

# **JUSTICES (WARRANTS) AMENDMENT BILL 1996**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Objective of the Legislation**

The objective of the legislation is to authorise the electronic issue and management of warrants which are issued by justices or by courts then passed to the Police Service for execution or satisfaction. At the present time, warrants are issued manually as a hard copy sheet of paper, then physically delivered to the Police Service. Warrants are then physically forwarded around the state in pursuit of the person named in the warrant.

As part of a major information technology project, the Police Service has developed a computer system which supports the electronic issuing and handling of warrants. This system will be in place in mid 1996. This system will, in the long term, allow a warrant to be issued by creation of a computer record, and will allow that record to be passed to the Police Service then accessed around the state entirely in electronic form.

#### **Means of Achieving Policy Objectives**

Queensland law does not presently allow for the issue and storage of warrants in other than hard copy format. To achieve the policy objective of a computerised warrant system it is necessary to put legislation in place which authorises such an initiative.

The present Bill amends the *Justices Act 1886* to achieve this objective.

#### **Alternative Means of Achieving Policy Objectives**

In the development of this proposal, legislative support for computerised warrant handling was the only solution identified.

**Estimated Cost of Implementation for Government**

Implementation of the Bill will not entail any administrative costs. The establishment of the computerised system referred to in the Bill has already been funded.

**Consistency with Fundamental Legislative Principles**

The Bill is consistent with fundamental legislative principles.

**Consultation conducted in Development of the Bill**

In developing the Bill the Litigation Reform Commission, the Queensland Police Service, the Department of Justice, the Queensland Law Society, the Queensland Bar Association and the Queensland Council for Civil Liberties were consulted.

**NOTES ON PROVISIONS**

*Clause 1* Provides for the citation of the Act.

*Clause 2* Provides that the Act amends the *Justices Act 1886*.

*Clause 3* Amends section 4 by inserting a reference to the meaning of the terms “approved procedures” and “computer warrant”.

*Clause 4* Provides for the renumbering of sections 65 and 69 of the *Justices Act 1886*.

*Clause 5* Creates divisions 6A and 6B in part 4 of the Act. Division 6A contains new sections 66 to 69C inclusive. Division 6B contains new sections 69D and 69E inclusive. These divisions contain the provisions relating to computer warrants and copies of written warrants and their handling. These sections are outlined below:

Sections 66(1) and (2) outline that the purpose of the new division 6A is to authorise the procedures under which computer warrants can be issued and managed, and that the objective of the procedures is to minimise the handling of warrants in written form.

Sections 66(3) and (4) provide that, for the purpose of division 6A, it is

immaterial by whom or pursuant to which Act a warrant has been issued, provided that the warrant is of a type prescribed under a regulation.

Section 67(1) provides for the implementation of procedures by the Chief Executive and the Commissioner of Police for the issue and management of warrants on the computerised system. These are termed the “approved procedures” which will be either prescribed, or approved under, a regulation.

Section 67(2) sets out the matters which may be included in the approved procedures.

Sections 68(1) and (2) provide that a requirement that a warrant be issued under a person's hand or physically signed by the person issuing it is met if the warrant is created using the approved procedures.

Section 68(3) permits a warrant to be created as a computer warrant in instances where the legislation under which the warrant is issued allows a warrant to be issued on an application by telephone or other means of distance communication.

Section 68(4) provides that where a requirement exists to file, make available a copy of, or otherwise deal with a warrant, this requirement can be complied with by producing a written version of the computer record or a document mentioned in section 69B(1)(b).

Section 68(5) clarifies that sections 68(3) and 68(4) do not limit the operation of this division.

Sections 69(1), (2) and (3) provide that when information constituting a warrant is stored in a computer, that information may include directions or conditions relating to its execution, and must include any information which would have been included on the warrant if it was issued in writing.

Section 69A(1) contains the provision authorising the generation of written versions of computer warrants under the approved procedures.

Section 69A(2) requires certain information to be included as part of the written version.

Section 69A(3) provides that a written version of a warrant is taken to be an original warrant issued at the time of the computer warrant's creation.

Section 69A(4) provides for the cancellation of written versions.

Section 69A(5) provides that the existence of a computer warrant is not affected by the making or cancellation of written versions.

Section 69B(1) provides that a computer warrant may be executed by using a computer generated written version or a document which contains

information about the warrant.

Section 69B(2) requires that a document mentioned in section 69B(1)(b) must contain the information prescribed under a regulation.

Section 69B(3) provides that the execution of a computer warrant by using a document referred to in section 69B(1)(b) has the same effect as if the document had been the computer warrant.

Section 69B(4) sets out requirements where a person is arrested using a document mentioned in a section 69B(1)(b).

Section 69B(5) contains evidentiary provisions in relation to proceedings before a court in which the execution of a computer warrant is relevant.

Section 69C(1) provides that a requirement to deal with a warrant in a particular manner on execution may be complied with for computer warrants in a way stated in the approved procedures.

Section 69C(2) provides that dealing with the warrant under the approved procedures has the same effect as dealing with the warrant in the way it would have otherwise been dealt with.

Section 69D provides that division 6B applies to written warrants and sets out that the purpose of the division is to facilitate the execution of written warrants.

Section 69E(1) provides that a written warrant may be executed by using a copy of the warrant printed from a fax machine or computer or another document prescribed under a regulation containing information about outstanding warrants.

Section 69E(2) sets out the requirements for copies of warrants printed from fax machines or computers.

Section 69E(3) provides that a fax machine or computer copy of a warrant may be used to execute the original warrant for only eight (8) hours after the time it was made available.

Section 69E(4) contains evidentiary provisions.

Section 69E(5) provides that the court may require the original warrant to be produced.