



Disposal of Unexecuted Warrants Act 1985

Current as at 29 May 1996

© State of Queensland 2021



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

Disposal of Unexecuted Warrants Act 1985

Contents

		Page
1	Short title and citation	3
3	Definitions	3
4	Application of Act	3
5	Cancellation of warrants	4
6	Bench warrants	5
7	Exclusion of liability	6
8	Approval of forms	6
9	Regulation making power	7

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.