

Queensland



DISPOSAL OF UNEXECUTED WARRANTS ACT 1985

**Reprinted as in force on 24 August 1994
(Act not amended up to this date)**

Reprint No. 1

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 24 August 1994.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have been made to—

- update citations and references (Pt 4, Div 2)
- update references (Pt 4, Div 3)
- express gender specific provisions in a way consistent with current legislative drafting practice (s 24)
- use different spelling consistent with current legislative drafting practice (s 26(2))
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use expressions consistent with current legislative drafting practice (s 29)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit provisions that are no longer required (s 39)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

See Endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in the reprint, including—**
 - **Table of changed names and titles**
 - **Table of changed citations and remade laws**
 - **Table of obsolete and redundant provisions**
 - **Table of renumbered provisions.**

Queensland



**DISPOSAL OF UNEXECUTED
WARRANTS ACT 1985**

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DISPOSAL OF UNEXECUTED WARRANTS ACT 1985

[reprinted as in force on 24 August 1994²]

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

Short title and citation

1. This Act may be cited as the *Disposal of Unexecuted Warrants Act 1985*³⁻⁸.

Commencement

2.(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.

Interpretation

3. In this Act—

“**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 appointed under the *Decentralisation of Magistrates Courts Act 1965*.

“**justice**” means a justice of the peace.

“**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*.

Application of Act

4. 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 by order in council to be warrants for the purposes of this Act.

Cancellation of warrants

5.(1) Notwithstanding the provisions of the *Justices Act 1886* 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 2 years after its date of issue may be forwarded by an authorised 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 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 prescribed form by an authorised police officer;

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- (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.

Bench warrants

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

- (a) was issued prior to the commencement of this section; or
- (b) 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—

- (c) 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;
- (d) 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

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executed;

within a period of 2 years after its date of issue may be forwarded by an authorised 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 authorised in that behalf by the Minister and shall, upon cancellation, be of no further force or effect.

(3A) A warrant shall be cancelled by destroying it in whatever manner the authorised 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 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.

(6) For the purpose of this section—

“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 the person’s 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.

Exclusion of liability

7. 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.

Regulations

8. 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.

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Disposal of Unexecuted Warrants Act 1985 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 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

4 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
R1	=	Reprint No. 1
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Interpretation

s 3 def “Minister” om R1 (see RA s 39)

5 Table of changed names and titles

TABLE OF CHANGED NAMES AND TITLES under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
Commissioner (of Police)	Commissioner (of the Police Service)	Police Service Administration Act 1990 s 11.1(1)(b)

6 Table of changed citations and remade laws

TABLE OF CHANGED CITATIONS AND REMADE LAWS under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Decentralization of Magistrates Courts Act 1965	Decentralisation of Magistrates Courts Act 1965	see Justice Legislation (Miscellaneous Provisions) Act 1992 s 163 Sch 1

7 Table of obsolete and redundant provisionsTABLE OF OBSOLETE AND REDUNDANT PROVISIONS
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
def “Minister”	Acts Interpretation Act 1954 s 36 (see also ss 33(1)–(4) and 24B(8)(b))
references to Queensland implied	Acts Interpretation Act 1954 s 35

8 Table of renumbered provisionsTABLE OF RENUMBERED PROVISIONS
under the Reprints Act 1992 s 43

Previous	Renumbered as
5(2), 2nd sentence	5(2A)
6(1), 1st unnum para	6(1)(a)
6(1), 2nd unnum para	6(1)(b)
6(1)(a)	6(1)(c)
6(1)(b)	6(1)(d)
6(3), 2nd sentence	6(3A)