



Queensland

*Crime and Misconduct Act 2001*

# Crime and Misconduct Regulation 2005

Reprinted as in force on 28 March 2008

Reprint No. 1B

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# Information about this reprint

This regulation is reprinted as at 28 March 2008. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

## **Dates shown on reprints**

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

**Replacement reprint date** If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.



Queensland

# Crime and Misconduct Regulation 2005

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# **Crime and Misconduct Regulation 2005**

[as amended by all amendments that commenced on or before 28 March 2008]

## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Crime and Misconduct Regulation 2005*.

## **Part 2 Provisions about search warrants, surveillance warrants and covert search warrants**

### **Division 1 Search warrant provisions**

#### **2 Information for search warrant application**

For section 86(4)(c)<sup>1</sup> of the Act, the following is the information about search warrants issued within the previous year that must be included in a search warrant application—

- (a) when and where the warrant was issued, and the court that issued it;
- (b) the type of major crime or misconduct or the confiscation related activity for which the warrant was issued;
- (c) whether anything was seized under the warrant;

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<sup>1</sup> Section 86 (Search warrant applications) of the Act

- (d) whether a proceeding was started because of a search under the warrant.

## **Division 2                    Surveillance warrant provisions**

### **3                    Information for surveillance warrant application**

For section 121(4)(c)<sup>2</sup> of the Act, the following is the information about warrants issued within the previous year that must be included in a surveillance warrant application—

- (a) the type of warrant;
- (b) when and where the warrant was issued, and the court that issued it;
- (c) how long the warrant was in force;
- (d) whether the warrant related to a person or a place;
- (e) the type of misconduct for which the warrant was issued;
- (f) if the warrant was a search warrant or a covert search warrant—
  - (i) any evidence seized under the warrant; and
  - (ii) whether a proceeding was started because of a search under the warrant; and
  - (iii) how the search helped in any investigation;
- (g) if the warrant was a surveillance warrant—
  - (i) whether a proceeding was started because of the use of a surveillance device under the warrant; and
  - (ii) how any surveillance under the warrant helped in any investigation.

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2                    Section 121 (Surveillance warrant applications) of the Act

## **Division 3                      Covert search warrant provisions**

### **4                      Information for covert search warrant application**

For section 148(3)(d)<sup>3</sup> of the Act, the following is the information about warrants issued within the previous year that must be included in a covert search warrant application—

- (a) the type of warrant;
- (b) when and where the warrant was issued, and the court that issued it;
- (c) how long the warrant was in force;
- (d) whether the warrant related to a person or a place;
- (e) the type of major crime for which the warrant was issued;
- (f) if the warrant was a search warrant or a covert search warrant—
  - (i) any evidence seized under the warrant; and
  - (ii) whether a proceeding was started because of a search under the warrant; and
  - (iii) how the search helped in any investigation;
- (g) if the warrant was a surveillance warrant—
  - (i) whether a proceeding was started because of the use of a surveillance device under the warrant; and
  - (ii) how any surveillance under the warrant helped in any investigation.

### **5                      Report on covert search**

A report under section 156(1)<sup>4</sup> of the Act on the exercise of powers under a covert search warrant must state the following—

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3 Section 148 (Covert search warrant applications) of the Act

4 Section 156 (Report on covert search) of the Act





- (2) The application must also state the following—
- (a) the applicant's name, and if the applicant is also a police officer, the officer's rank and registered number;
  - (b) the person about whom the application is made (the *named person*);
  - (c) the name of the financial institution;
  - (d) the serious crime related activity or serious crime derived property to which the application relates;
  - (e) the information or evidence being relied on to support a reasonable suspicion that the named person—
    - (i) has been, or is about to be, involved in a serious crime related activity; or
    - (ii) has acquired directly or indirectly, or is about to acquire directly or indirectly, serious crime derived property;
  - (f) the name or names in which each relevant account with the financial institution is believed to be held;
  - (g) the type of information the institution is to be required to give.

## **7 Information for suspension order application**

- (1) For section 119I(2)(b)(ii)<sup>6</sup> of the Act, the following is the information about suspension orders issued within the previous year in relation to an account held with the financial institution by a named person that must be included in an application for a suspension order—
- (a) when and where the order was issued;
  - (b) how long the order was in force;
  - (c) the type of serious crime related activity or serious crime derived property to which the order relates;
  - (d) how the order helped in the investigation or another investigation;

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6 Section 119I (Suspension order application) of the Act



**9 Search warrant application**

For an application for a search warrant, the information is as follows—

- (a) when and where the application was made;
- (b) if known, the name of the person suspected of being involved in the major crime, misconduct, or confiscation related activity to which the application relates;
- (c) the type of major crime or misconduct or the confiscation related activity to which the application relates;
- (d) whether or not the warrant was issued;
- (e) if the warrant was issued—
  - (i) when and where it was issued and the court that issued it; and
  - (ii) how long the warrant was in force; and
  - (iii) the benefits derived from exercising powers under the warrant, including, for example—
    - (A) anything seized under the warrant; and
    - (B) any proceeding started because of a search under the warrant;
- (f) information about the return, destruction or disposal of anything seized under the warrant.

**10 Surveillance warrant application**

(1) For an application for a surveillance warrant, the information is as follows—

- (a) when and where the application was made;
- (b) if known, the name of the person the chairperson reasonably believes has been, is, or is likely to be, involved in misconduct being investigated by the commission;
- (c) a description of the place mentioned in the application;
- (d) the type of misconduct to which the application relates;

- (e) whether or not the warrant was issued;
  - (f) if the warrant was issued—
    - (i) when and where it was issued and the court that issued it; and
    - (ii) how long the warrant was in force; and
    - (iii) the benefits derived from exercising powers under the warrant, including, for example—
      - (A) any proceeding started because of the use of a surveillance device under the warrant; and
      - (B) a brief description of how using a surveillance device under the warrant helped in the investigation of the misconduct;
  - (g) if and when powers were exercised under the warrant;
  - (h) if a surveillance device was not installed under the warrant, why it was not installed.
- (2) For an application for an extension of a surveillance warrant, the information is as follows—
- (a) if and when powers were exercised under the warrant before the application;
  - (b) if a surveillance device was not installed under the warrant before the application, why it was not installed;
  - (c) whether or not the warrant was extended;
  - (d) if the warrant was extended—
    - (i) the date to which the warrant was extended; and
    - (ii) the benefits derived from exercising powers under the warrant.

## **11 Covert search warrant application**

For an application for a covert search warrant, the information is as follows—

- (a) when and where the application was made;

- (b) if known, the name of the person suspected of being involved in the major crime to which the application relates;
- (c) a description of the place mentioned in the application;
- (d) the type of major crime to which the application relates;
- (e) whether or not the warrant was issued;
- (f) if the warrant was issued—
  - (i) when and where it was issued and the court that issued it; and
  - (ii) how long the warrant was in force; and
  - (iii) the benefits derived from exercising powers under the warrant, including, for example—
    - (A) anything seized under the warrant; and
    - (B) any proceeding started because of a search under the warrant;
- (g) if the warrant was extended, the date to which the warrant was extended.

## **12 Additional powers warrant application**

- (1) For an application for an additional powers warrant, the information is as follows—
  - (a) when and where the application was made;
  - (b) if known, the name of the person being investigated and the name of any suspected associate of the person;
  - (c) a description of the place mentioned in the application;
  - (d) the type of misconduct or crime investigation relating to terrorism to which the application relates;
  - (e) whether or not the warrant was issued;
  - (f) if the warrant was issued—
    - (i) when and where it was issued and the court that issued it; and
    - (ii) how long the warrant was in force; and

- (iii) the benefits derived from exercising powers under the warrant, including, for example—
    - (A) anything copied or seized under the warrant; and
    - (B) any proceeding started because of the exercise of power under the warrant;
  - (g) if the warrant was extended, the date to which the warrant was extended.
- (2) For an application for an extension of an additional powers warrant, the information is as follows—
- (a) if the warrant conferred power to make copies of records under section 165<sup>8</sup> of the Act and no records were copied under the warrant, why they were not copied;
  - (b) if the warrant conferred power to seize documents under section 165 of the Act and no documents were seized under the warrant, why they were not seized;
  - (c) if the warrant conferred power to require a person to give to the commission or a commission officer 1 or more sworn affidavits or statutory declarations under section 165 of the Act and no sworn affidavit or statutory declaration was required under the warrant, why they were not required;
  - (d) whether or not the warrant was extended;
  - (e) if the warrant was extended, the benefits derived from exercising powers under the warrant.

### **13 Disclosure of information under Act, s 145(2)(f)(ii) or (g)**

For a disclosure of information under section 145(2)(f)(ii) or (g) of the Act, the information is as follows—

- (a) the name of—
  - (i) the commission officer who disclosed the information or authorised its disclosure; and

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8 Section 165 (Powers under additional powers warrant) of the Act

- (ii) the officer or declared agency to whom the information was disclosed;
- (b) brief particulars of the information disclosed and the reason for disclosing it;
- (c) when the information was disclosed.

## Part 5                      Miscellaneous

### 14      **Receipt for seized property**

For section 112(2)<sup>9</sup> of the Act, a receipt for a thing seized must include the following—

- (a) the date and time the thing was seized;
- (b) if the thing was seized from a person—the name, address and contact telephone number of the person, if known;
- (c) if the thing was seized from an occupied place—the name, address and contact telephone number of the occupier of the place, if known;
- (d) the name and contact telephone number of the commission officer who seized the thing, and, if the commission officer is also a police officer, the officer's rank;
- (e) where the thing will be taken, if known;
- (f) the date the receipt is issued.

### 15      **Declared agencies**

- (1) For schedule 2 of the Act,<sup>10</sup> definition *declared agency*, each entity mentioned in schedule 1 is a declared agency.

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9      Section 112 (Receipt for seized property) of the Act

10     Schedule 2 (Dictionary) of the Act

- (2) Subsection (1) is subject to any restriction stated in schedule 1 for the entity.

**16 Appointments and units of public administration subject to misconduct tribunal's jurisdiction**

An appointment or unit of public administration mentioned in schedule 2 is subject to the jurisdiction of a misconduct tribunal.

**17 Entities prescribed as units of public administration**

For section 20(1)(h) of the Act, an entity mentioned in schedule 3 is prescribed to be a unit of public administration.



## Schedule 1      Declared agencies

section 15

- 1 A police force or police service of another State or the Commonwealth.
- 2 The following Commonwealth entities—
  - the Australian Crime Commission under the *Australian Crime Commission Establishment Act 2002* (Cwlth)
  - the Australian Customs Service
  - the Australian Securities and Investments Commission under the *Australian Securities and Investments Commission Act 2001* (Cwlth)
  - the Australian Security Intelligence Organisation under the *Australian Security Intelligence Organisation Act 1979* (Cwlth)
  - the Australian Taxation Office
  - the Australian Transaction Reports and Analysis Centre under the *Financial Transaction Reports Act 1988* (Cwlth)
  - the Commonwealth department in which the *Migration Act 1958* (Cwlth) is administered
  - the unit of the Australian Defence Force known as the Special Air Service, but only when helping the commission reduce the risk of serious injury to a person, and to the extent disclosure of the information under the Act is necessary to help reduce the risk.
- 3 The following New South Wales entities—
  - the Independent Commission Against Corruption under the *Independent Commission Against Corruption Act 1988* (NSW)
  - the New South Wales Crime Commission under the *New South Wales Crime Commission Act 1985* (NSW)

## Schedule 1 (continued)

- the Police Integrity Commission under the *Police Integrity Commission Act 1996* (NSW).
- 4 The Queensland Police Service.
  - 5 The Corruption and Crime Commission under the *Corruption and Crime Commission Act 2003* (WA).
  - 6 A Royal Commission or another commission of inquiry, not already mentioned in this schedule, established under a law of the Commonwealth or a State for inquiring into allegations involving the commission of criminal offences.

**Schedule 2**      **Appointments and units of  
public administration subject  
to misconduct tribunal's  
jurisdiction**

section 16

- 1 The appointment of the person, whose employee number assigned by the Department of Communities is 5069734, as a youth worker, Cleveland Detention Centre, Department of Communities, Townsville.

**Schedule 3      Entities prescribed as units of  
public administration**

section 17

- 1 A local government.

## Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 28 March 2008. Future amendments of the Crime and Misconduct Regulation 2005 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	10 June 2005	
1A	2006 SL No. 145	30 June 2006	
1B	2008 SL No. 85	28 March 2008	

## 5 List of legislation

### **Crime and Misconduct Regulation 2005 SL No. 108**

made by the Governor in Council on 9 June 2005

notfd gaz 10 June 2005 pp 502–3

commenced on date of notification

exp 1 September 2015 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

### **Police Powers and Responsibilities and Other Legislation Amendment Regulation**

**(No. 1) 2006 SL No. 145 ss 1–2(1), pt 2**

notfd gaz 23 June 2006 pp 898–902

ss 1–2 commenced on date of notification

remaining provisions commenced 30 June 2006 (see s 2(1))

### **Crime and Misconduct Amendment Regulation (No. 1) 2008 SL No. 85**

notfd gaz 28 March 2008 pp 1721–4

commenced on date of notification

## 6 List of annotations

### **Information for surveillance warrant application**

s 3 amd 2006 SL No. 145 s 4

### **Information for covert search warrant application**

s 4 amd 2006 SL No. 145 s 5

### **Surveillance warrant application**

s 10 amd 2006 SL No. 145 s 6

### **Disclosure of information under Act, s 145(2)(f)(ii) or (g)**

s 13 amd 2006 SL No. 145 s 7

**Declared agencies**

**prov hdg** sub 2006 SL No. 145 s 8  
**s 15** amd 2006 SL No. 145 s 8

**Entities prescribed as units of public administration**

**s 17** ins 2008 SL No. 85 s 3

**SCHEDULE 1—DECLARED AGENCIES**

**sch hdg** amd 2006 SL No. 145 s 9

**SCHEDULE 3—ENTITIES PRESCRIBED AS UNITS OF PUBLIC  
ADMINISTRATION**

ins 2008 SL No. 85 s 4