

Queensland



ANNO TRICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

No. 55 of 1985

**An Act to provide for the disposal of unexecuted warrants
and for related purposes**

[ASSENTED TO 20TH SEPTEMBER, 1985]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. This Act may be cited as the *Disposal of Unexecuted Warrants Act 1985*.

2. Commencement. (1) This Act, with the exception of section 6, shall commence on the day on which it is assented to for and on behalf of Her Majesty.

(2) Section 6 shall commence on a day appointed by Proclamation.

3. Interpretation. In this Act unless the contrary intention appears—

“authorized police officer” means a police officer authorized by the Commissioner of Police for the purposes of this Act;

“clerk of the court Brisbane” means the person appointed pursuant to the *Justices Act 1886-1982* as the clerk of the court for the central division of the Brisbane district appointed under the *Decentralization of Magistrates Courts Act 1965-1974*;

“justice” means a justice of the peace;

“Minister” means the Minister for Justice and Attorney-General or other Minister of the Crown for the time being charged with the administration of this Act and includes any Minister of the Crown for the time being performing the duties of the Minister;

“offence” means an offence within the meaning of *The Criminal Code of Queensland* and includes a breach of duty within the meaning of the *Justices Act 1886-1985*.

4. Application of Act. The provisions of this Act apply in respect of—

(a) warrants issued by a justice or justices, or by a Judge of Districts Courts or a Judge of the Supreme Court in connexion with the commission or the alleged commission of an offence or in connexion with proceedings in respect of an offence or an alleged offence;

(b) warrants or warrants of a class declared by Order in Council to be warrants for the purposes of this Act.

5. Cancellation of warrants. (1) Notwithstanding the provisions of the *Justices Act 1886-1985* or any other Act, a warrant referred to in section 4 issued by a justice or justices that—

(a) having been issued before the commencement of this Act, has not been, or is not, executed; or

(b) is issued after the commencement of this Act and is not executed,

within a period of two years after its date of issue may be forwarded by an authorized police officer to a prescribed place for cancellation.

(2) A warrant forwarded pursuant to subsection (1) shall be cancelled by, or in the presence of, an officer of the Department of Justice authorized in that behalf by the Minister and shall, upon cancellation, be of no further force or effect.

A warrant shall be cancelled by destroying it in whatever manner the authorized officer thinks fit.

(3) A fresh warrant may be issued for the same purpose as that for which a warrant cancelled pursuant to this section was issued and may be issued by the clerk of the court Brisbane or by a justice authorized by him in that behalf and by no other justice or justices.

(4) The clerk of the court Brisbane or a justice authorized by him may issue a fresh warrant pursuant to subsection (3)—

- (a) upon application being made in that behalf to the clerk of the court in the prescribed form by an authorized police officer;
- (b) in the same circumstances and subject to the same terms and conditions as those in or under which a warrant of the kind cancelled may be issued;
- (c) although he would not otherwise have authority to issue a warrant of the kind cancelled,

and a fresh warrant so issued shall be of the same force and effect as if issued pursuant to the Act authorizing the issue of a warrant of the kind cancelled.

(5) A person who, not knowing that a warrant has been cancelled pursuant to this section, acts in execution of it shall not incur any liability for doing so to any greater extent than if the warrant had not been cancelled.

6. Bench warrants. (1) Notwithstanding the provisions of any other Act, where proceedings, in respect of which a warrant referred to in section 4—

was issued prior to the commencement of this section; or
is issued after the commencement of this section,

by a Judge of District Courts or a Judge of the Supreme Court, have been, or are, concluded or discontinued, then—

- (a) if the proceedings were concluded or discontinued before the commencement of this section, the warrant shall on and from that commencement, be deemed to be cancelled and shall be of no further force or effect;
- (b) if the proceedings are concluded or discontinued after the commencement of this section, the warrant shall, on and from the conclusion or discontinuance of the proceedings, be deemed to be cancelled and shall be of no further force or effect.

(2) Subject to subsection (1), notwithstanding the provisions of any other Act, a warrant referred to in section 4 issued by a Judge of District Courts or a Judge of the Supreme Court that—

- (a) having been issued before the commencement of this section has not been, or is not, executed; or
- (b) is issued after the commencement of this section and is not executed,

within a period of two years after its date of issue may be forwarded by an authorized police officer to a prescribed place for cancellation.

(3) A warrant forwarded pursuant to subsection (2) shall be cancelled by, or in the presence of, an officer of the Department of Justice authorized in that behalf by the Minister and shall, upon cancellation, be of no further force or effect.

A warrant shall be cancelled by destroying it in whatever manner the authorized officer thinks fit.

(4) A fresh warrant may be issued for the same purpose as that for which a warrant cancelled pursuant to this section was issued and may be issued by any Judge of District Courts sitting at Brisbane or, as the case may be, by any Judge of the Supreme Court sitting at Brisbane and at no other place.

(5) A Judge of District Courts or, as the case may be, a Judge of the Supreme Court may issue a fresh warrant pursuant to subsection (4)—

- (a) upon application being made in that behalf to the court in the prescribed form by a prescribed person;
- (b) in the same circumstances and subject to the same terms and conditions as those in or under which a warrant of the kind cancelled may be issued;
- (c) although he would not otherwise have authority to issue at Brisbane a warrant in respect of the proceedings concerning which the cancelled warrant was issued,

and a fresh warrant so issued shall be of the same force and effect as if issued at a sittings of the court at the place at which the cancelled warrant was issued.

(6) For the purpose of this section the term “prescribed person” means the Director of Prosecutions or a Deputy Director of Prosecutions appointed under the *Director of Prosecutions Act 1984*, or the person on whose application the cancelled warrant was issued or any person acting on his behalf.

(7) A person who, not knowing that a warrant is deemed to be, or has been, cancelled pursuant to this section, acts in execution of it shall not incur any liability for doing so to any greater extent than if the warrant were not deemed to be, or had not been, cancelled.

7. Exclusion of liability. A person shall not incur any liability on account of anything done or omitted to be done in good faith and without negligence pursuant to or for the purposes of this Act.

8. Regulations. The Governor in Council may make regulations not inconsistent with this Act with respect to—

- (a) all matters required or permitted by this Act to be prescribed, where no other means for such prescription are prescribed;
- (b) all matters that are necessary or convenient for the administration of this Act or for achieving the objects and purposes of this Act.