



Queensland

Crime and Misconduct Regulation 2005

Subordinate Legislation 2005 No. 108

made under the

Crime and Misconduct Act 2001

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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)¹ 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;
- (d) whether a proceeding was started because of a search under the warrant.

¹ Section 86 (Search warrant applications) of the Act

Division 2 Surveillance warrant provisions

3 Information for surveillance warrant application

For sections 121(4)(e)² and 137(4)(c)³ 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 major crime or misconduct or the confiscation related activity 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) the class of surveillance device the use of which was authorised by the warrant; and
 - (ii) whether a proceeding was started because of the use of a surveillance device under the warrant; and
 - (iii) how any surveillance under the warrant helped in any investigation.

2 Section 121 (Surveillance warrant applications) of the Act

3 Section 137 (Surveillance warrant applications) of the Act

Division 3 Covert search warrant provisions

4 Information for covert search warrant application

For section 148(3)(d)⁴ 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 or misconduct or the confiscation related activity 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) the class of surveillance device the use of which was authorised by the warrant; and
 - (ii) whether a proceeding was started because of the use of a surveillance device under the warrant; and
 - (iii) how any surveillance under the warrant helped in any investigation.

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

5 Report on covert search

A report under section 156(1)⁵ of the Act on the exercise of powers under a covert search warrant must state the following—

- (a) the name of the person who prepared the report, and if the person is also a police officer, the officer's rank and registered number;
- (b) if and when powers were exercised under the warrant;
- (c) the facts and circumstances of compliance with the warrant and its conditions;
- (d) particulars of anything seized, photographed, inspected or tested under the warrant;
- (e) a description of any order sought in relation to anything seized or photographed under the warrant and the reason for the order.

Part 3 Monitoring orders and suspension orders

6 Information for monitoring order application

- (1) For section 119C(2)(b)(ii)⁶ of the Act, the following is the information about monitoring 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 monitoring 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;

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

6 Section 119C (Monitoring order applications) of the Act

- (d) how the order helped in the investigation or another investigation;
 - (e) whether a proceeding was started because of the use of the order.
- (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)⁷ 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;

⁷ Section 119I (Suspension order application) of the Act

- (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;
 - (e) whether a proceeding was started because of the use of the order.
- (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.

Part 4

Register of prescribed information

8 Information prescribed

This part prescribes the information for section 166(6)⁸ 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.

8 Section 166 (Register of warrants, warrant applications etc.) of the Act

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 major crime or misconduct being investigated by the commission;
 - (c) a description of the place mentioned in the application;
 - (d) the type of major crime or 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 major crime or 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 165⁹ 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;

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

- (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
 - (ii) the officer or declared law enforcement 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)¹⁰ 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

¹⁰ Section 112 (Receipt for seized property) of the Act

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 law enforcement agencies

- (1) For schedule 2¹¹ of the Act, definition *declared law enforcement agency*, each entity mentioned in schedule 1 is a law enforcement agency.
- (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.

11 Schedule 2 (Dictionary) of the Act

Schedule 1 Declared law enforcement 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.

ENDNOTES

- 1 Made by the Governor in Council on 9 June 2005.
- 2 Notified in the gazette on 10 June 2005.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of the Premier and Cabinet.