



Disposal of Unexecuted Warrants Act 1985

Current as at 28 November 1995



Queensland

Disposal of Unexecuted Warrants Act 1985

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Disposal of Unexecuted Warrants Act 1985

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

1 Short title and citation

This Act may be cited as the *Disposal of Unexecuted Warrants Act 1985*.

3 Definitions

In this Act—

approved form see section 8.

authorised police officer means a police officer authorised by the commissioner of the police service for the purposes of this Act.

clerk of the court Brisbane means the person appointed pursuant to the *Justices Act 1886* as the clerk of the court for the central division of the Brisbane district.

offence means an offence within the meaning of the Criminal Code and includes a breach of duty within the meaning of the *Justices Act 1886*.

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 connection with the commission or the alleged commission of an offence or in connection with proceedings in respect of an offence or an alleged offence;

- (b) warrants or warrants of a class declared under a regulation to be warrants for the purposes of this Act.

5 Cancellation of warrants

- (1) If a warrant mentioned in section 4 issued by a justice or justices is not executed within 2 years after its date of issue, the warrant may be forwarded by an authorised police officer to a prescribed place for its cancellation.
- (2) A warrant forwarded pursuant to subsection (1) shall be cancelled by, or in the presence of, an officer of the department authorised in that behalf by the Minister and shall, upon cancellation, be of no further force or effect.
- (2A) A warrant shall be cancelled by destroying it in whatever manner the authorised 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 authorised by the clerk of the court in that behalf and by no other justice or justices.
- (4) The clerk of the court Brisbane or a justice authorised by the clerk of the court 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 approved form by an authorised 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 or she 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 authorising 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) If—
 - (a) a warrant mentioned in section 4 is issued by a judge of District Courts or the Supreme Court; and
 - (b) the proceeding in relation to which the warrant is issued is concluded or discontinued;the warrant is taken to be cancelled.
- (2) However, if a warrant mentioned in section 4 issued by a judge of District Courts or the Supreme Court is not executed within 2 years after its date of issue and not cancelled under subsection (1), the warrant may be forwarded by an authorised police officer to a prescribed place for its cancellation.
- (3) A warrant forwarded pursuant to subsection (2) shall be cancelled by, or in the presence of, an officer of the department authorised in that behalf by the Minister and shall, upon cancellation, be of no further force or effect.
- (4) A warrant shall be cancelled by destroying it in whatever manner the authorised officer thinks fit.
- (5) 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.
- (6) 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 (5)—
 - (a) upon application being made in that behalf to the court in the approved 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 the judge 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.

- (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.

- (8) In this section—

prescribed person, for a fresh warrant, means—

- (a) the director of public prosecutions or a deputy director of public prosecutions; or
- (b) the person on whose application the cancelled warrant was issued or someone else acting for the person.

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 Approval of forms

- (1) The chief executive may approve forms for—
 - (a) anything for which this Act requires or permits an approved form to be used; or
 - (b) another use under this Act.
- (2) Subsection (1)(b) does not apply to forms for court proceedings.

9 Regulation making power

The Governor in Council may make regulations under this Act.

10 Transitional provision about forms

- (1) This section applies if—
 - (a) immediately before its commencement, there was a prescribed form for a matter; and
 - (b) on its commencement, there is to be an approved form for the matter or a form may be approved for the matter.
- (2) Until there is an approved form for the matter, the form that was the prescribed form for the matter immediately before the commencement is taken to be the approved form for the matter.
- (3) This section expires 6 months after it commences.

1 Index to endnotes

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2 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
amd	= amendment	prov	= provision
t			
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	renu	= renumbered
		m	
ins	= inserted	rep	= repealed
lap	= lapsed	(retro	= retrospectively
)	
notf	= notified	rv	= revised edition
d			
num	= numbered	s	= section

Key	Explanation	Key	Explanation
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
		m	
prev	= previous		

3 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 to	Effective	Reprint date
1	none	1 May 1988	24 August 1994
2	1995 Act No. 58	28 November 1995	15 December 1995

4 List of legislation

Disposal of Unexecuted Warrants Act 1985 No. 55

date of assent 20 September 1985

s 6 commenced 1 May 1988 (proc pubd gaz 9 April 1988 p 2068)

remaining provisions commenced on date of assent

amending legislation—

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

5 List of annotations

Commencement

s 2 om R2 (see RA s 37)

Definitions

s 3 amd 1995 No. 58 s 4 sch 1

def *approved form* ins 1995 No. 58 s 4 sch 1

def *clerk of the court Brisbane* amd 1995 No. 58 s 4 sch 1

def *justice* om 1995 No. 58 s 4 sch 1

def *Minister* om R1 (see RA s 39)

Application of Act

s 4 amd 1995 No. 58 s 4 sch 1

Cancellation of warrants

s 5 amd 1995 No. 58 s 4 sch 1

Bench warrants

s 6 amd 1995 No. 58 s 4 sch 1

Approval of forms

s 8 sub 1995 No. 58 s 4 sch 1

Regulation making power

s 9 ins 1995 No. 58 s 4 sch 1

Transitional provision about forms

s 10 ins 1995 No. 58 s 4 sch 1

exp 28 May 1996 (see s 10(3))