a search warrant is to be sworn**

5. A justice of the peace (other than a Stipendiary Magistrate) who has before him or her a complaint to ground a search warrant shall be given a notice in Form 6 by the complainant and shall read such notice prior to administering an oath for the purposes of such complaint.

## **Record of proceedings**

6.(1) A justice of the peace who has a complaint sworn before him or her to ground a search warrant shall cause a record to be made of such proceedings in Form 7.

(2) The justice of the peace shall retain or cause to be retained by the nearest clerk of the court the complaint to ground a search warrant and record of proceedings for 2 years or such longer period as may be required in the particular case.

### **Notice to occupier of place entered pursuant to warrant**

7.(1) A police officer to whom a search warrant has been issued shall prepare an occupier's notice in Form 8.

(2) A police officer executing a search warrant shall—

- (a) upon entry into or on the place to which the warrant relates, or at the first reasonable opportunity thereafter, serve the occupier's notice on a person who appears to be an occupier of that place; and
- (b) if no such person is then present, or if service is not practicable for any other reason, serve the occupier's notice by leaving it in a conspicuous location in or on that place.

(3) Subsection (2) does not apply where the police officer executing a search warrant has reasonable grounds to believe that service of an occupier's notice would frustrate or otherwise hinder the investigation of the offence in respect of which the search warrant was issued.

### **Forms**

8.(1) The forms set forth in the Schedule shall be used for the purpose for which they are respectively applicable.

(2) A form prescribed by this regulation shall be completed in accordance with such directions as are specified in the prescribed form.

(3) In this regulation a reference to a form by number is a reference to the form in the Schedule which bears that number.

### **Prescribed procedures for the disposal of hypodermic syringes and needles**

9. For the purposes of section 10(4)(b) of the Act, the prescribed procedures for the disposal of a hypodermic syringe or needle shall be as

follows—

- (a) by placing the hypodermic syringe or needle in a rigid wall, puncture resistant container and that container is sealed or securely closed in such a manner that its contents are incapable of causing injury to any person; or
- (b) by giving the hypodermic syringe or needle to a person who is a medical practitioner, pharmacist or person or a member of a class of persons referred to as authorised in section 10(3) of the Act.

### **Prescribed procedure for disposal of dangerous drugs**

**10.** For the purposes of section 52A of the Act, the prescribed procedure for the disposal of a thing shall be as follows—

- (a) in the case where the thing is a trace amount of a dangerous drug contained in a hypodermic syringe or needle, by disposing of the hypodermic syringe or needle in accordance with the procedures prescribed in section 9; or
- (b) in any other case, at the first reasonable opportunity, by giving—
  - (i) such thing; and
  - (ii) where such thing is contained in a hypodermic syringe or needle, such syringe or needle;

to an officer authorised to exercise the powers contained in section 132 of the *Health Act 1937*.





**SCHEDULE (continued)**

NOTE: If there is insufficient space to fully detail any of the required particulars a separate sheet should be attached.

## SCHEDULE (continued)

Form 2

QUEENSLAND

*Drugs Misuse Act 1986* [s. 18]*Drugs Misuse Regulation 1987*

## SEARCH WARRANT BY A JUSTICE

To (1)  
a police officer at (2)  
in the State of Queensland

Whereas (3)  
of (4)  
in the said State, a police officer, has this day made complaint on oath before me the undersigned one of Her Majesty's justices of the peace for the said State and whereas I am satisfied by such complaint that such officer reasonably suspects that a search of a (5)  
situated at (6)  
which is occupied by (7)  
in the said State may reveal evidence of the commission of an offence defined in Part II of the *Drugs Misuse Act 1986* namely (8)  
such evidence consisting of (9)

These are therefore to command you in Her Majesty's name, for the purposes aforesaid, for the period of \_\_\_\_\_ to expire at \_\_\_\_\_ am/pm on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, to—

- (i) enter or re-enter at any time the said place;
- (ii) search the said place so entered or re-entered for any thing more fully described above;
- (iii) detain all or any of the persons found in the place so entered or re-entered and exercise in respect of any person so detained the powers specified in section 15 of the Act as if that person had been detained under section 15(1);
- (iv) pass through, from, over and along any other place for the purpose of making that entry or re-entry;
- (v) seize any thing more fully described above found by you in, on or about the place that you reasonably suspect may afford evidence as to the commission of any offence defined in Part 2 of the Act so as to examine it or have it examined to determine if it will afford such evidence;
- (vi) retain any thing seized by you pursuant to paragraph (v) if you reasonably believe it will afford evidence as to the commission of the said offence so as to use it as such evidence,

## SCHEDULE (continued)

and you are hereby authorized to use such assistants, animals, vehicles and equipment as you consider necessary for the purpose of executing this warrant.

And you are also authorized to use, or direct to be used, such force as is reasonably necessary for the purpose of executing this warrant, provided that if you propose to use force against a person, or the property of a person then present, you shall, if practicable, first warn that person that you propose to use that force.

Given under my hand at \_\_\_\_\_ in the said State, this \_\_\_\_\_ day of  
19 \_\_\_\_\_ .

(10) \_\_\_\_\_ Signed \_\_\_\_\_  
\_\_\_\_\_, Justice of the Peace

---

- (1) Insert police officer's name.
- (2) Insert police officer's address.
- (3) Insert complainant's name.
- (4) Insert complainant's address.
- (5) Insert description of place.
- (6) Insert address, real property description or other description of location of place.
- (7) Insert name of occupier, if known, but if not known insert "unknown".
- (8) Insert offence.
- (9) Insert full description of thing.
- (10) Print the name of the justice.

## ENDORSEMENT OF SEARCH WARRANT

**If the warrant is not executed:**

The warrant was not executed for the following reasons:

**If the warrant is executed:**

1. The warrant was executed on the within named premises by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ at \_\_\_\_\_ am/pm.
2. The result of the execution of the warrant (including a description of the manner of execution and a description of the things removed/seized/retained) was briefly as follows:
3. The things removed/seized/retained are located at \_\_\_\_\_

## SCHEDULE (continued)

4. The occupier's notice was served on/not served because (if served, state name and address of person on whom the occupier's notice was served, if not served give reasons)

Signed:

Date:

Name:

Rank:

No.:

Station:

SCHEDULE (continued)

Form 3

QUEENSLAND

*Drugs Misuse Act 1986* [s. 18(2)]

*Drugs Misuse Regulation 1987*

COMPLAINT TO GROUND SEARCH WARRANT BEFORE A  
STIPENDIARY MAGISTRATE

The complaint of (1)  
of (2)  
in the State of Queensland, a police officer, being a (3)  
of Police made on oath this                      day of                      19                      before the  
undersigned, a stipendiary magistrate who says that (4)  
and the said (1)  
further informs me that by reason of the matters aforesaid he/she (5) reasonably  
suspects that a search of (6)                      situated at (7)  
which is occupied by (8)  
in the said State may reveal property namely (9)  
that is liable to forfeiture under Part 5 of the *Drugs Misuse Act 1986*.

Whereupon the said (1)  
prays that I the said stipendiary magistrate may proceed in the premises according to  
law.

Signature of Complainant

Sworn before me the day and year abovementioned at                      in the said  
State.

Stipendiary Magistrate

---

- (1) Insert full name of complainant.
- (2) Insert complainant's address.
- (3) Insert complainant's rank or grade.
- (4) Insert particulars of the facts upon which suspicion is based. Each particular is to be numbered.
- (5) Strike out whichever is not applicable.
- (6) Insert description of place.
- (7) Insert address, real property description or other description of location of place.
- (8) Insert name of occupier, if known, but if not known insert "unknown".
- (9) Insert full description of property.

NOTE: If there is insufficient space to fully detail any of the required particulars a separate sheet should be attached.

## SCHEDULE (continued)

Form 4

QUEENSLAND

*Drugs Misuse Act 1986* [s. 18]*Drugs Misuse Regulation 1987*

## SEARCH WARRANT BY A STIPENDIARY MAGISTRATE

To (1)  
a police officer at (2)  
in the State of Queensland,

Whereas (3)  
of (4)  
in the said State, a police officer, has this day made complaint on oath before me the undersigned stipendiary magistrate and whereas I am satisfied by such complaint that such officer reasonably suspects that a search of a (5)  
situated at (6)  
which is occupied by (7)  
in the said State may reveal property namely (8)  
that is liable to forfeiture under Part 5 of the *Drugs Misuse Act 1986*.

These are therefore to command you in Her Majesty's name, for the purposes aforesaid, for the period of \_\_\_\_\_ to expire at \_\_\_\_\_ am/pm  
on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, to—

- (i) enter or re-enter at any time the said place;
- (ii) search the said place so entered or re-entered for any thing more fully described above;
- (iii) detain all or any of the persons found in the place so entered or re-entered and exercise in respect of any person so detained the powers specified in section 15 of the Act as if that person had been detained under section 15(1);
- (iv) pass through, from, over and along any other place for the purpose of making that entry or re-entry;
- (v) seize any thing more fully described above found by you in, on or about the place that you reasonably suspect is liable to forfeiture under Part 5 of the Act.

and you are hereby authorized to use such assistants, animals, vehicles and equipment as you consider necessary for the purpose of executing this warrant.

And you are also authorized to use, or direct to be used, such force as is reasonably necessary for the purpose of executing this warrant, provided that if you propose to use force against a person, or the property of a person then present, you shall, if practicable, first warn that person that you propose to use that force.

## SCHEDULE (continued)

Given under my hand at \_\_\_\_\_ in the said State, this  
day of \_\_\_\_\_ 19 \_\_\_\_ .

Signed \_\_\_\_\_ ,  
(9) \_\_\_\_\_ , Stipendiary Magistrate

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- (1) Insert police officer's name.
- (2) Insert police officer's address.
- (3) Insert complainant's name.
- (4) Insert complainant's address.
- (5) Insert description of place.
- (6) Insert address, real property description or other description of location of place.
- (7) Insert name of occupier, if known, but if not known insert "unknown".
- (8) Insert full description of thing.
- (9) Print the name of the stipendiary magistrate.

## ENDORSEMENT OF SEARCH WARRANT

**If the warrant is not executed:**

The warrant was not executed for the following reasons:

**If the warrant is executed:**

1. The warrant was executed on the within named premises by  
on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ at \_\_\_\_ am/pm.
2. The result of the execution of the warrant (including a description of the manner  
of execution and a description of the things removed/seized/retained) was briefly as  
follows:
3. The things removed/seized/retained are located at
4. The occupier's notice was served on/not served because (if served, state name  
and address of person on whom the occupier's notice was served, if not served give  
reasons)

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

Rank: \_\_\_\_\_ No.: \_\_\_\_\_

Station: \_\_\_\_\_

*Drugs Misuse Regulation 1987*

SCHEDULE (continued)

Form 5

QUEENSLAND

*Drugs Misuse Act 1986* [s. 20]

*Drugs Misuse Regulation 1987*

REGISTER OF SEARCHES

In the case of the stoppage of a vehicle	The place at which the vehicle was stopped The reason for the stoppage If the vehicle or any thing in it is searched, the date, time and place of the search
In the case of the detention of a person	The name of the person or, if it is unknown, a description of the person The place at which the person was detained The date, time and length of detention The reason for the detention If the person is searched, where the search took place
In the case of the entry of a place	The identification of the place The date and time of entry The reason why a warrant was not obtained
In the case of the search of a vehicle, person or, as the case may be, place	Who or what was searched The reason for the search The description of any thing that was taken away

Name	Rank	Number (if any)
Signature		
Time of making above record:		am/pm
Date of making above record:		/ /19 .

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INSPECTION: Made by \_\_\_\_\_ on / /19 .



SCHEDULE (continued)

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## SCHEDULE (continued)

Form 6

QUEENSLAND

*Drugs Misuse Act 1986**Drugs Misuse Regulation 1987 (s. 5)*NOTICE TO JUSTICE BEFORE WHOM A COMPLAINT TO GROUND A  
SEARCH WARRANT IS TO BE SWORN

Prior to issuing this search warrant you should consider the following points:

1. You must use your judicial discretion in issuing a search warrant. This means you must consider the reasons that the complainant police officer has given to you to support his suspicion that a search of the place may reveal evidence of the drug offence. The reasons must be based on facts and not be vexatious or frivolous. After administering the oath as in paragraph 5, you may ask any questions of the police officer to make sure that his suspicion that a search of the place may reveal evidence is reasonable and based fact. After being sworn the police officer may explain or enlarge upon the facts outlined in the complaint.

2. You do not have to issue a search warrant. If you are not satisfied from the facts given to you by the police officer, either in the written complaint or orally in answer to your questions, that he entertains the required reasonable suspicion that the search may reveal evidence, **DO NOT ISSUE THE WARRANT.**

3. If you do decide to refuse to issue the warrant you should consider whether or not to notify the police officer's superior of the reasons for your refusal.

4. If in any doubt about the police officer's powers, a copy of the applicable sections is printed overleaf for your information.

5. Get a Bible so that the police officer may swear his oath that the complaint contains true information to the best of his knowledge and belief. (Police officers **have** to swear oaths. They may **not** choose to make an affirmation instead.) The question which you put to the officer, is 'Do you swear that all the information in this complaint is true to the best of your knowledge and belief, So Help You God?' The police officer, holding the Bible in his right hand, shall respond 'So Help Me God'.

6. You now sign your name in the place indicated on the form, remembering to place the initials J.P. after your signature, and filling in any required details of place and date. You should also initial all alterations, insertions and deletions.

7. The search warrant is to be limited with an expiry time and date. In deciding how long the warrant is to be valid, you must bear in mind the suspicion of the police officer and the time the thing sought is likely to remain in the place to be searched.

8. If you decide that a warrant should be issued, you now sign each page of the accompanying search warrant which then authorizes the police officer to undertake

## SCHEDULE (continued)

the action he requests.

9. You are required to complete a 'record of proceedings' whether or not you issue a search warrant.

10. Whether or not you issue a search warrant, you are to retain or cause to be retained by the clerk of the court of the local court house the complaint to ground a search warrant and the record of proceedings for the period of 2 years or such longer period as may be required by any court.

11. Remember, your decision to issue a search warrant may be subject to judicial review and you may be required to give evidence as to the matters detailed above.

12. If you have any doubt about your powers as a justice of the peace in regard to the issuing of a search warrant you should delay issuing the warrant until you resolve those doubts by discussing the matter with a clerk of the court.

SCHEDULE (continued)

Form 7

QUEENSLAND

*Drugs Misuse Act 1986*

*Drugs Misuse Regulation 1987* (s. 6)

RECORD OF PROCEEDINGS

1. On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at \_\_\_\_\_ am/pm I, the undersigned, one of Her Majesty’s justices of the peace for the said State/a stipendiary magistrate (1) received a complaint to ground a search warrant (and a copy of a NOTICE TO JUSTICE BEFORE WHOM A COMPLAINT TO GROUND A SEARCH WARRANT IS TO BE SWORN (2)).

2. On considering the information put before me I found:

- (a) that the police officer did/did not (1) suspect that a search of the said place may reveal evidence of the commission of an offence defined in Part 2 of the *Drugs Misuse Act 1986* /may reveal property that is liable to forfeiture under Part 5 of the *Drugs Misuse Act 1986* (1);
- (b) that such a suspicion, accepting it was held, was reasonable/unreasonable (1).

3. The police officer did/did not (1) supply me with particulars additional to the matters set out in the complaint.

(If the warrant is issued—continue)

4. The search warrant was issued at \_\_\_\_\_ am/pm (1) on the \_\_\_\_\_ day of 19\_\_\_\_ .

Signed

(3) \_\_\_\_\_, Justice of the Peace/Stipendiary Magistrate

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- (1) Delete whichever is inapplicable.
- (2) Delete if proceedings are before a stipendiary magistrate.
- (3) Print the name of the justice.



SCHEDULE (continued)

(2) The notice is to be signed by the police officer executing the search warrant.

## ENDNOTES

### 1 Index to Endnotes

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### 2 Date to which amendments incorporated

This is the day mentioned in section 5(c) of the *Reprints Act 1992*. Accordingly, this reprint includes all amendments that commenced operation before 23 April 1993. Future amendments of the *Drugs Misuse Regulation 1987* may be made in accordance with this reprint because of section 49 of the *Reprints Act 1992*.

### 3 List of legislation

#### **Drugs Misuse Regulation 1987**

pubd Gaz 31 October 1987 pp 836–47  
commenced 31 October 1987 (see s 2)

as amended by—

#### **regulations published Gazette—**

17 December 1988 pp 2214–5  
commenced on date of publication

6 May 1989 pp 230–1  
commenced 6 May 1989 (see s 2)

## 4 List of annotations

### Key to abbreviations in list of annotations

RA	=	<i>Reprints Act 1992</i>
amd	=	amended
ins	=	inserted
om	=	omitted
renum	=	renumbered
sub	=	substituted
Chap	=	Chapter
Pt hdg	=	Part heading
Div hdg	=	Division heading
Sdiv hdg	=	Subdivision heading
hdg prec	=	heading preceding
prov hdg	=	provision heading
cl	=	clause
prev	=	previous
pres	=	present

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

### Repeal

s 3 om (see s 40 RA)

### Interpretation

s 4 def “**the Act**” sub 1989 reg pubd Gaz 6 May 1989 pp 230–1

### Notice to occupier of place entered pursuant to warrant

s 7 sub reg pubd Gaz 17 Dec 1988 pp 2214–5

### Prescribed procedures for the disposal of hypodermic syringes and needles

s 9 ins reg pubd Gaz 6 May 1989 pp 230–1

### Prescribed procedure for disposal of dangerous drugs

s 10 ins reg pubd Gaz 6 May 1989 pp 230–1

### SCHEDULE

amd reg pubd Gaz 17 Dec 1988 pp 2214–5