

Queensland

Police Powers and Responsibilities Act 2000

Police Powers and Responsibilities Regulation 2026

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Queensland

Police Powers and Responsibilities Regulation 2026

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Police Powers and Responsibilities Regulation 2026

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Police Powers and Responsibilities Regulation 2026*.

2 Commencement

This regulation commences on 31 March 2026.

3 Dictionary

The dictionary in schedule 12 defines particular words used in this regulation.

Part 2 Impounding and immobilising motor vehicles

Division 1 Prescribed type 2 vehicle related offences

4 Prescribed type 2 vehicle related offence—Act, s 69A

(1) For section 69A(2)(e) of the Act, each of the following offences against the Road Use Management Act is prescribed—

(a) an offence against the vehicle standards and safety regulation, section 8(1), if the offence involves a vehicle that is defective under section 7(1)(a), (b) or (c) of that regulation;

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(b) an offence against the vehicle standards and safety regulation, section 18(1), if the offence involves a modification of a vehicle mentioned in subsection (2)(c) of that section;

(c) an offence against the vehicle standards and safety regulation, section 19(1);

(d) an offence against the vehicle standards and safety regulation, section 20;

(e) an offence against the vehicle standards and safety regulation, section 102(1) or (2).

(2) For section 69A(2)(e) of the Act, each of the following offences against the Heavy Vehicle National Law (Queensland) (***the Law***) is prescribed—

(a) an offence against section 60(1) of the Law, if the offence involves—

(i) failing to fit a vehicle with equipment (***required equipment***) required for the vehicle in the heavy vehicle standards; or

(ii) fitting a vehicle with required equipment that does not comply with the requirements for the equipment stated in the heavy vehicle standards; or

(iii) fitting a vehicle with other equipment that does not comply with the requirements for the equipment stated in the heavy vehicle standards; or

(iv) failing to comply with the stationary noise level for a vehicle stated in the heavy vehicle standards;

(b) an offence against section 90(1) or (3) of the Law, if the offence involves an emission control system that reduces noise emission from a vehicle;

(c) an offence against section 91(1) or (2) of the Law, if the offence involves an emission control system that reduces noise emission from a vehicle;

(d) an offence against the Heavy Vehicle (Vehicle Standards) National Regulation, section 18(2).

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(3) In this section—

heavy vehicle standards see section 5 of the Law.

vehicle standards and safety regulation means the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2021*.

Division 2 Impounding and immobilising notices

5 Application of division

This division prescribes for section 78(4)(c) of the Act—

(a) information that must be stated on impounding notices; and

(b) information that must be stated on immobilising notices.

6 Impounding notices generally

An impounding notice for a motor vehicle that has been impounded must state the following information—

(a) that the owner of the motor vehicle may be required to produce satisfactory evidence of the ownership of the motor vehicle before the motor vehicle may be recovered;

(b) that the driver of the motor vehicle, if the driver is an adult, will be required to pay the costs of removing or keeping the motor vehicle;

(c) that the court may, if the driver of the motor vehicle is a child who is found guilty of the offence for which the motor vehicle was impounded, order the child or the child's parent or guardian to pay the costs of removing or keeping the motor vehicle;

(d) that the owner of the motor vehicle, if the owner was the driver of the motor vehicle when it was impounded and

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fails to recover the motor vehicle after the period of impounding ends, will be required to pay the costs of keeping the motor vehicle for each day after the period of impounding ends, whether or not the owner is found guilty of the offence for which the motor vehicle was impounded;

(e) that the owner of the motor vehicle, if the owner was not the driver of the motor vehicle when it was impounded and fails to recover the motor vehicle after the period of impounding ends, will be required to pay the costs of keeping the motor vehicle for each day after the period of impoundment ends that is more than 2 business days after the owner is given the impounding notice;

(f) the penalty for unlawfully removing the motor vehicle from the place at which it is held;

(g) the meaning of 'found guilty of an offence' under schedule 6 of the Act, definition *found guilty*.

7 Impounding notices for second or subsequent type 1 vehicle related offence

(1) This section applies if a police officer impounds a motor vehicle under section 74A(1) of the Act.

(2) Without limiting section 6, the impounding notice must also state information about—

(a) how the motor vehicle may become the property of the State under section 74B(2) of the Act; and

(b) how the motor vehicle may be taken to be forfeited to the State under section 118A(3) of the Act.

8 Impounding notices for fourth or subsequent type 2 vehicle related offence

(1) This section applies if a police officer impounds a motor vehicle under section 74E(1) of the Act.

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(2) Without limiting section 6, the impounding notice must also state information about—

(a) how the motor vehicle may become the property of the State under section 74F(2) of the Act; and

(b) how the motor vehicle may be taken to be forfeited to the State under section 118A(3) of the Act.

9 Immobilising notices

An immobilising notice for a motor vehicle that has been immobilised must state the following information—

(a) that the owner of the motor vehicle may be required to produce satisfactory evidence of the ownership of the motor vehicle before the motor vehicle may be recovered;

(b) that if the motor vehicle is immobilised by the removal and confiscation of the vehicle's number plates, the person entitled to possession of the number plates may be required to produce satisfactory evidence of the entitlement before the number plates are returned;

(c) that the driver of the motor vehicle, if the driver is an adult, will be required to pay the costs of removing or keeping the motor vehicle;

(d) that the court may, if the driver of the motor vehicle is a child who is found guilty of the offence for which the motor vehicle was immobilised, order the child or the child's parent or guardian to pay the costs of removing or keeping the motor vehicle;

(e) the penalties for unlawfully operating a motor vehicle—

(i) during a number plate confiscation period applying to the vehicle; or

(ii) if an immobilising device attached to the vehicle is unlawfully removed, tampered with or modified;

(f) the penalties for removing, tampering with or modifying—

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(i) a number plate confiscation notice attached to a motor vehicle; or

(ii) an immobilising device attached to a motor vehicle;

(g) the meaning of 'found guilty of an offence' under schedule 6 of the Act, definition *found guilty*.

Part 3 Prescribed quantity for minor drug offences

10 Prescribed quantity for minor drug offences—Act, s 378B

For section 378B of the Act, the prescribed quantity of a dangerous drug, S4 medicine or S8 medicine is the quantity stated in schedule 1, part 2 or 3, column 2 opposite the drug or medicine.

Part 4 Forensic procedures

Division 1 QDNA indexes

11 Application of division

For section 494(5) of the Act and schedule 6 of the Act, definition *QDNA index*, this division prescribes—

(a) types of QDNA indexes; and

(b) the type of information that may be included in each index.

12 QDNA indexes

Each of the following is a type of QDNA index—

(a) the crime scene index;

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(b) the missing persons index;

(c) the serious offenders index;

(d) the statistical index;

(e) the suspects index;

(f) the unknown deceased persons index;

(g) the volunteers (limited purpose) index;

(h) the volunteers (unlimited purpose) index.

13 Crime scene index

(1) The ***crime scene index*** is an index of results of DNA analyses, recorded in QDNA, of material that—

(a) is obtained from a person or thing at a crime scene; and

(b) is, or may be, evidence of the commission of an offence.

(2) In this section—

crime scene means—

(a) any place where an offence was committed or is reasonably suspected of having been committed; or

(b) any place associated with, or relevant to, the commission or suspected commission of an offence.

14 Missing persons index

The ***missing persons index*** is an index of results of DNA analyses, recorded in QDNA, of materials that relate, or may relate, to missing persons.

15 Serious offenders index

The ***serious offenders index*** is an index of results of DNA analyses, recorded in QDNA, of DNA samples taken from persons convicted of indictable offences.

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16 Statistical index

The ***statistical index*** is an index of results of DNA analyses, recorded in QDNA, of DNA samples that—

(a) can not identify the persons from whom the DNA samples were taken; and

(b) are used only for statistical purposes.

17 Suspects index

The ***suspects index*** is an index of results of DNA analyses, recorded in QDNA, of DNA samples taken from persons charged with, or suspected of having committed, indictable offences, including indictable offences against the law of another State or the Commonwealth.

18 Unknown deceased persons index

The ***unknown deceased persons index*** is an index of results of DNA analyses, recorded in QDNA, of DNA samples taken from unknown deceased persons.

19 Volunteers (limited purpose) index

(1) The ***volunteers (limited purpose) index*** is an index of results of DNA analyses, recorded in QDNA, of DNA samples taken from persons under forensic procedure consents, or consents obtained before 2 February 2004, that may be used for limited purposes.

(2) The purposes for which the results of a DNA analysis of a DNA sample may be used is limited by the Act or the consent under which the DNA sample was taken.

20 Volunteers (unlimited purpose) index

The ***volunteers (unlimited purpose) index*** is an index of results of DNA analyses, recorded in QDNA, of DNA samples taken from persons under forensic procedure

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consents, or consents obtained before 2 February 2004, that may be used for any purpose.

Division 2 Permissible comparisons

21 Table of permissible comparisons—Act, s 494

(1) For section 494(2) of the Act, the table in schedule 2 (the ***table***) is prescribed.

(2) The table, and subsections (3) and (4), state when a result of a DNA analysis in a QDNA index mentioned in the table, column 1 may be compared with the results of DNA analyses in an ACC index mentioned in any of columns 2 to 8 of the table.

(3) The comparison is permitted if the word 'yes' appears in the entry at the intersection of the row of the table relating to the QDNA index and the column of the table relating to the ACC index.

(4) The comparison is also permitted if—

(a) words 'if within purpose' appear in the entry at the intersection of the row of the table relating to the QDNA index and the column of the table relating to the ACC index; and

(b) the comparison is consistent with the purpose for which the results, or the DNA sample to which the results relate, may be used.

(5) Subsections (3) and (4) apply whether or not—

(a) the name of the ACC index is identical to a name stated in the table, columns 2 to 8; or

(b) the information in the ACC index is identical to the information in the QDNA index.

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22 Exempt comparison—Act, s 494

For section 494(4) of the Act, each of the following comparisons is exempt—

(a) a comparison of the results of DNA analyses made using only information recorded in QDNA;

(b) a comparison of the results of DNA analyses made without using the ACC database.

Part 5 State buildings

23 State buildings—Act, s 549

For section 549(1)(a)(ii) of the Act, each of the following buildings located on the land described in schedule 3 is prescribed—

(a) Queensland Cultural Centre;

(b) the offices of Legal Aid Queensland.

Part 6 Declared localities

24 Declared localities—Act, s 604

For section 604(4) of the Act, definition *declared locality*, each locality shown on the following maps is declared—

(a) Map 1—Mount Isa;

(b) Map 2—Cairns;

(c) Map 3—Townsville;

(d) Map 4—Inner Brisbane;

(e) Map 5—Logan;

(f) Map 6—Rockhampton;

(g) Map 6A—Gracemere–Rockhampton;

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(h) Map 7—Caboolture.

Note—

A map mentioned in this section is available for inspection on the police service website.

25 Prescribed particulars—Act, s 605

For section 605(4) of the Act, all of the following particulars are prescribed in relation to a person released under section 605(1) or (3) of the Act—

(a) the name and address of the person, if known;

(b) the person's age and date of birth, if known;

(c) where and when the person was initially detained under section 604 of the Act;

(d) the date of the person's release;

(e) if the person was released at a place of safety—

(i) the place of safety; and

(ii) the person apparently in possession or in charge of the place of safety.

Part 7 Directing traffic

26 Directing vehicular and pedestrian traffic

(1) This section prescribes for section 809(2)(b) of the Act the way a police officer may give particular directions under section 59 of the Act to a person.

(2) The police officer may give any of the following directions verbally, by signalling in a way stated in schedule 4 or by displaying a sign—

(a) a direction to stop;

(b) a direction to proceed;

(c) a direction to stop at the place indicated;

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(d) a direction to move.

(3) A signal shown in schedule 4 may be given by using a single traffic wand to signal in a way that is as near as practicable to the signal.

(4) In this section—

traffic wand means a device, whether or not illuminated, commonly known as a traffic wand.

27 Directing animal traffic

(1) This section prescribes for section 809(2)(b) of the Act the way a police officer may give particular directions under section 134(1) of the Act to a person in charge of an animal.

(2) The police officer may give any of the following directions verbally, by signalling in a way stated in schedule 4 or by displaying a sign—

(a) a direction to stop, including, for example, a direction to stop the animal;

(b) a direction to proceed;

(c) a direction to stop at the place indicated;

(d) a direction to move.

Part 8 Miscellaneous

28 Prescribed Acts—Act, s 41

For section 41(g) of the Act, each Act stated in schedule 5 is prescribed.

29 Prescribed Acts—Act, s 799

For section 799(1) of the Act, each Act stated in schedule 6 is prescribed.

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29A Designated business and community precincts—Act, s 808D

(1) For section 808D(1) of the Act, each of the following areas is prescribed—

(a) the area marked as the designated business and community precinct on the map called 'Maryborough Designated Business and Community Precinct' shown in schedule 5A, part 1;

(b) the area marked as the designated business and community precinct on the map called 'Mackay Designated Business and Community Precinct' shown in schedule 5A, part 2.

(2) If the boundary of the designated business and community precinct is shown on the map to run along a road, or part of a road, both of the following are included in the precinct—

(a) the road or part of the road;

(b) any road-related area of the road or part of the road.

(3) If the boundary of the designated business and community precinct is shown on the map to run along a river, or part of a river, the boundary is taken to run along the bank of the river or part of the river, adjacent to the rest of the precinct, down to the line that is the low-water mark during ordinary spring tides.

(4) If part of a relevant public structure is built on or over water that is inside the boundary of a designated business and community precinct, the entire structure is taken to be included in the precinct, regardless of the structure's position in relation to the low-water mark.

(5) In this section—

boundary, of a designated business and community precinct, includes part of the boundary of the precinct.

footpath means an area open to the public that is designated for, or has as 1 of its main uses, use by pedestrians.

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relevant public structure means a structure that may be used by the public in connection with a river, or part of a river, but does not include a bridge.

Examples of a relevant public structure——

ferry terminal, jetty, walkway

road-related area, of a road, means any of the following—

(a) an area that divides a road;

(b) a footpath or nature strip adjacent to a road;

(c) an area that is not a road and that is open to the public and designated for use by cyclists;

(d) an area that is not a road and that is open to, or used by, the public for parking vehicles.

30 Corresponding law—Act, sch 6

For schedule 6 of the Act, definition *corresponding law*, paragraph (b)—

(a) an Act, or part of an Act, stated in schedule 7, part 1 is a corresponding law for chapter 11 of the Act; and

(b) an Act, or part of an Act, stated in schedule 7, part 2 is a corresponding law for chapter 12 of the Act; and

(c) an Act stated in schedule 7, part 3 is a corresponding law for chapter 13 of the Act; and

(d) an Act stated in schedule 7, part 4 is a corresponding law for section 722 of the Act.

31 Declared agency—Act, sch 6

For schedule 6 of the Act, definition *declared agency*, each entity stated in schedule 8 is a declared agency to the extent stated in the schedule.

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32 Legal aid organisation—Act, sch 6

(1) For schedule 6 of the Act, definition *legal aid organisation*, paragraph (a), the Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd (ATSILS) is prescribed.

(2) For schedule 6 of the Act, definition *legal aid organisation*, paragraph (b), each of the following organisations is prescribed—

(a) the Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd (ATSILS);

(b) Legal Aid within the meaning of the *Legal Aid Queensland Act 1997*.

33 Public officials—Act, sch 6

(1) For schedule 6 of the Act, definition *public official*, paragraph (b), an authorised person for a major event is a public official for the event during the major event period for the event.

(2) In this section—

authorised person, for a major event, means a person appointed for the event under the *Major Events Act 2014*, section 56(1).

major event see the *Major Events Act 2014*, section 7.

major event period, for a major event, see the *Major Events Act 2014*, section 10.

34 Relevant diseases—Act, sch 6

For schedule 6 of the Act, definition *relevant disease*, each communicable disease mentioned in schedule 9 is prescribed.

35 Relevant laws—Act, sch 6

For schedule 6 of the Act, definition *relevant law*, each Act stated in schedule 10 is prescribed.

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36 Responsibilities code—Act, sch 6

For schedule 6 of the Act, definition *responsibilities code*, the code of responsibilities of police officers and other persons involved in the administration of the Act is set out in schedule 11.

Part 9 Repeal and transitional provision

Division 1 Repeal

37 Repeal

The Police Powers and Responsibilities Regulation 2012, SL No. 251 is repealed.

Division 2 Transitional provision

38 References to repealed regulation and repealed responsibilities code

(1) In a document, if the context permits—

(a) a reference to the repealed regulation may be taken to be a reference to this regulation; and

(b) a reference to the repealed responsibilities code may be taken to be a reference to the *Responsibilities Code 2026* set out in schedule 11; and

(c) a reference to a repealed provision may be taken to be a reference to the corresponding provision to the repealed provision.

Note—

See also the *Acts Interpretation Act 1954*, section 14H.

(2) In this section—

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corresponding provision, to a repealed provision, means a provision of this regulation that is substantially the same as the repealed provision.

repealed provision means a provision of the repealed regulation as in force immediately before the commencement.

repealed regulation means the repealed *Police Powers and Responsibilities Regulation 2012*.

repealed responsibilities code means the repealed *Police Responsibilities Code 2012* as in force from time to time under the repealed regulation, schedule 9.

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Schedule 1 Prescribed quantity of dangerous drugs, S4 medicines and S8 medicines

section 10

Part 1 Preliminary

1 Meaning of particular terms

In this schedule—

(a) a ***ticket*** or ***tab***, in relation to a dangerous drug, is a substance containing not more than 0.00004g of the drug that is prepared or apparently prepared to be administered as a single dose; and

(b) a ***pill***, ***tablet*** or ***capsule***, in relation to a dangerous drug, is a substance containing not more than 0.7g of the drug that is prepared or apparently prepared to be administered as a single dose.

Part 2 Dangerous drugs

Column 1	**Column 2**
Dangerous drug	**Quantity**
4-Bromo-2,5-dimethoxyamphetamine	0.02g
4-Bromo-2,5-dimethoxyphenethylamine	0.02g
Cannabis	50.0g
Fentanyl	0.0025g
Ketamine	0.2g

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Column 1	Column 2
Dangerous drug	**Quantity**
Lysergic acid	3 tickets or tabs
Lysergide	3 tickets or tabs
3,4-Methylenedioxymethamphetamine (MDMA)	4 pills, tablets or capsules
Phencyclidine	0.2g
Psilocin	0.04g
Psilocybin	0.04g
a dangerous drug stated in the *Drugs Misuse Regulation 1987*, schedule 1, part 1 or schedule 2 not otherwise mentioned in this table	1.0g/ml
a dangerous drug stated in the *Drugs Misuse Regulation 1987*, schedule 1, part 2	any quantity

Note—

See also section 378A(1)(d) of the Act, which provides that, for chapter 14, part 4, division 5 of the Act to apply in relation to discontinuing the arrest of a person for a minor drugs offence, a police officer must reasonably believe each minor drugs matter the subject of the minor drugs offence was for the person's personal use.

Part 3 S4 medicines and S8 medicines

Column 1	Column 2
S4 medicines and S8 medicines	**Quantity**
S4 medicine or S8 medicine	any quantity

Note—

See also section 378A(1)(d) of the Act, which provides that, for chapter 14, part 4, division 5 of the Act to apply in relation to discontinuing the arrest of a person for a

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minor drugs offence, a police officer must reasonably believe each minor drugs matter the subject of the minor drugs offence was for the person's personal use.

Schedule 2 Table of permissible comparisons

section 21

QDNA indexes	ACC indexes						
Column 1	Column 2 Crime scene	Column 3 Missing persons	Column 4 Serious offenders	Column 5 Suspects	Column 6 Unknown deceased persons	Column 7 Volunteers (limited purpose)	Column 8 Volunteers (unlimited purpose)
Crime scene	yes	yes	yes	yes	yes	if within purpose	yes
Missing persons	yes	yes	yes	yes	yes	if within purpose	yes
Serious offenders	yes	yes	yes	yes	yes	if within purpose	yes
Suspects	yes	yes	yes	yes	yes	if within purpose	yes
Unknown deceased persons	yes	yes	yes	yes	yes	if within purpose	yes
Volunteers (limited purpose)	if within purpose	if within purpose	if within purpose	if within purpose	if within purpose	if within purpose	if within purpose
Volunteers (unlimited purpose)	yes	yes	yes	yes	yes	if within purpose	yes

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Schedule 3 Land on which state buildings are located

section 23

Part 1 Queensland Cultural Centre

1 Lot 401 on SP259399

2 Lot 500 on SP259412

3 Lot 600 on SP259442

4 Lot 700 on SP273957

Part 2 Offices of Legal Aid Queensland

1 Lots 5 and 6 on Crown Plan B361

2 Lot 8 on plan B118228

3 Lot 15 on RP137816

Schedule 4 Signals for directing traffic

sections 26 and 27

1 Signal to stop for person facing signal

Figure 1

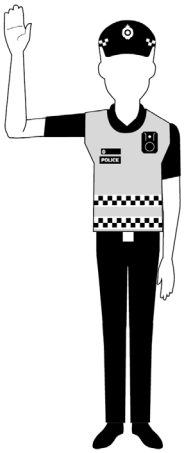


figure 1(a)
from the front



figure 1(b)
from the rear



figure 1(c)
from left side

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figure 1(d)
from right side

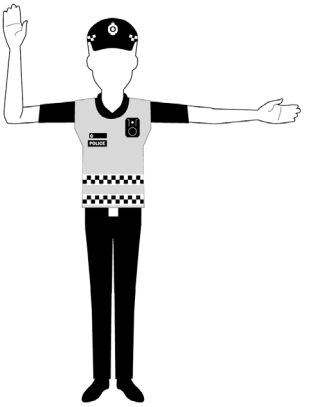


figure 1(e)
combination from front and rear

2 Signal to proceed for person facing signal

Figure 2

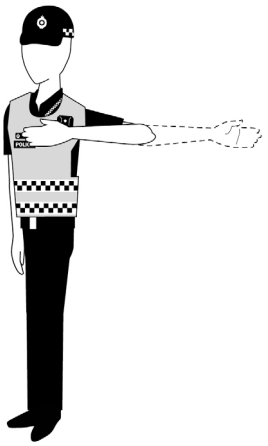


figure 2(a)
from left side



figure 2(b)
from right side

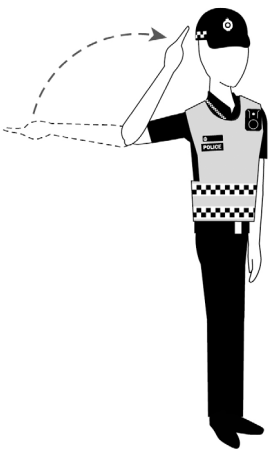


figure 2(c)
from right side

3 Signal to stop at place indicated for person facing signal

Figure 3

3 Signal to stop at place indicated for person facing signal



figure 3(a)
in front



figure 3(b)
behind

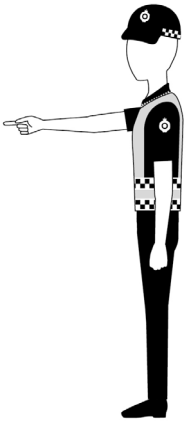


figure 3(c)
at kerb etc.

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Schedule 5 Prescribed Acts—Act, section 41

section 28

Animal Care and Protection Act 2001

Biosecurity Act 2014

Casino Control Act 1982

Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004

Classification of Computer Games and Images Act 1995

Classification of Films Act 1991

Classification of Publications Act 1991

Gaming Machine Act 1991

Heavy Vehicle National Law (Queensland)

Liquor Act 1992

Medicines and Poisons Act 2019

Nature Conservation Act 1992

Public Safety Preservation Act 1986

Racing Act 2002

Residential Tenancies and Rooming Accommodation Act 2008

Second-hand Dealers and Pawnbrokers Act 2003

Summary Offences Act 2005

Tobacco and Other Smoking Products Act 1998

Transport Operations (Road Use Management) Act 1995

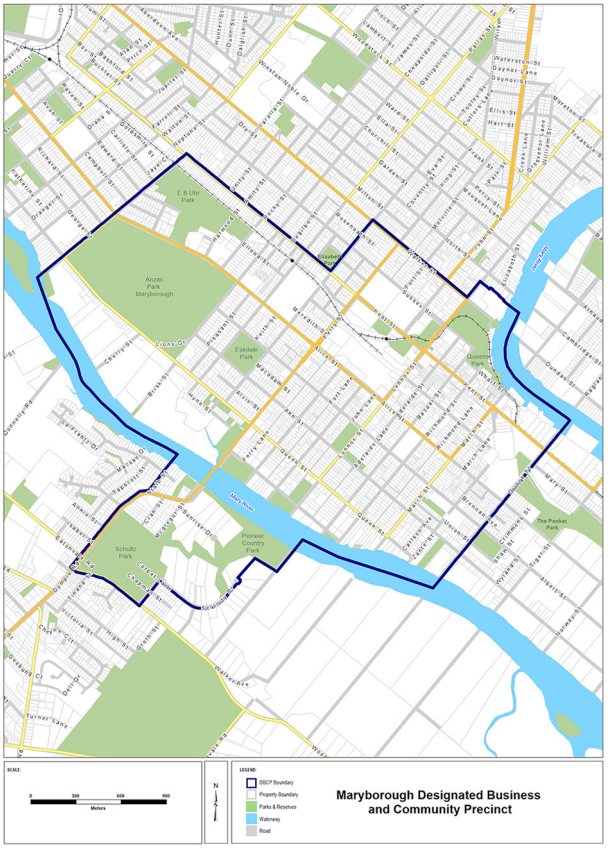
Weapons Act 1990

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Schedule 5A Designated business and community precincts

section 29A

Part 1 Maryborough Designated Business and Community Precinct



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Part 2 Mackay Designated Business and Community Precinct



Schedule 6 Prescribed Acts—Act, section 799

section 29

Adoption Act 2009

Animal Care and Protection Act 2001

Biosecurity Act 2014

Classification of Computer Games and Images Act 1995

Classification of Films Act 1991

Classification of Publications Act 1991

Corrective Services Act 2006

Education (General Provisions) Act 2006

Education (Queensland College of Teachers) Act 2005

Explosives Act 1999

Gaming Machine Act 1991

Motor Accident Insurance Act 1994

Public Trustee Act 1978

Queensland Building and Construction Commission Act 1991

Queensland Heritage Act 1992

Soil Conservation Act 1986

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Schedule 7 Corresponding laws

section 30

Part 1 Corresponding laws for Act, chapter 11

1 *Crimes (Controlled Operations) Act 2004* (Vic)

2 *Crimes (Controlled Operations) Act 2008* (ACT)

3 *Criminal Investigation (Covert Powers) Act 2012* (WA), part 2

4 *Law Enforcement (Controlled Operations) Act 1997* (NSW)

5 *Police Powers (Controlled Operations) Act 2006* (Tas)

Part 2 Corresponding laws for Act, chapter 12

1 *Crimes Act 1914* (Cwlth), part IAC

2 *Crimes (Assumed Identities) Act 2004* (Vic)

3 *Crimes (Assumed Identities) Act 2009* (ACT)

4 *Criminal Investigation (Covert Operations) Act 2009* (SA), part 3

5 *Criminal Investigation (Covert Powers) Act 2012* (WA), part 3

6 *Law Enforcement and National Security (Assumed Identities) Act 2010* (NSW)

7 *Police Powers (Assumed Identities) Act 2006* (Tas)

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Part 3 Corresponding laws for Act, chapter 13

1 *Crimes (Surveillance Devices) Act 2010* (ACT)

2 *Police Powers (Surveillance Devices) Act 2006* (Tas)

3 *Surveillance Devices Act 1999* (Vic)

4 *Surveillance Devices Act 2007* (NSW)

5 *Surveillance Devices Act 2007* (NT)

6 *Surveillance Devices Act 2016* (SA)

Part 4 Corresponding laws for Act, section 722

1 *Crimes Act 1900* (ACT)

2 *Crimes Act 1958* (Vic)

3 *Criminal Investigation (Extraterritorial Offences) Act 1984* (SA)

4 *Criminal Investigation (Extra-territorial Offences) Act 1985* (NT)

5 *Criminal Investigation (Extra-Territorial Offences) Act 1987* (Tas)

6 *Criminal Investigation (Extra-territorial Offences) Act 1987* (WA)

7 *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW)

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Schedule 8 Declared agencies

section 31

1 a police force or police service of another State or the Commonwealth

2 the following Commonwealth entities—

(i) the Australian Crime Commission;

(ii) the Australian Securities and Investments Commission;

(iii) the Australian Taxation Office;

(iv) the Australian Security Intelligence Organisation;

(v) Austrac;

(vi) the immigration and border protection department;

(vii) the unit of the Australian Defence Force known as the Special Air Service, but only to the extent disclosure of information under the Act is necessary to help reduce the risk of serious injury to a person

3 the following New South Wales entities—

(i) the New South Wales Crime Commission;

(ii) the Law Enforcement Conduct Commission;

(iii) the Independent Commission Against Corruption constituted under the *Independent Commission Against Corruption Act 1988* (NSW)

4 the Crime and Corruption Commission Queensland

5 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 serious indictable offences

6 Interpol, but only for—

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(i) the transmission for comparison, and the comparison, of the results of a DNA analysis with the results of other DNA analyses; and

(ii) the communication of the results of the comparison and any information about the results

7 a law enforcement agency of a foreign country, but only for—

(i) the transmission for comparison, and the comparison, of the results of a DNA analysis with the results of other DNA analyses; and

(ii) the communication of the results of the comparison and any information about the results

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Schedule 9 Relevant diseases

section 34

chancroid

chlamydia

donovanosis

gonorrhoea

hepatitis B

hepatitis C

hepatitis D

human immunodeficiency virus (HIV)

lymphogranuloma venereum

syphilis

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Schedule 10 Relevant laws

section 35

Collections Act 1966

Drugs Misuse Act 1986

Explosives Act 1999

Heavy Vehicle National Law (Queensland)

Lotteries Act 1997

Nature Conservation Act 1992

Property Occupations Act 2014

Racing Act 2002

Second-hand Dealers and Pawnbrokers Act 2003

Security Providers Act 1993

Tow Truck Act 2023

Transport Operations (Marine Safety) Act 1994

Transport Operations (Passenger Transport) Act 1994

Transport Operations (Road Use Management) Act 1995

Weapons Act 1990, but only in relation to the following places—

(i) an approved range;

(ii) a shooting gallery;

(iii) a premises stated in a shooting club permit;

(iv) a premises stated in an armourer's licence;

(v) a premises stated in a collector's licence (heirloom) or (weapons);

(vi) a premises stated in a dealer's licence;

(vii) a premises stated in a security licence (organisation) or (guard);

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(viii) a premises stated in a theatrical ordnance supplier's licence

Schedule 11 Responsibilities code

section 36

Part 1 Preliminary

1 Short title

This code may be cited as the *Responsibilities Code 2026*.

2 Application of code

Unless this code otherwise expressly provides, this code does not apply to functions of a police officer performed in a covert way.

Part 2 Responsibilities relating to search, crime scene and missing person warrants and obtaining documents

Division 1 Search warrants

3 Applications for search warrants—Act, s 150

(1) This section sets out the responsibilities of a police officer who applies for a search warrant under section 150(1) of the Act.

(2) The police officer must include all of the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) as part of the information required under section 150(5)(a) of the Act—

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(i) a description of the place (the ***relevant place***) to be entered and searched; and

(ii) if the relevant place is occupied—the name of the occupier of the relevant place, if known; and

(iii) a description of the nature of the thing to be sought under the proposed warrant; and

(iv) if a thing to be sought under the proposed warrant is, or may be, evidence of the commission of an offence or a suspected offence, or confiscation related evidence—the offence, suspected offence or confiscation related activity; and

(v) the name, if known, of any person suspected of being involved in the offence, suspected offence or confiscation related activity mentioned in subparagraph (iv); and

(vi) if a thing to be sought under the proposed warrant is, or may be, a vehicle that is or is to be impounded or immobilised under chapter 4 or 22 of the Act—particulars of the authorisation to impound or immobilise the vehicle; and

(vii) if a thing to be sought under the proposed warrant is, or may be, a prohibited item—the disorderly activities reasonably believed to have taken place and are likely to take place again at the relevant place; and

(viii) the information or evidence being relied on to support a reasonable suspicion mentioned in section 151(a) of the Act; and

(ix) if the proposed warrant relates to an existing or proposed forfeiture proceeding—the type of forfeiture proceeding;

(c) for each search warrant (a ***previous search warrant***) issued in the previous year in relation to the relevant place or a relevant person—

(i) when and where the previous search warrant was issued; and

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(ii) if a thing sought under the previous search warrant was, or could have been, evidence of the commission of an offence or a suspected offence, or confiscation related evidence—the offence, suspected offence or confiscation related activity; and

(iii) whether anything was seized under the previous search warrant or a proceeding relating to the previous search warrant was started.

(3) If the proposed warrant will authorise a search warrant power mentioned in section 157(2) of the Act, the police officer must, in the application, also state the reasons why it is necessary for the proposed warrant to authorise the search warrant power.

(4) If the proposed warrant is to be, or may be, executed at night, the police officer must, in the application, also state the reasons why it is necessary to execute the warrant at night.

(5) If the proposed warrant will order a person in possession of documents at the relevant place to give a police officer all documents of a type stated in the warrant, the police officer must also state in the application—

(a) the name or position of the person; and

(b) a description of the documents.

(6) In this section—

relevant person, in relation to an application for a search warrant, means a person suspected of being involved in the commission of the offence or suspected offence, or the confiscation related activity, to which the application relates.

4 Applications for post-search approval orders—Act, s 161

(1) This section sets out the responsibilities of a police officer who applies for a post-search approval order under section 161(1) of the Act.

(2) The police officer must include all of the following information in the application—

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(a) the officer's name, rank, registered number and station;

(b) as part of the information required under section 161(2) of the Act—

(i) the time, date and place of the search; and

(ii) in relation to a thing sought during the search that is suspected to be evidence of the commission of a part 2 offence—

(A) the nature of the thing; and

(B) a description of the part 2 offence; and

(C) if a forfeiture proceeding may be started in relation to the thing—the type of forfeiture proceeding; and

(iii) the information or evidence being relied on to support the reasonable suspicion mentioned in section 160(1) or (2) of the Act;

(c) a description of anything seized during the search;

(d) the name, age and address of each person detained or searched during the search, if known;

(e) information about any proceeding started against a person, before or because of the search, for a part 2 offence forming part of the reasonable suspicion mentioned in section 160(1) or (2) of the Act;

(f) if a person has applied for an order under section 693 or 694 of the Act in relation to a thing seized during the search—why the order should be made.

5 Appeals against post-search approval orders—Act, s 163

(1) This section sets out the responsibilities of a police officer if the police officer considers the commissioner should start an appeal under section 163(1) of the Act.

(2) The police officer must give the commissioner—

(a) a report stating the reasons the commissioner should start the appeal; and

(b) a copy of the application for the post-search approval to which the appeal relates; and

(c) a copy of any transcript of the proceeding for the application; and

(d) an affidavit—

(i) attaching, as an exhibit, any document relevant to the appeal; and

(ii) stating anything else relevant to the appeal.

Division 2 Crime scene warrants

6 Applications for crime scene warrants—Act, s 170

(1) This section sets out the responsibilities of a police officer who applies for a crime scene warrant under section 170(1) of the Act.

(2) The police officer must include all of the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) whether the application—

(i) is to establish a crime scene; or

(ii) relates to a crime scene established under section 165 of the Act;

(c) as part of the information required under section 170(2) of the Act—

(i) a description of the place (the ***relevant place***) at which the crime scene is, or is proposed to be, established; and

(ii) if the relevant place is occupied—the name of the occupier of the relevant place, if known; and

(iii) the crime scene threshold offence (the ***relevant offence***) for which the crime scene is, or is proposed to be, established; and

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(iv) if the relevant offence did not happen at the relevant place—when and where the relevant offence happened, if known; and

(v) the reasons why it is necessary to protect the relevant place to search for and gather evidence of the commission of the relevant offence; and

(vi) the information or evidence being relied on to reasonably satisfy the issuer that the relevant place is a crime scene;

(d) if the relevant place is occupied and the occupier was given a notice under section 170(3) of the Act— the date the notice was given;

(e) if the relevant place is occupied and the occupier was not given a notice under section 170(3) of the Act—the reasons why the occupier was not given the notice;

(f) information about any proceeding started against a person for the relevant offence.

7 Applications for extensions of crime scene warrants—Act, s 173

(1) This section sets out the responsibilities of a police officer who applies for an extension of a crime scene warrant under section 173(2) of the Act.

(2) The police officer must—

(a) ensure the application is accompanied by a copy of the warrant; and

(b) include all of the following information in the application—

(i) the officer's name, rank, registered number and station;

(ii) the date on which, and the place (the ***relevant place***) at which, the crime scene was established;

(iii) if the relevant place is occupied and the occupier was given a notice under section 170(3) of the Act—the date the notice was given;

(iv) if the relevant place is occupied and the occupier was not given a notice under section 170(3) of the Act—the reasons why the occupier was not given the notice;

(v) what investigations have been conducted at the crime scene;

(vi) the period of the proposed extension;

(vii) the reasons why it is necessary to extend the warrant for the period proposed;

(viii) information about any proceeding started against a person for the crime scene threshold offence for which the crime scene was established.

8 Authorised assistants—Act, sch 6

For the Act, schedule 6, definition *authorised assistant*, an assistant is authorised in relation to a crime scene if—

(a) the assistant is not a police officer; and

(b) in the opinion of the responsible officer at the crime scene, the assistant has specialised knowledge or skills of a kind necessary for exercising a power mentioned in section 176(1) of the Act at the crime scene; and

Examples—

- a doctor, pathologist or forensic scientist
- a photographer or fingerprint expert
- an electrician, carpenter or locksmith
- a person who can operate an excavator or another machine

(c) the responsible officer, or an investigating police officer, asks the assistant to exercise the power at the crime scene.

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Division 3 Missing person warrants

9 Applications for missing person warrants—Act, s 179J

(1) This section sets out the responsibilities of a police officer who applies for a missing person warrant under section 179J(1) of the Act.

(2) The police officer must include all of the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) whether the application—

(i) is to establish a missing person scene; or

(ii) is to confirm a missing person scene established under section 179E of the Act;

(c) as part of the information required under section 179J(3)(a) of the Act—

(i) a description of the place (the ***relevant place***) at which the missing person scene is, or is proposed to be, established; and

(ii) if the relevant place is occupied—the name of the occupier of the relevant place, if known; and

(iii) the name of the missing person in relation to whom the missing person scene is, or is proposed to be, established; and

(iv) the reasons why it is necessary to protect the relevant place to search for and gather information about the disappearance of the missing person; and

(v) the information or evidence being relied on to—

(A) satisfy the issuer of the matters mentioned in section 179K(3)(a) and (c) of the Act; and

(B) support the issuer's reasonable suspicion or belief mentioned in section 179K(3)(b) of the Act;

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(d) if the relevant place is occupied and the occupier was given a notice under section 179J(4) of the Act—the date the notice was given;

(e) if the relevant place is occupied and the occupier was not given a notice under section 179J(4) of the Act—the reasons why the occupier was not given the notice;

(f) information about any proceeding started against a person in relation to the disappearance of the missing person.

10 Applications for extensions of missing person warrants—Act, s 179M

(1) This section sets out the responsibilities of a police officer who applies for an extension of a missing person warrant under section 179M(2) of the Act.

(2) The police officer must include all of the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) the date on which, and the place (the ***relevant place***) at which, the missing person scene was established;

(c) if the relevant place is occupied and the occupier was given a notice under section 179J(4) of the Act—the date the notice was given;

(d) if the relevant place is occupied and the occupier was not given a notice under section 179J(4) of the Act—the reasons why the occupier was not given the notice;

(e) what investigations have been conducted at the missing person scene;

(f) the period of the proposed extension;

(g) the reasons why it is necessary to extend the warrant for the period proposed;

(h) information about any proceeding started against a person in relation to the disappearance of the missing person.

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11 Authorised assistants—Act, sch 6

For the Act, schedule 6, definition *authorised assistant*, an assistant is authorised in relation to a missing person scene if—

(a) the assistant is not a police officer; and

(b) in the opinion of the responsible officer for the missing person scene, the assistant has specialised knowledge or skills of a kind necessary for exercising a power mentioned in section 179P(1) of the Act at the missing person scene; and

Examples—

- a doctor, pathologist or forensic scientist
- a photographer or fingerprint expert
- an electrician, carpenter or locksmith
- a person who can operate an excavator or another machine

(c) the responsible officer, or an investigating police officer, asks the assistant to exercise the power at the missing person scene.

Division 4 Production notices and access orders

12 Applications for production notices—Act, s 180

(1) This section sets out the responsibilities of a police officer who applies for a production notice under section 180(2) of the Act.

(2) The police officer must include all of the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) as part of the information required under section 180(3)(a) of the Act—

(i) the name of the cash dealer to be given the notice; and

(ii) if the proposed production notice relates to an offence, suspected offence or confiscation related activity—

(A) the offence, suspected offence or confiscation related activity; and

(B) the name, if known, of any person, other than the cash dealer, who the officer suspects committed the offence or was involved in the confiscation related activity; and

(iii) if the proposed production notice relates to an existing or proposed forfeiture proceeding—the type of forfeiture proceeding; and

(iv) the nature of the documents sought, including, for example—

(A) the subject matter of the documents; and

(B) the dates on which, or the period within which, the documents were made or are suspected to have been made; and

(v) the information or evidence being relied on to support a reasonable suspicion mentioned in section 181(1) of the Act;

(c) if the proposed production notice relates to an offence, suspected offence or confiscation related activity—for each production notice (a ***previous production notice***) issued in the previous year in relation to a person suspected of being involved in the commission of the offence or suspected offence or the confiscation related activity—

(i) when and where the previous production notice was issued; and

(ii) the type of offence or confiscation related activity to which the previous production notice related; and

(iii) whether a document produced under the previous production notice was seized; and

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(iv) if a document produced under the previous production notice was seized—whether a proceeding relating to the document was started.

13 Applications for access orders—Act, s 185

(1) This section sets out the responsibilities of a police officer who applies for an access order, under section 185(1) of the Act, for a document produced by a cash dealer under a production notice.

(2) The police officer must include the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) the name of the cash dealer;

(c) the nature of the document;

(d) the person for whom, and the grounds on which, the cash dealer claims the document contains privileged communication, if known;

(e) the type of access order sought;

(f) the reasons why the officer should be allowed access to the document;

(g) when notice mentioned in section 185(3)(e) of the Act was given.

(3) The police officer must ensure the application is accompanied by—

(a) a copy of the application for the production notice; and

(b) a copy of the production notice given to the cash dealer; and

(c) the sealed container or envelope containing the document.

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Division 5 Production orders

14 Applications for production orders—Act, s 189

(1) This section sets out the responsibilities of a police officer who applies for a production order under section 189(2) of the Act.

(2) The police officer must include the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) as part of the information required under section 189(3)(a) of the Act—

(i) the nature of the relevant document for the proposed production order, including, for example, the subject matter of the document; and

(ii) the name of the person (the ***named person***) who will be required to produce the relevant document; and

(iii) the name, if known, of the person to whom the production order will be given; and

(iv) the confiscation offence or serious crime related activity to which the relevant document relates; and

(v) the name, if known, of the person who—

(A) was found guilty of, or is suspected of having committed, the confiscation offence mentioned in subparagraph (iv); or

(B) is suspected of having engaged in the serious crime related activity mentioned in subparagraph (iv); and

(vi) the information or evidence being relied on to support a reasonable suspicion mentioned in section 189(1) of the Act;

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(c) for each production order (a ***previous production order***) issued within the previous year in relation to the named person—

(i) when and where the previous production order was issued; and

(ii) how long the previous production order was in force; and

(iii) the confiscation offence, or serious crime related activity, to which the relevant document for the previous production order is related; and

(iv) how the previous production order helped in the investigation of the confiscation offence or serious crime related activity or in any other investigation; and

(v) information about any proceeding started because of the relevant document for the previous production order.

(3) In this section—

relevant document, for a proposed production order or previous production order, means the document that was, or will be, required to be produced under the order.

Part 3 Responsibilities relating to gathering evidence

Division 1 Monitoring orders and suspension orders

15 Applications for monitoring orders—Act, s 199

(1) This section sets out the responsibilities of a police officer who applies for a monitoring order under section 199 of the Act.

(2) The police officer must include the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) as part of the information required under section 199(2)(b)(i) of the Act—

(i) the name of the financial institution that will be subject to the order; and

(ii) the name of the person (the ***named person***) to whom the order will relate; and

(iii) the confiscation offence, serious crime related activity or serious crime derived property to which the application relates; and

(iv) the information or evidence being relied on to support a reasonable suspicion mentioned in section 200 of the Act; and

(v) for each account held with the financial institution by the named person—the name or names in which the account is, or is believed to be, held; and

(vi) the type of information the financial institution will be required to give under the order;

(c) for each monitoring order (a ***previous monitoring order***) issued in the previous year in relation to an account held with the financial institution by the named person—

(i) when and where the previous monitoring order was issued; and

(ii) how long the previous monitoring order was in force; and

(iii) the type of confiscation offence, serious crime related activity or serious crime derived property to which the previous monitoring order related; and

(iv) how the previous monitoring order helped in—

(A) the investigation of the confiscation offence or serious crime related activity; or

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(B) the identification, location or quantification of the serious crime derived property; or

(C) any other investigation; and

(v) information about any proceeding started because of information given under the previous monitoring order.

16 Applications for suspension orders—Act, s 205

(1) This section sets out the responsibilities of a police officer who applies for a suspension order under section 205 of the Act.

(2) The police officer must include the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) as part of the information required under section 205(2)(b)(i) of the Act—

(i) the name of the financial institution that will be subject to the order; and

(ii) the name of the person (the ***named person***) in relation to whom the order will relate; and

(iii) the confiscation offence, serious crime related activity or serious crime derived property to which the application relates; and

(iv) the information or evidence being relied on to support a reasonable suspicion mentioned in section 206 of the Act; and

(v) for each account held with the financial institution by the named person—the name or names in which the account is, or is believed to be, held; and

(vi) the type of information the financial institution will be required to give under the order;

(c) for each suspension order (a ***previous suspension order***) issued in the previous year in relation to an account held with the financial institution by the named person—

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(i) when and where the previous suspension order was issued; and

(ii) how long the previous suspension order was in force; and

(iii) the type of confiscation offence, serious crime related activity or serious crime derived property to which the previous suspension order related; and

(iv) how the previous suspension order helped in—

(A) the investigation of the confiscation offence or serious crime related activity; or

(B) the identification, location or quantification of the serious crime derived property; or

(C) any other investigation; and

(v) information about any proceeding started because of information given under the previous suspension order.

Division 2 Covert searches

17 Applications for covert search warrants and extensions of covert search warrants—Act, ss 212 and 217

(1) This section sets out the responsibilities of a police officer who applies for—

(a) a covert search warrant under section 212(1) of the Act; or

(b) an extension of a covert search warrant under section 217(2) of the Act.

Note—

See section 217(3) of the Act for the application of sections 212 to 216 of the Act to applications for extensions of covert search warrants.

(2) The police officer must include all of the following information in the application—

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(a) the officer's name, rank, registered number and station;

(b) as part of the information required under section 212(2)(a) of the Act—

(i) a description of the place (the ***relevant place***) to be entered and searched; and

(ii) the designated offence, organised crime or terrorism to which the application relates; and

(iii) if the relevant place is occupied—the name of the occupier of the relevant place, and any relevant persons, if known; and

(iv) a description of the nature of the thing to be sought under the proposed warrant; and

(v) the information or evidence being relied on to support a reasonable belief mentioned in section 215(1) of the Act;

(c) for each warrant (a ***previous warrant***) issued in the previous year in relation to the relevant place or a relevant person—

(i) the type of previous warrant; and

(ii) when and where the previous warrant was issued; and

(iii) if the previous warrant was a surveillance device warrant or covert search warrant—how long the previous warrant was in force; and

(iv) whether the previous warrant related to a place or person; and

(v) the type of designated offence, organised crime or terrorism to which the previous warrant related; and

(vi) whether anything was seized under the previous warrant or a proceeding relating to the previous warrant was started; and

(vii) if a covert search warrant or surveillance device warrant helped in relation to the investigation of

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the designated offence, organised crime or terrorism to which the previous warrant related—how the covert search warrant or surveillance device warrant helped the investigation.

(3) The police officer must ensure that, if reasonably practicable, a lawyer approved by the commissioner—

(a) assists the officer to prepare the application; and

(b) represents the officer at the hearing of the application.

(4) In this section—

relevant person, in relation to an application for a covert search warrant, means a person suspected of being involved in the designated offence, organised crime or terrorism to which the application relates.

18 Reports on covert searches—Act, s 220

(1) This section sets out the responsibilities of a police officer who makes a report under section 220 of the Act in relation to a covert search warrant.

(2) The police officer must include all of the following information in the report—

(a) the officer's name, rank, registered number and station;

(b) the designated offence, organised crime related offence or terrorism to which the warrant relates;

(c) the conditions imposed on the warrant;

(d) the time and date on which, and the place where, the powers under the warrant were exercised;

(e) particulars of how the powers under the warrant were exercised, and how the warrant was complied with, including, for example, particulars of anything seized, inspected or photographed under the warrant;

(f) if the officer seeks an order under section 220(6) of the Act in relation to a thing seized or photographed under

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the warrant—a description of, and the reasons for seeking, the order.

Examples of orders for paragraph (f)—

- an order that anything seized and any photograph taken be retained for the purpose of the investigation of the designated offence, organised crime related offence or terrorism
- an order that anything seized and any photograph taken be retained for the purpose of a proceeding started under the *Criminal Proceeds Confiscation Act 2002* relating to an offence arising out of the investigation
- an order that anything seized and any photograph taken be retained for use as evidence in the prosecution of the persons named in the application
- an order that a thing seized be destroyed in a way the commissioner considers appropriate

Division 3 Surveillance device warrants and using surveillance devices

19 Applications for surveillance device warrants—Act, s 328

(1) This section sets out the responsibilities of a senior officer who applies for a surveillance device warrant under section 328 of the Act.

(2) The senior officer must ensure that, if reasonably practicable, a lawyer approved by the commissioner—

(a) assists the officer to prepare the application; and

(b) represents the officer at the hearing of the application.

20 Security of monitoring premises and facilities

(1) This section sets out the responsibilities of a senior officer to whom a surveillance device warrant is issued under section 330 of the Act.

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(2) The senior officer must ensure the premises (the ***monitoring premises***) containing monitoring equipment being used under the warrant is—

(a) capable of being locked; and

(b) has suitable facilities for securely storing recordings made under the warrant; and

(c) is used in a way that prevents anyone outside the monitoring premises from hearing or seeing anything being listened to or monitored.

(3) The senior officer must take reasonable steps to ensure—

(a) when the monitoring premises are unattended—

(i) the premises are locked; and

(ii) any recordings made under the warrant are securely stored at the premises or another secure place; and

(b) only the following persons enter the monitoring premises—

(i) police officers helping, or involved in, the investigation;

(ii) a person responsible for the management of the premises;

(iii) a person appointed by the commissioner to investigate misconduct;

(iv) an authorised monitor;

(v) any other person the officer permits to be in the premises for helping in the investigation.

(4) This section does not apply in relation to—

(a) a corresponding warrant that is executed under section 349 of the Act; or

(b) the use of a surveillance device under a corresponding emergency authorisation.

(5) In this section—

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authorised monitor, in relation to a surveillance device warrant, means a person authorised by the senior officer to whom the warrant is issued to use monitoring equipment under the warrant, whether or not the senior officer is present while the person is using the equipment.

monitoring equipment means equipment used to electronically monitor and record information obtained through the use of a surveillance device.

Part 4 Responsibilities relating to investigations and questioning for indictable offences

Division 1 Investigating and questioning persons about indictable offences

21 Purpose of division

This division sets out the responsibilities of a police officer in relation to investigations and questioning a person as a suspect about the person's involvement in the commission of an indictable offence.

22 Definition for division

In this division—

required person, in relation to the questioning of a person, means another person, other than a police officer—

(a) whose presence is required, under a law, during the questioning; and

Note—

See, for example, section 419(2), 420(4)(b), 421(3)(b), 422(2)(b), 426 or 430 of the Act.

(b) who is not excluded, under a law, from being present during the questioning.

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Note—

See, for example, section 419(3), 420(6) or 421(5) of the Act.

23 Responsibilities when persons exercise right to remain silent

(1) This section applies if a person, the person's lawyer or another required person indicates to the police officer questioning, or intending to question, the person that the person—

(a) if questioning has not started—does not want to answer questions; or

(b) if questioning has started—does not want to answer any further questions.

(2) The police officer must clarify the person's intention to exercise the person's right to silence by asking the person—

(a) whether the person does not want to answer any questions about the indictable offence or any questions generally; and

(b) if any further question is asked relating to the indictable offence or another offence—whether the person would not answer the question.

(3) If the person confirms the person does not want to answer any questions, the police officer must not question, or continue to question, the person.

(4) However, if the person later indicates that the person is prepared to answer questions, the police officer must, before questioning or continuing to question the person, ask the person—

(a) why the person has decided to answer questions; and

(b) whether a police officer, or someone else in a position of authority, has instructed or encouraged the person to answer questions.

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24 Applications for removal orders—Act, s 399

(1) This section sets out the responsibilities of a police officer who applies for a removal order under section 399(2) of the Act in relation to a person who is suspected of having committed an indictable offence.

(2) The police officer must include all of the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) as part of the information required under section 399(4)(b) of the Act—

(i) the name and age of the person; and

(ii) the location of the person; and

(iii) whether the person is in custody—

(A) for an offence that has not been dealt with; or

(B) under a sentence for a term of imprisonment; or

(C) if the person is a child—under a detention order; and

(iv) whether the removal of the person into police custody is for—

(A) questioning the person about the indictable offence; or

(B) a stated investigative procedure related to the indictable offence; and

(v) information or evidence about the nature and seriousness of the indictable offence; and

(vi) information or evidence being relied on to—

(A) support the suspicion mentioned in section 399(1) of the Act; and

(B) satisfy the magistrate of the matters mentioned in section 401 of the Act;

(c) whether the person has been advised of the application.

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25 Application for extensions of detention periods—Act, s 405

(1) This section sets out the responsibilities of a police officer who applies under section 405(1) of the Act for an order extending a detention period for a person detained under section 403 of the Act for the purpose of investigating or questioning the person about an indictable offence.

(2) Before the application is made, the police officer must—

(a) tell the person, or the person's lawyer, that the police officer intends to make the application; and

(b) give the person, or the person's lawyer, a copy of the application; and

(c) ask the person, or the person's lawyer, if the person—

(i) agrees to, or will oppose, the proposed application; and

(ii) will make submissions, or wishes to say anything, to the person hearing the application.

(3) The police officer must include all of the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) the person's name, age and address;

(c) whether the person is in custody—

(i) for an offence that has not been dealt with; or

(ii) under a sentence for a term of imprisonment; or

(iii) if the person is a child—under a detention order;

(d) whether the person is an Aboriginal person, a Torres Strait Islander person, a child, or a person with impaired capacity;

(e) if the person is a child—whether a parent of the person has been advised of the person's detention;

(f) whether, since the questioning or detention started, the person has asked to telephone or speak to, or has spoken to, a relative, friend, lawyer or support person;

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(g) for how long the person had been questioned when the detention period started;

(h) whether there have been any delays to the questioning;

(i) the information or evidence being relied on to satisfy the person hearing the application of the matters mentioned in section 406(1) of the Act, including, for example—

(i) what investigations have taken place in relation to the indictable offence; and

(ii) why further detention of the person is considered necessary; and

(iii) the period the police officer reasonably anticipates will be necessary for further questioning;

(j) as part of the information required under section 405(4) of the Act—the length and purpose of the time out.

(4) The police officer must tell the person hearing the application whether or not the person, or the person's lawyer, has indicated that the person will make submissions, or wishes to say anything, to the person hearing the application.

26 Informing relevant persons of right to communicate with friend, relative or lawyer—Act, s 418

(1) If the police officer is required to inform a relevant person of the matters mentioned in section 418(1)(a) or (b) of the Act, the officer must inform the person of the matters in a way substantially complying with the following statements—

'You have the right to telephone or speak to a friend or relative to inform that person where you are and to ask him or her to be present during questioning.

You also have the right to telephone or speak to a lawyer of your choice to inform the lawyer where you are and to arrange or attempt to arrange for the lawyer to be present during questioning.

If you want to telephone or speak to any of these people, questioning will be delayed for a reasonable time for that purpose.

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Is there anyone you wish to telephone or speak to?'.

(2) If the police officer reasonably suspects the relevant person does not understand the information, the police officer may ask the person to explain the meaning of the information in the person's own words.

(3) If necessary, the police officer must further explain the information.

(4) If the relevant person wants to telephone or speak to a lawyer, the police officer must, without unreasonable delay, make available to the person—

(a) if the police officer has available a list of lawyers for the region and the person has not asked to telephone or speak to a particular lawyer—the list; or

(b) a telephone directory for the region.

(5) The police officer must not do or say anything with the intention of—

(a) dissuading the relevant person from obtaining legal advice; or

(b) persuading the relevant person to arrange for a particular lawyer to be present.

27 Questioning Aboriginal and Torres Strait Islander peoples

(1) This section applies if, under section 420 of the Act, the police officer—

(a) intends to question a relevant person about the person's involvement in the commission of the indictable offence; and

(b) reasonably suspects the relevant person is an adult Aboriginal or Torres Strait Islander person.

(2) Unless the police officer already knows the relevant person, the officer must, before questioning the person about the person's involvement in the commission of the indictable

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offence, establish the person's level of education and understanding.

(3) Without limiting subsection (2), the officer may, for the purpose of establishing the relevant person's level of education and understanding, ask the person questions, other than questions about the person's involvement in the commission of the indictable offence, that help the officer decide if the person—

(a) is aware of the reason why the person will be questioned about the person's involvement in the commission of the indictable offence; and

(b) is capable of understanding—

(i) what is happening to the person; and

(ii) the questions the officer will ask the person; and

(iii) the person's legal rights related to the questioning; and

(c) is capable of effectively communicating answers to the officer's questions.

(4) If the police officer is required by law, or otherwise considers it is necessary, to notify a representative of a legal aid organisation about the questioning of the relevant person, the police officer must inform the person of the intention to notify the legal aid organisation in a way substantially complying with the following statement—

'As you have not arranged for a lawyer to be present, a legal aid organisation will be notified you are here to be questioned about your involvement in the commission of an indictable offence.'.

Note—

See also section 420(2)(a) and (3) of the Act.

(5) If the relevant person has indicated the person does not wish to telephone or speak to a support person, or have a support person present during the questioning, the police officer must inform the person that the person may have a support person present during the questioning, in a way substantially complying with the following statements—

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‘Is there any reason why you don’t want to telephone or speak to a support person or have a person present during the questioning?

Do you understand that arrangements can be made for a support person to be present during the questioning?

Do you also understand that you do not have to have a support person present during the questioning?

Do you want to have a support person present during the questioning?’.

Note—

See also section 420(4) and (5) of the Act.

(6) If the police officer reasonably suspects the relevant person is at a disadvantage in comparison with members of the Australian community generally, and the person has not arranged for a support person to be present during the questioning, the police officer must—

(a) arrange for a support person to be present during the questioning; and

(b) unless the support person is excluded under a law from being present during the questioning, allow the support person to be present during the questioning.

28 Cautioning of relevant persons who are not under arrest or in custody—Act, s 431

(1) This section prescribes for section 431(1) of the Act the way in which a relevant person must be cautioned before the person is questioned about the person’s involvement in the commission of the indictable offence, if the person is not a person mentioned in section 398 of the Act.

(2) If the police officer approaches the relevant person when not at a police station or police establishment, the police officer must caution the person in a way substantially complying with the following statements—

‘I am (name and rank) of (name of police station or police establishment).

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I wish to question you about (briefly describe the indictable offence).

Are you prepared to come with me to (place of questioning)?

Do you understand that you are not under arrest and you do not have to come with me?'.

(3) If the relevant person attends a police station or police establishment for questioning, the police officer must caution the person in a way substantially complying with the following statements—

'I am (name and rank) of (name of police station or police establishment).

I wish to question you about (briefly describe the indictable offence).

Did you come here of your own free will?

Do you understand you are not under arrest?

Do you understand you are free to leave at any time unless you are arrested?'.

29 Cautioning relevant persons about the right to remain silent—Act, s 431

(1) Without limiting section 28, this section also prescribes for section 431(1) of the Act the way in which a relevant person must be cautioned, before the person is questioned about the person's involvement in the commission of the indictable offence, about the person's right to remain silent.

(2) The police officer must caution the relevant person in a way substantially complying with the following statements—

'Before I ask you any questions I must tell you that you have the right to remain silent.

This means you do not have to say anything, answer any question or make any statement unless you wish to do so.

However, if you do say something or make a statement, it may later be used as evidence.

Do you understand?'.

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(3) If the questioning is suspended or delayed, the police officer must—

(a) ensure the relevant person is aware the person still has the right to remain silent; and

(b) if necessary, caution the relevant person, in a way substantially complying with subsection (1), when the questioning resumes.

(4) If a police officer cautions a relevant person in the absence of a required person, the officer must repeat the caution in the presence of the required person.

30 Verifying identify of persons requesting information relating to relevant persons

(1) This section applies if, under section 432 of the Act, a relative, friend or lawyer of a relevant person (the ***requester***) asks a police officer for information about the person's whereabouts.

(2) If the police officer does not know the requester, the police officer—

(a) must ask the requester for—

(i) a description of the relationship between the requester and the relevant person; and

(ii) if the requester is a relative or friend of the relevant person—the requester's name and address; and

(iii) if the requester is the relevant person's lawyer—the requester's name and place of business; and

(iv) if the requester makes the request for information in person—proof of the requester's identity; and

(b) may ask other questions the police officer considers necessary to confirm the relationship between the requester and the relevant person.

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31 Right to interpreter

(1) The police officer may, for the purpose of forming a reasonable suspicion mentioned in section 433(1) of the Act, ask a relevant person questions, other than questions about the person's involvement in the commission of the indictable offence, that help the officer form the suspicion, including, for example, questions that help the officer decide if the person—

(a) is aware of the reason why the person will be questioned about the person's involvement in the commission of the indictable offence; and

(b) is capable of understanding—

(i) what is happening to the person; and

(ii) the questions the officer will ask the person; and

(iii) the person's legal rights related to the questioning; and

(c) is capable of effectively communicating answers to the officer's questions.

(2) If the presence of an interpreter is required under section 433(2) of the Act, the police officer may ask the relevant person questions, other than questions about the person's involvement in the commission of the indictable offence, that help the officer arrange for the presence of an interpreter.

32 Right of visiting foreign national to communicate with embassy or consular office

(1) The police officer may, for the purpose of deciding whether a relevant person is a visiting foreign national for section 434 of the Act, ask the person questions, other than questions about the person's involvement in the commission of the indictable offence.

(2) If the police officer reasonably suspects the person is a visiting foreign national, the police officer must inform the relevant person of the person's rights under section 434 of the

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Act in a way substantially complying with the following statements—

'Before I ask you any questions, I must tell you that you have the right to telephone, or attempt to telephone, the embassy or consular office of the country of which you are a citizen.

Do you want to telephone your embassy or consular office?'.

(3) If the police officer reasonably suspects the relevant person does not understand the information, the police officer may ask the person to explain the information in the person's own words.

(4) If necessary, the police officer must further explain the information.

(5) In this section—

visiting foreign national means a person who is not—

(a) an Australian citizen; or

(b) a foreign national with a right of residence in Australia.

33 Written records when information cannot be electronically recorded

(1) This section applies if, under section 435 of the Act, it is not practicable for the police officer to electronically record—

(a) the giving of information to a relevant person; or

(b) the response of a relevant person.

(2) The police officer must—

(a) make a written record, of the giving of the information and the response, in English, whether or not the information or response was given through an interpreter; and

(b) as soon as practicable after making the written record—

(i) give the relevant person an explanation, complying with section 34, of the procedure for reading back the written record; and

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(ii) after giving the relevant person the explanation mentioned in subparagraph (i), read the written record to the person—

(A) in English; and

(B) if the person used another language to give the response—the language the person used; and

(iii) after reading the written record to the relevant person, give the person a copy of the written record.

(3) During and after the reading of the written record to the relevant person, the police officer must give the person the opportunity to draw attention to any error in, or omission from, the written record.

(4) The police officer must electronically record—

(a) the reading of the written record under subsection (2)(b)(ii); and

(b) everything said by or to the relevant person during the reading of the written record; and

(c) anything else done to comply with this section.

34 Procedure for reading back a written record

(1) This section applies if the police officer is required to give a relevant person an explanation of a procedure mentioned in—

(a) section 33(2)(b)(i); or

(b) section 437(5) of the Act.

(2) The police officer must give the explanation in a way substantially complying with the following statements—

‘Some of the questions I have asked you and your responses have not been electronically recorded.

I have made a written record of the unrecorded conversation. This is your copy of the written record. I will now read the written record aloud.

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If you consider there is an error in the written record or there is something left out of the written record, you should say so after I read that part of the written record aloud.

You will then be asked to say what the written record should read.

Do you understand this is your opportunity to disagree with anything in the written record?

Do you understand this procedure?'.

(3) If the police officer reasonably suspects the relevant person does not understand the procedure, the police officer may ask the person to explain the procedure in the person's own words.

(4) If necessary, the police officer must further explain the procedure.

Division 2 Support persons

35 Ensuring support persons understand role

(1) This section sets out the responsibilities of a police officer in relation to the questioning of a person as a suspect (the ***suspect***)—

(a) about the suspect's involvement in the commission of an indictable offence; and

(b) in the presence of a support person for the suspect.

(2) Before a police officer questions the suspect, the officer must—

(a) give the support person information in the approved form about the role of support persons during questioning; and

(b) ensure, as far as practicable, that the support person understands the nature of the support person's role; and

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(c) if the support person asks for an explanation of anything relevant to the support person's role—give the explanation; and

(d) inform the support person of the identity of the suspect and why the suspect is being questioned.

(3) The information mentioned in subsection (2)(a) must include the following—

(a) a summary of sections 427, 428, 429 and 430 of the Act;

(b) a statement that the support person must act in the best interests of the suspect;

(c) a statement that, unless the support person is a lawyer, the support person must not provide legal advice to the suspect, but may ask the suspect questions to ensure the suspect understands—

(i) that the suspect may ask for a lawyer to be present during questioning, or at any time before questioning ends; and

(ii) that the suspect is not required to say anything during questioning; and

(iii) that anything the suspect says during questioning may be used as evidence; and

(iv) what is said by a police officer during questioning.

Part 5 Responsibilities relating to applications for DNA and blood and urine samples

36 Applications for order authorising DNA samples to be taken from children—Act, s 488

(1) This section sets out the responsibilities of a police officer who applies under section 488(2) of the Act for an order authorising a DNA sampler to take a DNA sample from a child for DNA analysis.

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(2) The police officer must include all of the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) the name of the child;

(c) the indictable offence mentioned in section 488(1)(a) of the Act;

(d) for each notice given under section 488(3) of the Act—the date the notice was given;

(e) if a notice, required to be given to a parent of the child under section 488(3)(b) of the Act, was not given because the parent could not be found—information about the reasonable inquiry made by the police officer to find the parent;

(f) the information or evidence being relied on to satisfy the Childrens Court of the matters mentioned in section 488(4) of the Act.

37 Application for disease test orders—Act, s 540

(1) This section sets out the responsibilities of a police officer who applies for a disease test order in relation to a relevant person under section 540(2) of the Act.

(2) The police officer must include the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) as part of the information required under section 540(3) of the Act—

(i) the name of the relevant person; and

(ii) the chapter 18 offence the officer reasonably suspects the relevant person has committed; and

(iii) the information or evidence being relied on to satisfy the magistrate or Childrens Court of the matters mentioned in section 542(5) of the Act; and

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(iv) without limiting subparagraph (iii), if the officer reasonably suspects that during, or soon after, the commission of the chapter 18 offence, the relevant person may have transmitted semen, blood, saliva, another bodily fluid or a relevant disease to another person—the information or evidence being relied on to support the reasonable suspicion;

(c) the date the copy of the application, and the information mentioned in section 540(4) of the Act, were given under that subsection;

(d) for each notice given under section 541 of the Act—the date the notice was given.

Part 6 Identification procedures

Division 1 Preliminary

38 Purpose of part

This part sets out for section 617(2) of the Act the procedures a police officer must comply with when conducting a procedure mentioned in section 617(1)(a), (b), (c) or (d) of the Act (an ***identification procedure***) to help gather evidence of the identity of a person (the ***suspect***) suspected of having committed an offence.

39 Definitions for part

In this part—

identification procedure see section 38.

suspect see section 38.

witness, in relation to an identification procedure, means a person who, as part of the identification procedure, provides information that identifies, or may help identify, the suspect.

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Division 2 General requirements for identification procedures

40 Procedures for management of witnesses during identification procedures

(1) During an identification procedure, only 1 witness at a time may see or hear the procedure.

(2) A witness who has taken part in the identification procedure must, as far as reasonably practicable, be prevented from speaking to another witness about the procedure until the procedure ends.

(3) The way a witness identifies a person during an identification procedure must, if reasonably practicable, be electronically recorded.

(4) A witness may have another person (an ***identification procedure support person***), who is not also a witness taking part in the identification procedure, present during the procedure to support the witness.

(5) However, the police officer may exclude an identification procedure support person from being present during the identification procedure if the officer suspects the identification procedure support person will—

(a) influence the information given by the witness for the procedure; or

(b) disrupt the procedure.

(6) If the police officer excludes an identification procedure support person from being present during the identification procedure, the police officer must—

(a) give the witness the reasons for excluding the identification procedure support person; and

(b) advise the witness that the witness may arrange for another identification procedure support person to be present to support the witness; and

(c) if the witness arranges for another identification procedure support person to be present to support the

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witness, subject to subsection (5)—allow the other identification procedure support person to be present.

Division 3 Identification parades

41 Application of division

This division applies if the identification procedure is an identification parade mentioned in section 617(1)(a) of the Act.

42 Recording identification parades

If reasonably practicable, the police officer must ensure the behaviour and position of each person in the identification parade is photographed or otherwise electronically recorded.

43 Explanation of how identification parades are conducted

(1) A police officer must, before conducting the identification parade, explain to the suspect how the identification parade will be conducted.

(2) Without limiting subsection (1), the explanation must include the following information—

(a) that the identification parade can not be conducted unless the suspect agrees;

(b) that the suspect may have a friend, relative or lawyer present at the identification parade if the friend, relative or lawyer can attend within a reasonable time;

(c) that anyone present must not interfere with the identification parade in any way;

(d) that the suspect may choose a position in the identification parade;

(e) that the suspect may change position in the identification parade after each witness has viewed the parade;

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(f) that the suspect's identity will not be given to a witness unless the witness identifies the suspect and a proceeding is started against the suspect.

(3) If the police officer reasonably suspects the suspect does not understand how the identification parade will be conducted, the police officer must ask the suspect to explain how the identification parade will be conducted in the suspect's own words.

(4) If necessary, the police officer must further explain how the identification parade will be conducted.

44 Conducting the identification parade

The police officer conducting the identification parade must—

(a) ensure the identification parade includes the suspect and at least 11 other people of similar physical appearance, and wearing similar clothing, to the suspect; and

(b) ensure each witness views the identification parade separately; and

(c) as far as reasonably practicable, replicate the conditions, as described by the witness, under which the witness saw a person involved in the offence, including, for example, by—

(i) changing the lighting in the room; or

(ii) varying the distance from which the witness views the identification parade; or

(iii) concealing aspects of the persons participating in the parade; and

(d) ask the witness, in a way that does not suggest the identity of any person participating in the parade, to carefully view the identification parade and state whether the witness recognises any person participating in the parade; and

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(e) if the witness indicates that the witness recognises a person participating in the parade—ask the witness to clearly identify the person by, for example—

(i) stating the person's number; or

(ii) describing the person's position in the parade.

Division 4 Photo board identifications

45 Conducting photo board identifications

(1) This section applies if the identification procedure is the use of a photo board mentioned in section 617(1)(b) of the Act (a ***photo board identification***).

(2) The police officer conducting the photo board identification must—

(a) ensure that, to avoid directing the attention of a witness to a particular photograph on the photo board, nothing is marked on—

(i) the photo board; or

(ii) any photograph on the photo board; and

(b) ensure each witness views the photo board separately; and

(c) ask a witness, in a way that does not suggest the identity of any person whose photograph is on the photo board, to—

(i) carefully view the photo board; and

(ii) state whether the witness recognises any person whose photograph is on the photo board; and

(d) if a witness indicates that the witness recognises a person whose photograph is on the photo board as the person suspected of having committed the offence—ask the witness to—

(i) clearly state the number of the photograph; and

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(ii) write the number of the photograph, and the date the photo board was shown to the witness—

(A) on the front of an unmarked photocopy of the photo board; or

(B) on the back of the photo board; or

(C) on the back of the photograph; and

(iii) sign the photo board, photocopy or photograph where the person wrote the number and date.

Part 7 Responsibilities relating to registers

Division 1 Register of covert acts

46 Information to be recorded in register about other particular covert acts—Act, s 666

For section 666(3) of the Act, all of the following information about a covert act that is the making of a chapter 8 application must be recorded in the register of covert acts—

(a) when and where the application was made;

(b) the name of the financial institution that is subject to the order;

(c) the name of the person to whom the order relates;

(d) whether or not the order was issued;

(e) if the order was issued—

(i) the type of information the financial institution was required to give under the order; and

(ii) how long the order was in force; and

(iii) the benefits derived from the order, including, for example—

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(A) if any proceeding was started because of information given under the order; and

(B) if the order related to the investigation of a confiscation offence or serious crime related activity—how the order helped in the investigation; and

(C) if the order related to the identification, location or quantification of serious crime derived property—how the order helped in the identification, location or quantification.

Division 2 Register of enforcement acts

47 Purpose of division

This division sets out for section 679(1) of the Act the information in relation to an enforcement act that is required to be recorded in the register of enforcement acts.

48 Searches of persons

If the enforcement act is a search of a person, all of the following information is required to be recorded in the register of enforcement acts—

(a) the name of the person, if known;

(b) when and where the person was searched;

(c) the purpose of the search;

(d) if the person was required to remove an item of clothing for the search—

(i) the item of clothing removed; and

(ii) the way the search was conducted to provide reasonable privacy for the person;

(e) if the search was conducted without a warrant—how long the person was detained for the search;

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(f) a description of anything found during the search that is seized;

(g) information about the return, destruction or disposal of a thing mentioned in paragraph (f).

49 Searches of vehicles

If the enforcement act is a search of a vehicle, all of the following information is required to be recorded in the register of enforcement acts—

(a) the name, if known, of the person in possession of the vehicle;

(b) if an occupant of the vehicle is detained—the name of the occupant, if known;

(c) the registration number, or a description, of the vehicle;

(d) when and where the vehicle was searched;

(e) the purpose of the search;

(f) how long the vehicle was detained for the search;

(g) whether anything was damaged during the search;

(h) a description of anything found during the search that is seized;

(i) information about the return, destruction or disposal of a thing mentioned in paragraph (h).

50 Searches of premises

If the enforcement act is a search of a premises, all of the following information is required to be recorded in the register of enforcement acts—

(a) the name, if known, of the person in possession of the premises;

(b) if a person at the premises is detained—the name of the person, if known;

(c) when and where the search took place;

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(d) the purpose of the search;

(e) whether anything was damaged because of the search;

(f) a description of anything found during the search that is seized;

(g) information about the return, destruction or disposal of a thing mentioned in paragraph (f).

51 Seizing of things other than during search

If the enforcement act is the seizing of a thing, other than during a search, the information required to be recorded in the register of enforcement acts is—

(a) the name of the person from whom the thing was seized, if known; and

(b) when and where the thing was seized; and

(c) the reason the thing was seized; and

(d) a description of the thing; and

(e) information about the return, destruction or disposal of the thing.

52 Arrests, detentions and questioning

(1) This section applies to the following enforcement acts—

(a) the arrest of a person;

(b) the detention of a person for investigations or questioning under chapter 15 of the Act;

(c) the questioning of a person to whom chapter 15, part 3 of the Act applies.

(2) All of the following information about the enforcement act is required to be recorded in the register of enforcement acts—

(a) the name of the person, if known;

(b) for the arrest or detention of the person—

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(i) the time period for which the person was arrested or detained; and

(ii) any apparent injury the person received during the arrest or detention;

(c) for the arrest of the person—where a person is held;

(d) for the detention of the person for investigations or questioning—

(i) each place the person was taken to, or held, for the investigation or questioning; and

(ii) when the person was taken to each place;

(e) if the questioning of a person to whom chapter 15, part 3 of the Act applies is suspended or delayed, including, for example, for time out purposes—the reason for the suspension or delay.

53 Custody of person under police assistance removal order

If the enforcement act is the custody of a person under a police assistance removal order, the information required to be recorded in the register of enforcement acts is—

(a) when and where the order was made; and

(b) the name of the person; and

(c) the watch-house from which the person was released into the custody of a police officer under the order; and

(d) the time the person was released into the custody of a police officer under the order; and

(e) each place the person was taken during the assistance period; and

(f) the date and time the person was returned to the watch-house.

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54 Exercises of powers under Act relating to search warrants

If the enforcement act is the exercise of powers under the Act relating to a search warrant, all of the following information is required to be recorded in the register of enforcement acts—

(a) when and where the search warrant was issued;

(b) if an offence, suspected offence or confiscation related activity was stated in the application for the search warrant under section 3(2)(b)(iv)—the offence, suspected offence or confiscation related activity;

(c) if the name of a person was stated in the application for the search warrant under section 3(2)(b)(v)—the name;

(d) if disorderly activities were stated in the application for the search warrant under section 3(2)(b)(vii)—the disorderly activities;

(e) if the search warrant related to an existing or proposed forfeiture proceeding—the type of forfeiture proceeding;

(f) the benefits derived from the search warrant, including, for example—

(i) whether anything was seized under the search warrant; or

(ii) whether a proceeding relating to the search warrant was started.

55 Exercises of powers under Act relating to missing person warrants

If the enforcement act is the exercise of powers under the Act relating to a missing person warrant, the information required to be recorded in the register of enforcement acts is—

(a) when and where the missing person warrant was issued; and

(b) the name of the missing person in relation to whom the missing person scene, to which the missing person warrant relates, was established; and

(c) the benefits derived from the missing person warrant, including, for example—

(i) whether the missing person was found; or

(ii) whether information about the missing person's disappearance was found; or

(iii) whether anything was seized under the missing person warrant; or

(iv) whether a proceeding relating to the missing person warrant was started.

56 Exercises of powers under Act relating to production orders

If the enforcement act is the exercise of powers under the Act relating to a production order, all of the following information is required to be recorded in the register of enforcement acts—

(a) when and where the order was issued;

(b) the name of the person who was required to produce the relevant document under the production order;

(c) the confiscation offence or serious crime related activity to which the relevant document for the production order related;

(d) the name, if known, of the person who—

(i) was found guilty of, or is suspected of having committed, the confiscation offence mentioned in paragraph (c); or

(ii) is suspected of having engaged in the serious crime related activity mentioned in paragraph (c);

(e) the benefits derived from the production order, including, for example—

(i) whether a document produced under the production order was seized; and

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(ii) if a document produced under the production order was seized—whether a proceeding relating to the document was started;

(f) if a document produced under the production order was seized—information about the return, destruction or disposal of the document.

57 Exercises of powers under Act relating to production notices

If the enforcement act is the exercise of powers under the Act relating to a production notice, all of the following information is required to be recorded in the register of enforcement acts—

(a) when and where the production notice was issued;

(b) the name of the cash dealer to whom the production notice was given;

(c) if the production notice related to an offence, suspected offence or confiscation related activity—

(i) the offence, suspected offence or confiscation related activity; and

(ii) the name of a person stated in the application for the production notice under section 12(2)(b)(ii)(B);

(d) if the production notice related to an existing or proposed forfeiture proceeding—the type of forfeiture proceeding;

(e) the benefits derived from the production notice, including, for example—

(i) whether a document produced under the production notice was seized; and

(ii) if a document produced under the production notice was seized—whether a proceeding relating to the document was started;

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(f) if a document produced under the production notice was seized—information about the return, destruction or disposal of the document.

58 Giving directions

If the enforcement act is the giving of a direction under section 48 of the Act, the information required to be recorded in the register of enforcement acts is—

(a) when and where the direction was given; and

(b) the name of the person given the direction, if known; and

(c) a description of the person given the direction; and

(d) the reason the direction was given.

59 Excluding relatives, friends or support persons from questioning

If the enforcement act is the exclusion from questioning, under chapter 15, part 3, division 4 or 5 of the Act, of a relative, friend or support person (each the ***excluded person***), all of the following information is required to be recorded in the register of enforcement acts—

(a) the name, if known, of the excluded person;

(b) when and why the excluded person was excluded;

(c) whether an electronic record was made of the reason for the exclusion;

(d) if an electronic record was not made of the reason for the exclusion—why an electronic record was not made;

(e) if the questioning resumed after the exclusion of the excluded person—when questioning resumed;

(f) if another relative, friend or support person was present during questioning when questioning resumed—the name, if known, of the other relative, friend or support person.

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60 Taking identifying particulars for official warnings for consorting

If the enforcement act is the taking, under section 41A of the Act, of identifying particulars of a person, the information required to be recorded in the register of enforcement acts is—

(a) the name of the person, if known; and

(b) a description of the person; and

(c) the reason the identifying particulars were taken or photographed; and

(d) when the identifying particulars were taken or photographed; and

(e) when the identifying particulars were destroyed; and

(f) the name of the justice in whose presence the identifying particulars were destroyed.

61 Giving official warnings for consorting

If the enforcement act is the giving, under section 53BAC of the Act, of an official warning for consorting, all of the following information is required to be recorded in the register of enforcement acts—

(a) the name of the person given the warning, if known;

(b) a description of the person given the warning;

(c) the reason the warning was given;

(d) when and where the warning was given;

(e) if the warning was given orally—when and how the police officer confirmed the warning in the approved form;

(f) whether, after the warning was given, the person committed an offence against section 790(1) or 791(2) of the Act that was related to the giving of the warning;

(g) whether the person given the warning was required under section 53BAE(2) of the Act to leave a place.

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62 Exercises of powers related to public safety orders

If the enforcement act is the exercise of a power under the *Peace and Good Behaviour Act 1982*, section 31(2) in relation to a public safety order, the information required to be recorded in the register of enforcement acts is—

(a) the name, if known, of the person in relation to whom the power was exercised; and

(b) a description of the person in relation to whom the power was exercised; and

(c) when the public safety order was made; and

(d) when and where the power was exercised; and

(e) the reason the power was exercised; and

(f) whether, after the power was exercised, a person committed an offence against section 790(1) or section 791(2) of the Act that was related to the exercise of the power.

63 Exercises of powers related to restricted premises

If the enforcement act is the exercise of a power under the *Peace and Good Behaviour Act 1982*, section 49(1) in relation to a restricted premises, all of the following information is required to be recorded in the register of enforcement acts—

(a) if a restricted premises order was in force for the restricted premises—when and where the order was made;

(b) when the restricted premises were entered;

(c) the period of time the police officer exercising the power spent at the restricted premises;

(d) whether, after the power was exercised, a person committed an offence against section 790(1) or section 791(2) of the Act that was related to the exercise of the power;

(e) if paragraph (d) applies—the name of the person and the type of offence.

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64 Removing or modifying fortifications

If the enforcement act is the removal or modification of fortification of a fortified premises under the *Peace and Good Behaviour Act 1982*, section 65, all of the following information is required to be recorded in the register of enforcement acts—

(a) the name, if known, of the owner or occupier of the fortified premises;

(b) when and where the fortification was removed or modified;

(c) the reason the fortification was removed or modified;

(d) a description of the fortification;

(e) if the fortification was removed—information about the destruction or disposal of the fortification.

65 Exercises of powers related to fortified premises

If the enforcement act is the exercise of a power under the *Peace and Good Behaviour Act 1982*, section 65(2) in relation to a fortified premises, all of the following information is required to be recorded in the register of enforcement acts—

(a) when and where the fortification removal order for the fortified premises was made;

(b) when the fortified premises were entered;

(c) the time the police officer exercising the power spent at the fortified premises;

(d) whether, after the power was exercised, a person committed an offence against section 790(1) or 791(2) of the Act that was related to the exercise of the power;

(e) if paragraph (d) applies—the name of the person and the type of offence.

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66 Seizing prohibited items

If the enforcement act is the seizing of a prohibited item under the *Peace and Good Behaviour Act 1982*, section 49(1)(c)(i), the information required to be recorded in the register of enforcement acts is—

(a) the name, if known, of the person from whom the prohibited item was seized; and

(b) when and where the prohibited item was seized; and

(c) the reason the prohibited item was seized; and

(d) a description of the prohibited item; and

(e) information about the return, destruction or disposal of the prohibited item.

67 Giving stop and desist notices

If the enforcement act is the giving of a stop and desist notice, the information required to be recorded in the register of enforcement acts is—

(a) the name of the person to whom the notice was given; and

(b) the reason the notice was given; and

(c) when and where the notice was given.

68 Directions in state building

If the enforcement act is the giving of a direction to an entrant to a state building under section 554 of the Act, the information required to be recorded in the register of enforcement acts is—

(a) when the direction was given; and

(b) the location of the entrant when given the direction; and

(c) the name of the entrant given the direction, if known; and

(d) a description of the entrant given the direction; and

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(e) the reason the direction was given.

69 Removal of entrant from state building

If the enforcement act is the removal of an entrant to a state building under section 557(2)(a) of the Act, the information required to be recorded in the register of enforcement acts is—

(a) when the entrant was removed; and

(b) the location of the entrant when removed; and

(c) the name of the entrant removed, if known; and

(d) a description of the entrant removed; and

(e) the reason the entrant was removed.

70 Preventing entrant from entering state building

If the enforcement act is the prevention of an entrant to a state building from entering the state building under section 557(2)(b) of the Act, the information required to be recorded in the register of enforcement acts is—

(a) when the entrant was prevented from entering; and

(b) the location of the entrant when prevented from entering; and

(c) the name of the entrant prevented from entering, if known; and

(d) a description of the entrant prevented from entering; and

(e) the reason the entrant was prevented from entering.

71 Detention of entrant in state building

If the enforcement act is the detention of an entrant to a state building under section 558 of the Act, the information required to be recorded in the register of enforcement acts is—

(a) the name of the entrant, if known; and

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(b) the time the entrant was detained; and

(c) where the entrant was detained; and

(d) the reason the entrant was detained; and

(e) any apparent injury the entrant received during the detention.

72 Detention of person under Act, ch 2, pt 8

If the enforcement act is the detention of a person under chapter 2, part 8 of the Act, all of the following information is required to be recorded in the register of enforcement acts—

(a) the name of the person, if known;

(b) the time the person was detained;

(c) where the person was detained;

(d) if the person was transported to, and detained at, a police station or watch-house—the reason why the person was transported to, and detained at, the police station or watch-house;

(e) any apparent injury the person received during the detention.

Part 8 Responsibilities relating to dealing with things in the possession of police service

73 Definition for part

In this part—

relevant thing see section 686(1) of the Act.

74 Receipt for seized property—Act, s 622

For section 622(5) of the Act, all of the following information is required in relation to a receipt, given or left by a police

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officer or protective services officer, for a thing seized by the officer under the Act—

(a) the date and time the thing was seized;

(b) if the thing was seized from a person—the name, address and telephone number of the person, if known;

(c) if the thing was seized from an occupied place—the name, address and telephone number of the occupier of the place, if known;

(d) a description of the thing;

(e) the officer's name, rank, registered number, station and telephone number;

(f) where the thing will be taken, if known;

(g) the date the receipt is issued.

75 Responsibilities of property officers

(1) This section sets out the responsibilities of a property officer who comes into possession of a relevant thing.

(2) A property officer must—

(a) keep a record of the circumstances under which the officer came into possession of the relevant thing, including, for example—

(i) the date the relevant thing was given to the officer or delivered to a property point; and

(ii) if the relevant thing was seized—

(A) if the thing was seized by a police officer—the name, rank and registered number of the officer; or

(B) if the thing was seized by a protective services officer—the name, rank and employee number of the officer; and

(iii) a description of the relevant thing; and

(b) as soon as reasonably practicable after the property officer comes into possession of the relevant thing,

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ensure the thing is capable of being easily identified, including, for example, by doing both of the following—

(i) assigning a number, or other identifier, to the relevant thing;

(ii) attaching a label or tag to the relevant thing stating the number or other identifier; and

(c) ensure the safe and secure storage of the relevant thing at a property point; and

(d) if the thing is money, other than money that must be retained so it can be used as an exhibit in a court—deposit the money in a financial institution account operated by the police service; and

(e) if appropriate, transfer, or arrange the transfer of, the relevant thing to—

(i) another property point for the safe and secure storage of the thing; or

(ii) another place for the destruction or disposal of the thing; or

(iii) a declared agency; and

(f) if required under an Act—destroy or dispose of the relevant thing in the way required under that Act; and

(g) if the relevant thing leaves the property officer's possession, keep a record of—

(i) when and why the relevant thing left the property officer's possession; and

(ii) when the thing was returned to the property officer's possession.

76 Application for orders declaring ownership of relevant things—Act, s 694

(1) This section sets out the responsibilities of a police officer who applies under section 694(2) of the Act for an order declaring who is the owner of a relevant thing.

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(2) The police officer must include all of the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) the reasons why the officer is seeking the order;

(c) a description of the relevant thing, including, for example—

(i) the approximate value of the relevant thing; and

(ii) if the police officer reasonably believes a person has a legal or equitable interest in the relevant thing—the nature of the interest; and

(iii) whether the relevant thing may be needed as evidence in a proceeding; and

(iv) if the relevant thing may be needed as evidence in a proceeding for an offence—the offence; and

(v) if the relevant thing may be needed as evidence in a forfeiture proceeding—the type of forfeiture proceeding;

(d) if the relevant thing was seized by the police officer—the circumstances in which the thing was seized, including, for example, if the relevant thing was seized under a search warrant;

(e) other information or evidence, in the possession of the officer, that may assist the magistrate hearing the application to decide the application.

77 Applications for orders in relation to seized things—Act, s 695

(1) This section sets out the responsibilities of a police officer who applies under section 695(2) of the Act for an order under section 696 of the Act in relation to the thing (the ***seized thing***) mentioned in section 695(1) of the Act.

(2) The police officer must include all of the following information in the application—

(a) the officer's name, rank, registered number and station;

(b) the order under section 696(1) or (2) of the Act the officer is seeking;

(c) the reasons why the officer is seeking the order;

(d) a description of the seized thing, including, for example—

(i) the approximate value of the seized thing; and

(ii) if the police officer reasonably believes a person has a legal or equitable interest in the seized thing—the nature of the interest; and

(iii) whether the seized thing may be needed as evidence in a proceeding; and

(iv) if the seized thing may be needed as evidence in a proceeding for an offence—the offence; and

(v) if the seized thing may be needed as evidence in a forfeiture proceeding—the type of forfeiture proceeding;

(e) the circumstances in which the thing was seized, including, for example, if the seized thing was seized under a search warrant;

(f) other information or evidence, in the possession of the officer, that may assist the issuer to decide the application.

(3) In this section—

issuer see section 695(2) of the Act.

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Schedule 12 Dictionary

section 3

ACC index means an index of results of DNA analyses in the ACC database.

Austrac means the Australian Transaction Reports and Analysis Centre under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cwlth).

crime scene index see section 13(1).

identification procedure, for schedule 11, part 6, see section 39.

immigration and border protection department means a Commonwealth department in which any of the following laws is administered—

(a) the *Australian Border Force Act 2015* (Cwlth);

(b) the *Customs Act 1901* (Cwlth), other than parts XVB and XVC;

(c) the *Migration Act 1958* (Cwlth).

Law Enforcement Conduct Commission means the Law Enforcement Conduct Commission under the *Law Enforcement Conduct Commission Act 2016* (NSW).

missing persons index see section 14.

New South Wales Crime Commission means the New South Wales Crime Commission under the *Crime Commission Act 2012* (NSW).

relevant thing, for schedule 11, part 8, see section 73.

required person, in relation to the questioning of a person, for schedule 11, part 4, division 1, see section 22.

serious offenders index see section 15.

statistical index see section 16.

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suspect, for schedule 11, part 6, see section 39.

suspects index see section 17.

unknown deceased persons index see section 18.

volunteers (limited purpose) index see section 19.

volunteers (unlimited purpose) index see section 20.

witness, in relation to an identification procedure, for schedule 11, part 6, see section 39.

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