

Queensland



Police Powers and Responsibilities Act 1997

POLICE POWERS AND RESPONSIBILITIES REGULATION 1998

**Reprinted as in force on 10 November 1999
(includes amendments up to SL No. 222 of 1999)**

Reprint No. 1C

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This regulation is reprinted as at 10 November 1999. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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**POLICE POWERS AND
RESPONSIBILITIES REGULATION 1998**

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POLICE POWERS AND RESPONSIBILITIES REGULATION 1998

[as amended by all amendments that commenced on or before 10 November 1999]

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Police Powers and Responsibilities Regulation 1998*.

Commencement

2. This regulation commences on the day section 3 of the Act commences.

Dictionary

3. The dictionary in schedule 3 defines words used in this regulation.

PART 2—PROPOSAL FOR NOTIFIED AREA

Applying for the declaration of a notified area

3A.(1) An application¹ for the declaration of an area as a notified area must seek—

- (a) a declaration for a specified period of not more than 14 days (a

¹ The application is made to the Minister by a local government or a government entity under the Act, section 86 (Proposal for notified area).

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“temporary declaration”); or

(b) a permanent declaration.

(2) Before applying for the declaration, the intending applicant must comply with—

(a) for a temporary declaration—section 3B; or.

(b) for a permanent declaration—section 3C.

(3) The applicant must—

(a) apply in the approved form;² and

(b) lodge a plan clearly showing the location and boundary of the area proposed to be notified.

(4) An applicant for a permanent declaration must also lodge—

(a) a copy of each submission received under section 3C(4)(e) and a summary of the submission; and

(b) any comment the applicant wishes to make on the submission.

What must be done before applying for a temporary declaration

3B.(1) This section states the things an intending applicant for a temporary declaration must do.

(2) The intending applicant must consult about the proposed declaration with—

(a) the district officer of the police service for the relevant police district; and

(b) if the applicant is a government entity, the local government within whose area the proposed notified area is located.

(3) If the application is to be made for a proposed event at the request of the event’s organiser, the intending applicant must ensure the event’s organiser’s request is written and states the information relied on.

(4) If the application will be made in relation to a proposed event but not

² See section 3D (Contents of approved form of application).

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at the request of the event's organiser, the intending applicant must consult about the proposed application with the event's organiser.

What must be done before applying for a permanent declaration

3C.(1) This section states what an intending applicant for a permanent declaration must do.

(2) The intending applicant must—

(a) consult about the proposed declaration with—

(i) the district officer of the police service for the relevant police district; and

(ii) if the applicant is a government entity, the local government within whose area the proposed notified area is located; and

(b) if a person carrying on a business in the proposed notified area wishes to consult with the intending applicant, consult about the proposal with a representative of the business; and

(c) publish notice of intention to apply under part 11³ of the Act to have the area declared a notified area.

(3) The notice must be published in a newspaper circulating generally in the locality of the area, or if there is no newspaper circulating generally in the locality, in a newspaper circulating generally in the State.

(4) The notice must state the following—

(a) the area's street address or a description of the location of the area sufficient to enable it to be easily identified;

(b) the proposed times and dates the area is to start being a notified area;

(c) the reason why it is intended to apply for the proposed declaration;

(e) that any interested person, group or body may make a written submission supporting or opposing the proposal;

³ Part 11 (Power to give directions in notified areas and other places) of the Act

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- (f) a day, not earlier than 1 month after the publication of the advertisement, by which submissions are to be made;
- (g) an address where submissions may be sent to the intending applicant.

(5) The advertisement must also contain a sketch or plan showing the area.

Contents of approved form of application

3D.(1) The approved form of application for a declaration of an area as a notified area must include provision to state the following information—

- (a) the area's street or similar address;
- (b) the proposed times and dates the area will start being a notified area;
- (c) for a temporary declaration, the proposed time and date the area will stop being a notified area;
- (d) if the application is made in relation to an event, the event and the proposed times and dates for the start and end of the event;
- (e) the reasons relied on to justify declaring the area, including, past or likely future criminal conduct or public order problems in the area;
- (f) if past problems are relied on, written information, for example crime statistics or a statement from the local district officer of the police service, verifying the problems;
- (g) the persons, groups and bodies who have been consulted about the proposal and the nature and results of the consultation.

(2) The approved form of application must state that—

- (a) if the proposed notified area extends beyond a single street, road, park or premises, the applicant must justify in detail why it is necessary for the proposed area to be so extensive; and
- (b) if a temporary declaration is being applied for, the applicant must justify in detail the duration of the period for which the area is to be a notified area; and

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- (c) if a permanent declaration is being applied for, the applicant must justify in detail why the declaration needs to be permanent.

PART 3—OTHER MATTERS

Acts prescribed for Act, s 8

4. The Acts in schedule 1 are Acts to which the Act, section 8 applies.⁴

Relevant Acts, Act s 14

5. Each of the following Acts is a relevant Act for the Act, section 14⁵—

- *Auctioneers and Agents Act 1971*
- *Drugs Misuse Act 1986*
- *Nature Conservation Act 1992*
- *Pawnbrokers Act 1984*
- *Racing and Betting Act 1980*
- *Second-hand Dealers and Collectors Act 1984*
- *Weapons Act 1990*.

Declared law enforcement agencies

6.(1) A police force or police service of another State or the Commonwealth is a declared law enforcement agency for the Act, schedule 3,⁶ definition “**declared law enforcement agency**”.

- (2)** Also, each of the following entities is a declared law enforcement

⁴ Section 8 (Relationship to other Acts)

⁵ Section 14 (Power to enter etc. for relevant Acts)

⁶ Schedule 3 (Dictionary)

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agency for the Act, schedule 3, definition “**declared law enforcement agency**”—

(a) for the Commonwealth—

- the Australian Customs Service
- the Australian Securities Commission
- the Australian Taxation Office
- the National Crime Authority
- the Commonwealth department within which the *Migration Act 1958* (Cwlth) is administered
- ASIO
- Austrac;

(b) for New South Wales—

- the New South Wales Crime Commission
- the Police Integrity Commission
- the Independent Commission Against Corruption;

(c) for Queensland—

- the Crime Commission
- the Criminal Justice Commission.

(3) In addition, a Royal Commission or another commission of inquiry, not mentioned in subsection (2), that is established under a law of the Commonwealth or a State for inquiring into allegations involving the commission of serious indictable offences is a declared law enforcement agency for the Act, schedule 3, definition “**declared law enforcement agency**”.

(4) Further, the unit of the Australian Defence Force known as the Special Air Service is a declared law enforcement agency for the Act, schedule 3, definition “**declared law enforcement agency**”, but only when the unit is helping the police service reduce the risk of serious injury to a person, and to the extent disclosure of information under the Act is necessary for that purpose.

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Legal aid organisations

7. For the Act, schedule 3, definition “**legal aid organisation**”, the Aboriginal and Torres Strait Islander Corporation (QEA for Legal Services) is an organisation that provides legal assistance to Aboriginal people and Torres Strait Islanders.

Postponed expiry— Act, s 136

7A. The day for expiry of section 136⁷ of the Act is extended by 1 year.

Responsibilities code

8. The responsibilities code is in schedule 2.

⁷ Section 136 of the Act now expires on 6 April 2000.

SCHEDULE 1

OTHER ACTS NOT AFFECTED BY ACT'S OPERATION

section 4

Casino Control Act 1982

Children's Services Act 1965

Collections Act 1966

Community Services (Aborigines) Act 1984

Community Services (Torres Strait) Act 1984

Coroners Act 1958

Corrective Services Act 1988

Crimes (Confiscation) Act 1989

Criminal Investigation (Extra-territorial Offences) Act 1985

Crown Proceedings Act 1980

Explosives Act 1952

Fire and Rescue Authority Act 1990

Gaming Act 1850 (NSW)⁸

Gaming Machine Act 1991

Health Act 1937

Law Courts and State Buildings Protective Security Act 1983

Liquid Fuel Supply Act 1984

Litter Act 1971

⁸ This Act continues to apply in Queensland.

SCHEDULE 1 (continued)

National Crime Authority (State Provisions) Act 1985

Police Service Administration Act 1990

Racing and Betting Act 1980

Residential Tenancies Act 1994

State Transport Act 1938

Vagrants, Gaming and Other Offences Act 1931, section 56⁹

Vocational Education, Training and Employment Act 1991

Weapons Act 1990

⁹ Section 56 (Police officer may require person to provide name and address etc.)

SCHEDULE 2

POLICE RESPONSIBILITIES CODE

section 8

PART 1—PRELIMINARY

Short title

- 1.** This code may be cited as the Police Responsibilities Code.

Explanation of code

- 2.(1)** This code contains 2 kinds of provisions.

(2) The main provisions are responsibilities a police officer must comply with for giving effect to the Act.¹⁰

(3) There are also operational guidelines that are intended to help in the administration of the Act by enabling police officers and other readers to better understand the operation of the Act and this code.

(4) An operational guideline is easy to distinguish from other provisions because the way it is set out differs from the main provisions and its heading identifies it as an operational guideline.

(5) Under the Act, section 135(4),¹¹ operational guidelines are not part of the regulation containing this code.

(6) Also, this code is in addition to, and does not limit, the operation of the Act.

¹⁰ In some cases, the provisions relate to particular requirements of the Act. Others state general requirements about the way a police officer must perform his or her duties.

¹¹ Section 135 (Regulation-making power)

SCHEDULE 2 (continued)

Code does not affect certain principles

3.(1) This code does not prevent an officer from speaking to or questioning a person when performing the police officer's duties, whether or not in relation to an offence, without detaining the person or using any form of compulsion.

(2) Also, it is not the purpose of this code to affect the principle that everyone in the community has a social responsibility to help police officers prevent crime and discover offenders.

Code does not generally apply to covert operations

4. Unless this code otherwise expressly provides, this code does not apply to functions of a police officer performed as part of a covert operation.

**PART 2—SEARCHING PERSONS AND VEHICLES
AND GIVING DIRECTIONS TO PERSONS**

Division 1—Preliminary

Explanation for pt 2

5.(1) This part deals with responsibilities relating to powers under the Act that allow a police officer to stop, detain and search persons or vehicles, and to give directions to individuals, whether or not in vehicles.¹²

(2) Provisions relating to searches may not apply in some circumstances, for example, when people entering sports grounds or other places are

¹² See the Act, sections 20 (Powers at crime scene), 24 (Roadblocks), 26 (Searching persons without warrant), 27 (Searching vehicles without warrant), 29 (Powers under search warrants), 56 (Search of persons in custody), 88 (Direction may be given to person) and 122 (Entry of place to prevent offence or injury).

SCHEDULE 2 (continued)

searched with their consent or as a condition of entry.

(3) Also, if no search power exists, nothing in the Act or this code prevents a police officer searching a person or a vehicle with the person's consent given after the person is told he or she need not consent to the search.

(4) In addition, provisions relating to directions may not apply in some cases, for example, when directions are given to a person to leave a place at the request of someone who is in lawful possession of the place.

(5) Finally, some of the standard safeguards in the Act and safeguards in this code may apply whether or not the power is exercised with consent.¹³

1 Operational guidelines for searching people incapable of giving an informed consent

1.1 *Unless someone else is present to help look after the interests of someone who appears to a police officer to be incapable of giving an informed consent, the police officer should not ask the person to consent to a search.*

1.2 *Examples of people who may not be able to give an informed consent—*

- 1. A young child.*
- 2. Someone suffering from a mental illness.*

Division 2—Search of persons and vehicles

General provision about searches of persons

6.(1) A police officer searching a person must—

- (a) ensure, as far as reasonably practicable, the way the person is searched causes minimal embarrassment to the person; and

¹³ See the Act, part 12 (Standard safeguards), divisions 4 (Safeguards for things seized during searches) and 5 (Other safeguards).

SCHEDULE 2 (continued)

- (b) take reasonable care to protect the dignity of the person; and
- (c) unless an immediate and more thorough search of a person is necessary—restrict a search of the person in public to an examination of outer clothing; and
- (d) if a more thorough search of a person is necessary but does not have to be conducted immediately—conduct a more thorough search of the person out of public view, for example, in a room of a shop or, if a police station is nearby, in the police station.

Example for subsection (1)(c)—

A more thorough search may be immediately necessary because a police officer reasonably suspects an immediate search is necessary to protect the safety of the person, including, for example, because the person to be searched may have a bomb strapped to his or her body or a concealed firearm or knife and intend to use the firearm or knife for an unlawful purpose.

(2) Before taking a person to another place for a search because it is impracticable to search for a thing that may be concealed on the person where the person is, the police officer must consider the following—

- (a) whether the thing sought may be concealed on the person;
- (b) whether, for an effective search, the search should be conducted somewhere else;
- (c) the need to protect the dignity of the person.

2 Operational guidelines for searches of persons—general

2.1 *The following is an example of how to state the purpose of a search—*

‘The purpose of this search is to look for something that may be a dangerous drug.’

2.2 *Generally, police officers should hold a brief conversation before starting a search to help obtain evidence and so avoid unnecessary searches.*

2.3 *The grounds for a search because of a reasonable suspicion must exist before the search is conducted. Locating the thing sought is not a ground for the search but may confirm the suspicion.*

SCHEDULE 2 (continued)

- 2.4** *A police officer searching a person should, if reasonably practicable, wear gloves.*
- 2.5** *The following techniques may help in a safe and effective search of a person—*
- (a) ask the person to hand over anything that may cause harm to someone else, including, for example, a knife, another weapon or a syringe;*
 - (b) ask the person to shake his or her hair vigorously;*
 - (c) ask the person to lean forward slightly against a stable object, for example, a vehicle or counter in preparation for the search;*
 - (d) stand slightly to one side behind the person;*
 - (e) start the search at the person's head and continue down to the person's feet.*
- 2.6** *Police officers should keep the following in mind—*
- (a) small quantities of drugs may be concealed in belts, collars, hat bands and the lining of clothes;*
 - (b) weapons and syringes may be concealed under clothing in areas of the body such as the shoulder, back, side, inside thigh, ankle and forearm.*

Protecting the dignity of persons during search

7.(1) This section applies if a police officer conducts a search that involves the removal of all items of a person's clothing or all items of outer clothing from—

- (a) the upper or lower part of the body of a female; or
- (b) the lower part of the body of a male.

(2) If reasonably practicable—

- (a) the police officer conducting the search must, before the search is conducted—
 - (i) tell the person he or she will be required to remove clothing during the search; and

SCHEDULE 2 (continued)

- (ii) tell the person why it is necessary to remove the clothing;
and
 - (iii) ask for the person's cooperation; and
- (b) the person must be given the opportunity to remain partly clothed during the search, for example, by allowing the person to dress his or her upper body before being required to remove items of clothing from the lower part of the body.
- (3) The search must be conducted as quickly as reasonably practicable and the person searched must be allowed to dress as soon as the search is finished.
- (4) The police officer conducting the search must ensure, as far as reasonably practicable, the person being searched can not be seen by anyone of the opposite sex or by anyone who does not need to be present.
- (5) If a video camera monitors the area where the person is searched, the police officer must, unless the person viewing the monitor is a police officer of the same sex as the person being searched—
- (a) ensure the camera is turned off; or
 - (b) conduct the search out of view of the camera.
- (6) However, if the video camera is not turned off, any recording of the search must not be shown to anyone other than—
- (a) the person searched or his or her lawyer; or
 - (b) a doctor treating the person searched; or
 - (c) a person deciding if a proceeding is to be started against the person for an offence; or
 - (d) a police officer investigating an offence involving the person; or
 - (e) a police officer, lawyer, public prosecutor or witness involved in a proceeding against the person; or
 - (f) a court.
- (7) The police officer conducting the search must not make physical contact with the genital and anal areas of the person searched, but may

SCHEDULE 2 (continued)

require the person to hold his or her arms in the air or to stand with legs apart and bend forward to enable a visual examination to be made.¹⁴

(8) If the person to be searched is a child or someone else who, because of a medical or psychiatric condition or an intellectual disability, may not be able to understand the purpose of the search, the police officer must conduct the search in the presence of—

- (a) for a child—an interview friend; or
- (b) for someone else—a person the police officer considers is able to give the person to be searched appropriate support.

(9) However, the police officer may search the person in the absence of a person mentioned in subsection (8)(a) or (b) if the police officer reasonably suspects—

- (a) delaying the search is likely to result in evidence being concealed or destroyed; or
- (b) an immediate search is necessary to protect the safety of a person.

3 Operational guideline for search involving the removal of clothing

3.1 *Police officers should be aware that while the Act allows a police officer to require someone to remove clothing when the person is being searched, and searches involving the removal of outer clothing may be necessary, searches involving the removal of clothing should not be routinely conducted, and if conducted, searches that are not appropriately conducted may invite adverse public criticism of the police service.*

General provision about searches of vehicles

8.(1) This section deals with the searching of vehicles under the Act.

(2) Before deciding to take a vehicle to a place with appropriate facilities

¹⁴ For examinations of body orifices, see the Act, part 9 (Powers in relation to persons in custody), division 3 (Medical and dental procedures).

SCHEDULE 2 (continued)

for searching the vehicle, a police officer must consider whether searching the vehicle somewhere else would be more effective because of the nature and size of a thing sought that may be concealed in the vehicle.

(3) If a police officer decides to take a vehicle to a place with appropriate facilities for searching it, the police officer must, if the person apparently in possession of the vehicle is known and present—

- (a) tell the person where the vehicle is to be taken; and
- (b) ask the person if he or she wants to be present during the search.

(4) If a police officer searches an unattended vehicle or anything in it, the police officer must leave a notice in a conspicuous place in or on the vehicle stating—

- (a) that the vehicle or a stated thing in or on it has been searched; and
- (b) the police officer's name, rank and station; and
- (c) that a record of the search may be obtained from any police station.

(5) After searching an unattended vehicle or anything in it, the police officer must ensure, as far as reasonably practicable, the vehicle is left secured at least to the same extent as it was before the search.

4 Operational guidelines for removal of a vehicle for a search

4.1 *A police officer considering taking a vehicle to another place to search it for evidence of the commission of an offence should be mindful that another function of the police service is the protection of the community.*

4.2 *If taking the vehicle to another place may expose occupants of the vehicle to potential danger, the police officer should offer to help the occupants make alternative travel arrangements.*

4.3 *A police officer should never leave women or young children without ensuring alternative transport arrangements are made and, if necessary, should wait until someone arrives.*

SCHEDULE 2 (continued)

Roadblocks

9.(1) Before a police officer decides where to establish a roadblock,¹⁵ the police officer must consider—

- (a) the effect the roadblock may have on road safety and public safety; and
- (b) the likelihood of a dangerous situation happening if a person sought is located at the roadblock.

Example—

If the person sought is believed to be armed and dangerous and it is reasonably practicable, populated locations, such as outside schools, should be avoided.

(2) In addition to the things mentioned in subsection (1), the senior police officer present at a roadblock must consider the following—

- (a) the risk to police officers and members of the public at or near the roadblock;
- (b) the need to ensure drivers approaching the roadblock—
 - (i) will have a clear view of the roadblock; and
 - (ii) will have enough distance to slow down and stop before reaching the roadblock;
- (c) the location of schools, pedestrian crossings and road hazards near the roadblock;
- (d) the physical construction of the road at or near the roadblock, including the type of road surface, number of traffic lanes, and the width of road shoulders;
- (e) weather conditions, including, for example, fog or rain;
- (f) the presence of smoke.

(3) Also, the senior police officer present at a roadblock must ensure—

- (a) a record is made of relevant details of the roadblock including, for example, the reasons for establishing it, when and where it was

¹⁵ See the Act, section 24 (Roadblocks).

SCHEDULE 2 (continued)

established, for how long, and whether the roadblock led to a person sought being located or arrested; and

- (b) a copy of the record is given to a person nominated by the commissioner for the purpose.

5 Operational guidelines for roadblocks and other traffic related powers

5.1 *The senior police officer present at a roadblock should ensure appropriate safety equipment is used and any necessary warning signs are placed to warn approaching drivers that they may be required to stop.*

5.2 *A police officer exercising powers in relation to roads and traffic¹⁶ should ensure that appropriate safety equipment and any necessary warning signs are used.*

5.3 *Appropriate safety equipment includes the following—*

- (a) *reflectorised vests;*
- (b) *traffic cones;*
- (c) *hand held reflectorised ‘Stop Police’ signs;*
- (d) *warning signs;*
- (e) *hazard light systems;*
- (f) *during darkness—traffic wands.*

Dealing with persons who obstruct search of person or vehicle

10.(1) If a person obstructs (the “**obstructing person**”) a search of himself or herself, another person or a vehicle, a police officer must, if reasonably practicable—

- (a) warn the obstructing person it is an offence to obstruct a police officer in the performance of the police officer’s duties; and
- (b) tell the obstructing person that the police officer may use

¹⁶ See the Act, section 25 (Powers relating to roads and traffic).

SCHEDULE 2 (continued)

reasonably necessary force to search a person or vehicle; and

- (c) give the obstructing person a reasonable opportunity to stop obstructing the search before using force against the obstructing person or the vehicle.

(2) It may not be reasonably practicable for a police officer to comply with subsection (1) if, for example—

- (a) there is an immediate or sudden need to use force because, for example, the person is struggling with a police officer; or
- (b) there is a reasonable expectation that, if warned, the person may immediately dispose of, or destroy, evidence; or
- (c) an immediate search is necessary to protect the safety of any person.

6 *Operational guideline for use of force to search a person or a vehicle*

6.1 *An immediate search of a person may be necessary if the person may be carrying something, for example a knife, that may cause harm to someone else.*

Division 3—Directions to move on

Directions in notified areas and other prescribed places

11. If a police officer gives a direction¹⁷ to a person doing a relevant act at or near a prescribed place,¹⁸ the police officer must ensure the circumstances of the direction are recorded in the register.¹⁹

¹⁷ For the power to give the direction, see the Act, section 88 (Direction may be given to person).

¹⁸ For what is a relevant act, see the Act, schedule 3 (Dictionary).

¹⁹ For particulars of information to be included in the register, see section 105 (Register of directions given).

SCHEDULE 2 (continued)

7 Operational guidelines for directions in notified areas and other prescribed places

- 7.1** *Because the right of a person to move about peacefully in public places is carefully guarded by the community generally, a decision to use a power under the Act that interferes with a person's right to free movement should be able to withstand public scrutiny.*
- 7.2** *In some circumstances, it may be appropriate for a police officer to consider whichever of the following is relevant before deciding to give a direction to a person—*
- (a) any reason the person offers for being in or near the place;*
 - (b) the nature of any complaint made about the person;*
 - (c) the nature of any anxiety the person is allegedly causing to someone else and whether the anxiety has any factual basis;*
 - (d) the effect of the person's presence or behaviour on anyone else in or near the place.*

Division 4—Power to require name and address

8 Operational guideline for a power to require name and address

- 8.1** *The following are examples of circumstances when it may be unreasonable to require a person who has been asked to state the person's correct name and address to give evidence of the correctness of the stated name and address—*
- a person is unlikely to be carrying the evidence if the person is wearing swimming or jogging clothing without pockets*
 - circumstances in which the person would not be able to give the evidence by making a phone call or accompanying the police officer to a parked vehicle with the evidence in it.*

SCHEDULE 2 (continued)

PART 3—ENTRY AND SEARCH OF PLACES*Division 1—Introduction and general requirements***Explanation for pt 3**

12.(1) This part deals with responsibilities relating to the powers under the Act that allow a police officer to enter places, to enter and search places, or to establish a crime scene.²⁰

(2) Some of the standard safeguards in the Act and other safeguards in this code may also apply.²¹

(3) Nothing in the Act or this code prevents a police officer searching a place with the consent of the occupier of the place.

(4) However, before a police officer searches a place with the consent of the occupier of the place, the police officer must tell the person that he or she need not consent to the search.

9 *Operational guideline for searching people incapable of giving an informed consent*

9.1 *Unless someone else is present to help look after the interests of someone who appears to a police officer to be incapable of giving an informed consent, the police officer should not ask the person to consent to a search.*

²⁰ See the Act, sections 13 (General power to enter to make inquiries, investigations or serve documents), 14 (Power to enter etc. for relevant Acts), 15 (Power to enter to arrest or detain someone or execute warrant), 16 (Gaining access to crime scenes), 20 (Powers at crime scene), 29 (Powers under search warrants), 31 (Search to prevent loss of evidence) and 122 (Entry of place to prevent offence or injury).

²¹ See the Act, part 12 (Standard safeguards), divisions 4 (Safeguards for things seized during searches) and 5 (Other safeguards).

SCHEDULE 2 (continued)

Examples of people who may not be able to give an informed consent—

1. *A young child.*
2. *Someone suffering from a mental illness.*

Use of force to enter places

13.(1) This section applies if a police officer intends to enter a place to arrest or detain someone, or to search a place, or to establish a crime scene.

(2) Before the police officer uses force that may cause damage to a place to gain entry to the place, the police officer must, if reasonably practicable—

- (a) ask the occupier of the place to allow the police officer to enter the place; and
- (b) give the occupier a reasonable opportunity to allow the entry.

(3) It may not be reasonably practicable for a police officer to comply with subsection (2) if, for example—

- (a) there is an immediate or sudden need to use force because, for example, the person is struggling with a police officer; or
- (b) there is a reasonable expectation that, if warned, the person may immediately dispose of or destroy evidence; or
- (c) an immediate search is necessary to protect the safety of any person.

Division 2—Entry of places to investigate matters, make inquiries and serve documents and entry for relevant Acts

Entry to investigate, make inquiries and serve documents

14.(1) This section applies if a police officer enters a place to investigate a matter, make an inquiry or serve a document.

(2) What is a reasonable time to stay on a place must be decided according to the particular circumstances.

SCHEDULE 2 (continued)

(3) If the entry is to investigate a matter or to make an inquiry, a reasonable time for a police officer to stay on a place is the time reasonably necessary for the police officer to—

- (a) ask questions of anyone present at the place; and
- (b) make any reasonable investigation or observation;

for deciding whether any other action is necessary to fulfil a function of the police service.²²

(4) If the entry is for serving a document, a reasonable time for a police officer to stay on a place is the time reasonably necessary for the police officer to ask questions for service of the document and to serve the document according to law.

Power to enter for relevant Acts

15. A reasonable time for a police officer to enter a place for exercising a power in relation to a relevant Act²³ is—

- (a) the time when the place is open to the public or used by the public; or
- (b) the time when the police officer may reasonably expect that someone will be present at the place; or
- (c) when someone is present at the place.

Requirement by a police officer for relevant Acts

16.(1) This section applies if a police officer requires a licence holder or person apparently in possession of—

- (a) documents or things the licence holder or person is required to keep under a relevant Act—to produce stated documents or things

²² For the functions of the police service, see the *Police Service Administration Act 1990*, section 2.3 (Functions of Service).

²³ See the Act, section 14 (Power to enter etc. for relevant Acts).

SCHEDULE 2 (continued)

for inspection; or

- (b) a place used for a purpose under a licence under a relevant Act—to give the police officer reasonable help.

(2) What is reasonable help must be decided according to the particular circumstances.

Example—

It would be reasonable help for a person who can operate a computer to help a police officer to gain access to a document on the computer for the purpose of inspecting it.

(3) If a licence holder or person does not comply with a requirement made under the Act, section 14(1)(d) or (f), the police officer must, if reasonably practicable—

- (a) warn the person it is an offence to contravene the requirement and the person may be arrested for contravening it; and
- (b) ask the person if he or she has a reasonable excuse for contravening the requirement; and
- (c) give the person a reasonable opportunity to comply with the requirement.

10 Operational guidelines for requirements made by a police officer for relevant Acts

10.1 *An example of the suggested wording of a warning is as follows—*

'I warn you that if you continue to fail to produce the documents I have asked you for and you do not have a reasonable excuse, you commit an offence for which you may be arrested.

Do you have a reasonable excuse for failing to produce the documents?'

10.2 *If a person contravenes a requirement made under the Act, section 14(1)(d) or (f) and the police officer decides to start a proceeding against the person, the proceeding should be for an offence against section 14(2) of the Act instead of section 120 of the Act.*

SCHEDULE 2 (continued)

Division 3—Crime scenes

Gaining access to crime scenes

17. What is a reasonable time for a police officer to stay on a place to decide whether it is a crime scene will depend on the particular circumstances including, for example—

- (a) the nature of any information obtained or any observation made that suggests the place is a crime scene; and
- (b) visible evidence that will help decide whether it is a primary or secondary crime scene; and
- (c) any preliminary inspection of the place.²⁴

11 Operational guidelines for deciding if a place is a crime scene

11.1 *Police officers must remember that for a place to be a crime scene under the Act, it must be necessary to protect the place for the time reasonably necessary to search for and gather evidence.*

11.2 *It may be more desirable in some circumstances to obtain a search warrant.*

11.3 *The fact that a 7 year imprisonment offence or an offence involving deprivation of liberty has happened at a place is not, of itself, enough to justify establishing a primary crime scene.*

11.4 *Also, the fact there may be at a place evidence of the commission of a serious violent offence that has happened somewhere else is not, of itself, enough to justify establishing a secondary crime scene.*

Initial establishment of a crime scene

18.(1) This section applies if a police officer establishes a crime scene at a

²⁴ For the power to enter the place, see the Act, section 16 (Gaining access to crime scenes).

SCHEDULE 2 (continued)

place.²⁵

(2) The responsible officer must—

- (a) identify what constitutes the crime scene; and
- (b) decide the boundaries necessary to protect the crime scene; and
- (c) mark the limits of the crime scene in a way that sufficiently identifies it to the public as a crime scene.

(3) For deciding the boundaries of the crime scene and preserving the crime scene and any evidence in it, the responsible officer must as far as reasonably practicable—

- (a) identify—
 - (i) any potential evidence; and
 - (ii) the entry and exit point of the offender; and
 - (iii) the origin or cause of the incident; and
- (b) take all possible steps to prevent unnecessary movement inside the boundaries of the crime scene; and
- (c) protect the crime scene from being destroyed or damaged.

(4) The responsible officer must also ensure anyone at the crime scene avoids touching or moving items with evidentiary value until all necessary forensic and technical examinations are finished.

(5) The responsible officer must ensure that nothing in the crime scene is unnecessarily moved, unless there is a possibility that it could be damaged or destroyed if the thing is not moved.

Examples of when evidence may be damaged or destroyed if a thing is not moved—

1. If the arrival of the investigator, authorised person or specialist officer will be delayed and the scene is exposed to the weather.
2. If falling or threatened rain may damage any fingerprint that may be on a knife left on the ground.

²⁵ See the Act, section 17 (Initial establishment of crime scene).

SCHEDULE 2 (continued)

(6) If the responsible officer decides it is necessary to immediately move anything at the crime scene, the officer must ensure as far as reasonably practicable that—

- (a) a photograph of the thing is taken or it is measured, or something replaces the thing to indicate the exact location of the place from which it is moved; and
- (b) the way the thing is picked up will avoid smearing fingerprints.

12 Operational guideline for deciding what is the crime scene

12.1 *A responsible officer deciding what constitutes a crime scene and the boundaries necessary to protect it, should be mindful that evidence may include any of the following—*

- (a) *fingerprints;*
- (b) *footprints or tyre tracks at the scene or in the vicinity;*
- (c) *damage to anything at the scene, including walls and windows of a building or items of furniture;*
- (d) *for a suspected offence involving a firearm—spent cartridges, impressions caused by the impact of projectiles, and residual traces of gun powder;*
- (e) *for suspected arson—burn marks on anything or the residue of any flammable liquids;*
- (f) *for sexual offences—seminal stains on bedclothes, car seat covers, handkerchief or other thing left at the scene;*
- (g) *buttons or fibres from clothing;*
- (h) *pubic or other hairs;*
- (i) *articles that may have fallen from an offender's pockets;*
- (j) *signs of a struggle, for example, bloodstains, torn bedclothes and crushed or broken vegetation;*
- (k) *specimens of soil, grass and other vegetation, for comparison purposes if similar substances or things are found on clothing or the offender.*

SCHEDULE 2 (continued)

Crime scene powers

19.(1) To protect a crime scene, the responsible officer must immediately take the steps he or she considers to be reasonably necessary—

- (a) to ensure people, including police officers, whose presence at the crime scene is not essential do not enter the crime scene; and
- (b) to establish a safe walking area in the crime scene for reducing the risk of damage to any evidence that may be on the place.

(2) Also, a person, other than the responsible officer, must not enter a crime scene unless the person—

- (a) has a special reason, associated with the investigation, for entering the crime scene; or
- (b) is a police officer who is asked to enter the crime scene by the responsible officer or an investigating police officer; or
- (c) is an authorised person.

Examples for subsection (2)(a)—

- 1. A police officer removing someone from the crime scene who should not be there.
- 2. A police officer investigating the offence.
- 3. A person accompanying a police officer to assist in the investigation or who has special knowledge of the place that is relevant to the investigation.

(3) However, the responsible officer must ensure the way crime scene powers are exercised does not prevent a fire officer or ambulance officer from doing anything necessary to preserve life or property at a crime scene.

(4) In addition, the responsible officer must ensure a record is made of the name of each person who is present when the crime scene is established or enters it after it is established, when each person entered the place after it is established, and the purpose of the entry.

13 Operational guidelines for investigations at crime scenes

13.1 *Investigating police officers at a crime scene should be mindful of investigative procedures that may be critical in preserving or*

SCHEDULE 2 (continued)

obtaining evidence or information that may lead to the apprehension and conviction of an offender.

13.2 *In particular, procedures relevant to the following should be applied—*

- (a) identification of witnesses and potential witnesses;*
- (b) interviewing witnesses, including obtaining descriptions of suspected offenders or vehicles;*
- (c) taking from witnesses statements suitable for production in a court;*
- (d) collection and appropriate marking, recording and handling of physical evidence;*
- (e) making a description of the crime scene including a list of observations, for example, for a serious violent offence, about the position of any body or weapon found at the scene;*
- (f) noting the description and location of vehicles at the crime scene;*
- (g) noting any unusual behaviour of a person looking on at the crime scene.*

13.3 *If appropriate, the investigating police officer should—*

- (a) notify appropriate specialist police officers, for example, scenes of crime officers and scientific officers; and*
- (b) notify the commissioned duty officer; and*
- (c) arrange for any necessary inquiries to be made by other police officers.*

Who are authorised persons for crime scene powers

20. Each person who is not a police officer but, in the opinion of the responsible officer, has specialised knowledge or skills of a kind necessary for exercising a power mentioned in section 20(1)(g), (h), (j), (k), (l), (m) or (n) of the Act²⁶ at a crime scene, and is asked by the responsible officer or by an investigating police officer to exercise the power, is an authorised

²⁶ Section 20 (Powers at crime scene)

SCHEDULE 2 (continued)

person.

Examples—

1. A doctor, pathologist or forensic scientist.
2. A photographer or fingerprint expert.
3. An electrician or carpenter.
4. A person who can operate an excavator or another machine.

Directions by police officers at crime scenes

21.(1) This section applies if it is necessary for a police officer at a crime scene to give 1 of the following directions²⁷ to a person and the person contravenes the direction—

- (a) a direction to leave the crime scene or remove a vehicle from the crime scene;
 - (b) a direction not to enter the crime scene;
 - (c) a direction to maintain a continuous supply of electricity at the place.
- (2)** The police officer must, if reasonably practicable—
- (a) warn the person it is an offence to contravene the direction and the person may be arrested for contravening it; and
 - (b) give the person a reasonable opportunity to comply with the direction.

14 Operational guideline for directions given at a crime scene

14.1 *An example of the suggested wording of a warning is as follows—*

'I warn you that if you fail to comply with the direction I have given you, you commit an offence for which you may be arrested. I am now giving you another opportunity to comply with the direction.'

²⁷ For the power to give the directions, see the Act, section 20(1)(b), (d) and (i).

SCHEDULE 2 (continued)

Application for crime scene warrant

22. An application for a crime scene warrant²⁸ must state the following—

- (a) the applicant's name, rank, registered number and station;
- (b) whether the application is for a crime scene established under section 17 of the Act²⁹ or to establish a crime scene;
- (c) a description of the place where the crime scene is, or is to be, established;
- (d) whether the crime scene is a primary or secondary crime scene;
- (e) the name of the occupier of the place, if known;
- (f) if the crime scene is an occupied place—the name of the occupier of the place, if known, and—
 - (i) if the occupier has been given notice of the application—when the notice was given; or
 - (ii) if the occupier has not been given notice of the application—why notice was not given;
- (g) the suspected offence to which the application relates, and for a secondary crime scene, when and where the offence was committed, if known;
- (h) why it is necessary to protect the place to search for and gather evidence of the commission of the suspected offence;
- (i) information or evidence that may be relied on to reasonably satisfy the issuer of the following—
 - (i) for a primary crime scene—a 7 year imprisonment offence or an offence involving deprivation of liberty happened at the place;
 - (ii) for a secondary crime scene—there may be at the place evidence, of a significant probative value, of the commission

²⁸ See the Act, section 18 (Crime scene warrant).

²⁹ Section 17 (Initial establishment of crime scene).

SCHEDULE 2 (continued)

of a serious violent offence that happened somewhere else;

- (j) information about any proceeding started against a person for the offence for which the crime scene is, or is to be, established;
- (k) information necessary to satisfy the issuer of the things mentioned in section 18(7)(a), (b) and (c) of the Act.³⁰

15 Operational guideline for crime scene warrants

15.1 *While it will not always be clear whether the exercise of powers at a crime scene may cause structural damage to a building, the responsible police officer at the crime scene should consider applying to a Supreme Court judge for the issue of a crime scene warrant if there is any suggestion of the likelihood of having to do something that may affect the physical integrity of the building.*

Application for extension of crime scene warrant

23. An application for the extension of a crime scene warrant must be accompanied by the original warrant and state the following³¹—

- (a) the applicant's name, rank, registered number and station;
- (b) when and where the crime scene was established;
- (c) for a crime scene that is an occupied place—
 - (i) if the occupier of the place has been given notice of the application—when the notice was given; or
 - (ii) if the occupier of the place has not been given notice of the application—why notice was not given;
- (d) what investigations have been conducted at the crime scene;
- (e) why it is necessary to extend the warrant;

³⁰ Section 18 (Crime scene warrant)

³¹ Under the Act, section 18(10) the application must be made before the warrant stops having effect.

SCHEDULE 2 (continued)

- (f) information about any proceeding started against a person for the offence for which the crime scene was established;
- (g) the time for which the extension is sought;
- (h) information necessary to satisfy the issuer of the things mentioned in section 18(7)(a), (b) and (c) of the Act.

Statement to accompany copy of crime scene warrant

24. The statement a police officer must give to the occupier of a place under the Act, section 21³² must state the following—

- (a) a crime scene warrant has been issued in relation to the place;
- (b) the occupier is entitled to a copy of the warrant;
- (c) the nature of the powers a police officer may exercise at the crime scene;
- (d) the responsible officer at the crime scene must, as soon as reasonably practicable, state his or her name, rank and station, and, if not in uniform, state he or she is a police officer and produce an identity card for inspection;
- (e) the occupier may ask another police officer present for his or her name, rank and station and if not in uniform the officer must, if asked, produce an identity card for inspection;
- (f) the effect of the Act, sections 92, 107, 109, 110, 113, 116, 117 and 119;³³
- (g) a copy of the Police Responsibilities Code is available for inspection at any police station.

³² Section 21 (Copy of crime scene warrant to be given to occupier)

³³ Sections 92 (Right to remain silent not affected), 107 (Receipt for seized property), 109 (Right to inspect seized documents), 110 (Return of seized things), 113 (Information to be given to arrested person), 116 (Limitation on period of detention for search), 117 (Persons to be given copy of information in register) and 119 (Alternative accommodation to be provided in some cases).

SCHEDULE 2 (continued)

16 Operational guideline for statement to accompany copy of crime scene warrant

16.1 *If a police officer reasonably suspects the person to be given a statement to accompany a crime scene warrant does not understand English and a statement is available in a language the person understands, the copy given to the person should be in the language the person understands.*

Alternative accommodation for occupier

25. If alternative accommodation is to be provided to an occupier,³⁴ the accommodation must, if reasonably practicable, be in the same locality as, and of at least a similar standard to, the occupier's dwelling.

Division 4—Search warrants and notices to produce documents

Application for search warrant

26. An application for a search warrant³⁵ must state the following—

- (a) the applicant's name, rank, registered number and station;
- (b) a description of the place to be searched;
- (c) for an occupied place—the name of the occupier of the place, if known;
- (d) the offence to which the application relates or, for a forfeiture offence, the Act under which a forfeiture proceeding may be started;
- (e) a description of the nature of the thing sought that is reasonably suspected of being evidence of the commission of the offence;
- (f) information or evidence that may be relied on to support a

³⁴ See the Act, section 119 (Alternative accommodation to be provided in some cases).

³⁵ See the Act, section 28 (Search warrant).

SCHEDULE 2 (continued)

reasonable suspicion that evidence of the commission of an offence is at the place, or is likely to be at the place in the next 72 hours;

- (g) if there are relevant previous search warrants³⁶—
 - (i) when and where each warrant was issued;
 - (ii) the type of offence to which each warrant related;
 - (iii) whether anything was seized during a search or any proceeding started after a search;
- (h) if the application requests authority for the exercise of any of the following powers—the reason it is necessary to exercise the power—
 - (i) power to search anyone found at the place;
 - (ii) power to search anyone or anything in, on or about to be in or on a transport vehicle;
 - (iii) power to take a vehicle to a place with appropriate facilities for searching the vehicle;
 - (iv) power to execute the warrant at night and the hours at night when it is necessary to enter the place;
- (i) for an application for a direction requiring a person in possession of documents at the place to give to a police officer documents relevant to the offence—the name or position of the person who is to be given the direction.

Examples for paragraph (h)—

1. Power to search anyone found at the place may be necessary because the nature of the thing sought may be concealed on a person.

2. Power to search anyone or anything in, on or about to be in or on a transport vehicle may be necessary because the offence relates to a transport vehicle and involves the safety of the vehicle or anyone who may be in or on it.

3. Power to take a vehicle to a place with appropriate facilities for searching the

³⁶ See the Act, section 28(4)(b).

SCHEDULE 2 (continued)

vehicle may be necessary because the nature of the thing sought may be concealed in a vehicle or because the vehicle needs to be scientifically examined.

4. Power to execute the warrant at night may be necessary for an early morning search to prevent the loss or destruction of evidence, or because the occupier is only at the place at night.

Example for paragraph (i)—

1. A direction to give a police officer documents may be necessary because the place contains many documents unrelated to the offence or forfeiture proceeding or because the documents are stored electronically, and accessing the relevant documents is difficult.

Applications made after a refusal by a justice

27. A police officer who intends to apply to a magistrate for the issue of a search warrant because of the refusal of a justice to issue a search warrant³⁷ must tell the magistrate the reason the justice gave for refusing to issue the warrant.

17 Operational guidelines for applying for a search warrant

17.1 *Before a police officer applies for a search warrant, the police officer must check the register for any search warrants issued in the previous year in relation to the place or person to whom the application relates.*³⁸

17.2 *Police officers should look to related background information or other factors to verify the reliability of information received.*

17.3 *Before information given anonymously is relied on for an application for a search warrant, it should be verified by at least 1 factor of a corroborating nature, for example, the proven reliability of information provided in the past by apparently the same anonymous informant.*

17.4 *If reasonably practicable, a police officer applying for a search warrant must apply to a justice at a Magistrates Court.*

³⁷ See the Act, section 28(11) and (12).

³⁸ See also the Act, section 137 (Transitional provision about noncompliance with requirements for warrants etc.).

SCHEDULE 2 (continued)

- 17.5** *To avoid any suggestion of bias that may lead a court to question the validity of a warrant, a police officer should not apply to a justice who is a member of the police service.*
- 17.6** *When applying for a search warrant, the following steps should be taken—*
- (a) complete the application for the search warrant and the search warrant;*
 - (b) attend before an issuer, swear the details contained in the application, and sign it in the presence of the issuer;*
 - (c) leave the signed application form with the issuer and retain the warrant after the issuer signs it;*
 - (d) make a copy of the signed warrant to be given to the occupier of the place searched and clearly mark it as a copy to avoid it being confused with the original.*
- 17.7** *The identity of an informant need not be disclosed when making an application, but the police officer concerned must be prepared to answer any questions the issuer may ask about the accuracy of previous information provided by the informant or any other related matters.*

Statement to accompany copy of search warrant

28. The statement a police officer must give to the occupier of a place under the Act, section 30³⁹ must state the following—

- (a) a search warrant has been issued in relation to the place;
- (b) the occupier is entitled to a copy of the warrant;
- (c) the nature of the powers a police officer may exercise under the warrant;
- (d) the senior police officer present during the search must, as soon as reasonably practicable, state his or her name, rank and station or, if not in uniform, state he or she is a police officer and produce his or her identity card for inspection;

³⁹ Section 30 (Copy of warrant to be given to occupier)

SCHEDULE 2 (continued)

- (e) the occupier may ask another police officer present for his or her name, rank and station and, if not in uniform, he or she must, if asked, produce an identity card for inspection;
- (f) failure to comply with any direction in the warrant to give to a police officer all documents relevant to the offence mentioned in the warrant may be dealt with as contempt of a Magistrates Court;
- (g) the effect of the Act, sections 92, 107, 109, 110, 113, 116 and 117;⁴⁰
- (h) a copy of the Police Responsibilities Code is available for inspection at any police station.

18 Operational guideline for statement to accompany search warrant

18.1 *If a police officer reasonably suspects the person to be given a statement to accompany a search warrant does not understand English and a statement is available in the language the person understands, the copy given to the person should be in the language the person understands.*

19 Operational guideline for powers relating to search under warrant

19.1 *Before a police officer searches a place under a search warrant, the police office coordinating the search must—*

- (a) *check the time of the day or night when the place may be searched under the warrant; and*
- (b) *locate the place and, as far as possible and convenient, visually examine it and its surroundings; and*
- (c) *tell police officers who are to help search the place—*

⁴⁰ Sections 92 (Right to remain silent not affected), 107 (Receipt for seized property), 109 (Right to inspect seized documents), 110 (Return of seized things), 113 (Information to be given to arrested person), 116 (Limitation on period of detention for search) and 117 (Persons to be given copy of information in register)

SCHEDULE 2 (continued)

- (i) *the purpose of the search; and*
- (ii) *the person or persons thought to be resident or otherwise in the place; and*
- (iii) *whether a dangerous situation may arise; and*
- (iv) *all nonconfidential information known about the place; and*
- (v) *anything else relevant to the purpose of the search or the safety of the police officers.*

20 Operational guidelines for executing a search warrant

20.1 *For an effective search, a planned approach should be adopted according to resources available and the nature of the search, and appropriate recording procedures followed.*

20.2 *Police officers should treat a search scene in the same way as they would a crime scene.*

20.3 *Evidence should be preserved and specialists should be used if necessary.*

20.4 *If possible, police officers should not conduct searches alone as searches conducted in the company of other police officers and in the presence of an owner or occupier should help provide corroboration in any later proceeding and avoid allegations of misconduct.*

20.5 *Taking photographs of the search scene and of anything seized at the place where it is found will later help a court decide questions of fact.*

Application for order approving search to prevent loss of evidence

29. An application for an order approving a search to prevent loss of evidence⁴¹ must state the following—

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

⁴¹ Applications are made under the Act, section 31 (Search to prevent loss of evidence).

SCHEDULE 2 (continued)

- (b) information or evidence that was relied on to support—
 - (i) a reasonable suspicion that, in the circumstances existing before the search, evidence of the commission of an offence was at or about the place, or in the possession of a person at or about the place; and
 - (ii) a reasonable likelihood that the evidence would have been concealed or destroyed in the circumstances existing before the search unless the place was immediately entered and searched;
- (c) in relation to the thing sought—the type of offence, or the Act under which a forfeiture proceeding may be started;
- (d) the nature of the thing sought that was reasonably suspected of being evidence of the commission of an offence;
- (e) the time, date and place of the search;
- (f) a description of anything seized because of the search;
- (g) if known—the name, address and age of any person detained or searched;
- (h) information about any proceeding started against a person before or because of the search, for any offence in relation to which the search was conducted;
- (i) why an order for the retention, disposal, return or destruction of anything seized should be made.

Appeals against order by magistrate

30.(1) This section applies if a police officer considers an appeal should be filed against a decision of a magistrate to order the disposal, destruction or return of anything seized because of a search to prevent loss of evidence.⁴²

(2) The police officer must give to the commissioner a report explaining

⁴² See the Act, section 31 (Search to prevent loss of evidence).

SCHEDULE 2 (continued)

the reasons for appealing against the order.

- (3) The report must be accompanied by—
- (a) a copy of the application; and
 - (b) a copy of any transcript of the proceeding; and
 - (c) an affidavit identifying any relevant document and containing anything else relevant to the appeal.
- (4) The commissioner must decide whether to appeal against the order.

Application for notice to produce

- 31.** An application for a notice to produce must state the following⁴³—
- (a) the applicant's name, rank, registered number and station;
 - (b) the name of the financial institution to be given the notice;
 - (c) the suspected offence to which the application relates or, for a forfeiture proceeding, the Act for which the proceeding may be started;
 - (d) the nature of the documents sought;
 - (e) information or evidence that may be relied on to support a reasonable suspicion that documents held by the institution may be evidence of the commission of the offence;
 - (f) for a notice relating to an offence—the financial institution is not a party to the offence;
 - (g) if there are relevant previous notices to produce⁴⁴—
 - (i) the date and place each notice was issued; and
 - (ii) the offence to which each notice related; and
 - (iii) whether anything was seized or any proceeding started

⁴³ See the Act, section 32 (Notice to produce documents).

⁴⁴ See the Act, section 32(3)(b).

SCHEDULE 2 (continued)

because of a notice.

Examples for paragraph (d)—

1. Documents relating to transactions conducted by B between 31 December 1993 and 1 July 1995.
2. Documents relating to mortgages or property sales to which B is a party.

21 Operational guideline for notice to produce

21.1 *Before a police officer applies for a notice to produce, the police officer must check the register for any notices issued in the previous year in relation to the person to whom the application relates.*⁴⁵

Notice to produce—privileged communications

32.(1) If a financial institution claims documents it produces under a notice to produce contain privileged communications between the financial institution and someone else, the police officer receiving the documents must ask for whom and on what ground the claim is made and record the answers given.

(2) Also, the police officer must—

- (a) place the documents in a sealed container or envelope; and
- (b) seal the container or envelope; and
- (c) sign the seal on the container or envelope; and
- (d) ask the person producing the documents for the financial institution to sign the seal; and
- (e) tell the person producing the documents for the financial institution the documents will be retained and an application will be made for an order for access to the documents.⁴⁶

⁴⁵ See also the Act, section 137 (Transitional provision about noncompliance with requirements for warrants etc.).

⁴⁶ See the Act, section 33 (Procedural requirements—notice to produce).

SCHEDULE 2 (continued)

(3) The application for an order for access to the documents must state the following—

- (a) the applicant's name, rank, registered number and station;
- (b) the name of the financial institution;
- (c) the financial institution has produced documents it claims contain privileged communications;
- (d) the nature of the documents sought under the notice;
- (e) an outline of any reason given by the financial institution for the claim made;
- (f) when notice of the application was given to the financial institution;
- (g) why access to the documents is necessary;
- (h) the type of order sought.

(4) The application must be accompanied by a copy of the application for the notice to produce, the notice to produce given to the financial institution, and the sealed container or envelope.

Division 5—Surveillance and covert search

Application of division

33. This division applies to the functions of a police officer in relation to surveillance warrants and covert search warrants.

Certain applications to be made with help of lawyer

34. A police officer who may apply for either of the following warrants⁴⁷

⁴⁷ Under the Act, sections 68 (Surveillance warrants) and 74 (Covert search warrants), applications may only be made by a police officer of at least the rank of inspector.

SCHEDULE 2 (continued)

must, if reasonably practicable, make the application with the help of the director of public prosecutions or a lawyer approved by the commissioner—

- (a) a surveillance warrant for a class A device or a class A and a class B device to be used together;
- (b) a covert search warrant.

Application for surveillance warrant

35. An application for a surveillance warrant⁴⁸ must state the following—

- (a) the applicant's name, rank, registered number and station;
- (b) the class and type of device to be used under the warrant;
- (c) the serious indictable offence to which the application relates or, for a class B device, the indictable offence to which the application relates;
- (d) if the application relates to a person—
 - (i) the applicant reasonably believes the person has been, is, or is likely to be, involved in the offence; and
 - (ii) the person's name, if known; and
 - (iii) a description of the class of place where the person is likely to be; and
 - (iv) if the application is for use of a device in a public place where the person is likely to be—that fact;
- (e) if the application relates to a place the applicant reasonably believes has been, is being, or is likely to be involved in the commission of the offence—a description of the place;
- (f) if the application is—
 - (i) for a class A device that is a tracking device or a class B

⁴⁸ See the Act, section 68 (Surveillance warrants).

SCHEDULE 2 (continued)

- device—that the device is for use in a vehicle or other moveable object relating to the offence or the person; or
- (ii) to install a visual surveillance device in a dwelling—the parts of the dwelling in which the device is proposed to be installed; or
 - (iii) for use of a class A device in the office of a practising lawyer—the person is a practising lawyer and the device is to be used in the person’s office;
- (g) if there are relevant previous warrants,⁴⁹ for each warrant—
- (i) the class of device to which the warrant related; and
 - (ii) when and where the warrant was issued; and
 - (iii) how long the warrant was in force; and
 - (iv) whether the warrant related to a person or a place; and
 - (v) the type of offence to which the warrant related;
 - (vi) any evidence seized during a previous search; and
 - (vii) how a previous covert search or surveillance warrant helped in the investigation or another investigation; and
 - (viii) any proceedings started after the search or use of the surveillance device;
- (h) information or evidence of any of the following that may be relied on to support a reasonable belief that an offence stated in the application has been, is being, or is about to be, committed—
- (i) for an application relating to a person—that the person has been, is, or is likely to be, involved in the commission of the offence;
 - (ii) for an application relating to a place—that a person at the place has been, is, or is likely to be, involved in the commission of the offence;

⁴⁹ See the Act, section 68(5)(b).

SCHEDULE 2 (continued)

- (iii) for an application for use of a class A device in the office of a practising lawyer—that the lawyer is involved in the offence;
- (i) information necessary to satisfy the issuer of the things mentioned in the Act, section 68(10);
- (j) for an application for a class A device that is a tracking device or a class B device—a description of how the use of the device in or on any vehicle or other moveable object relating to the offence or a person involved in the offence, is likely to assist in the investigation of the offence.

Examples of a class of place for paragraph (d)(iii)—

1. A rental car.
2. A motel room.
3. A warehouse at Rocklea.

Examples of a description of a place for paragraph (e)—

1. A dwelling house, garage and storage shed at 300 Trudgian Street, Sunnybank.
2. A warehouse and office area at 150 Shankhill Road, Rocklea.

Application for extension of surveillance warrant

36. An application for an extension of a surveillance warrant must state the following—

- (a) the applicant's name, rank, registered number and station;
- (b) the class and type of device being used under the warrant;
- (c) the serious indictable offence or, for a class B device, the indictable offence, to which the warrant relates;
- (d) the particulars of the person or place stated in the warrant;
- (e) if there are relevant previous warrants,⁵⁰ for each warrant—

⁵⁰ See the Act, section 68(5)(b).

SCHEDULE 2 (continued)

- (i) when and where the warrant was issued; and
 - (ii) how long the warrant was in force; and
 - (iii) the class of device to which the warrant related; and
 - (iv) whether the warrant related to a person or a place; and
 - (v) the type of offence to which the warrant related;
- (f) information or evidence of any of the following that may be relied on to support a reasonable belief that an offence of the type stated in the application has been, is being, or is about to be, committed—
- (i) for an application relating to a person—that the person has been, is, or is likely to be, involved in the commission of the offence;
 - (ii) for an application relating to a place—that a person at the place has been, is, or is likely to be, involved in the commission of the offence;
 - (iii) for an application for use of a class A device in the office of a practising lawyer—that the lawyer is involved in the offence;
- (g) information necessary to satisfy the issuer of the things mentioned in the Act, section 68(10);
- (h) for an application for a class A device that is a tracking device or a class B device—a description of how the use of the device in or on any vehicle or other moveable object relating to the offence or a person involved in the offence, is likely to assist in the investigation of the offence.

22 Operational guidelines for application for surveillance warrant or extension of surveillance warrant

22.1 *Police officers should look to related background information or other factors to verify the reliability of information received.*

22.2 *Before information given anonymously is relied on for an*

SCHEDULE 2 (continued)

application for a surveillance warrant or covert search warrant, it should be verified by at least 1 factor of a corroborating nature, for example, the proven reliability of information provided in the past by apparently the same anonymous informant.

22.3 *The identity of an informant need not be disclosed when making an application, but the officer concerned should be prepared to deal with any questions the issuer may have about the accuracy of information provided by that source or any other related matters.*

22.4 *Before a police officer applies for a surveillance warrant or an extension of a surveillance warrant, the police officer must ensure a check is made of the register for any warrants issued in the previous year in relation to the place or person to whom the application relates.⁵¹*

22.5 *The applicant must also cause a record to be made in the register of applications for surveillance warrants as soon as reasonably practicable after the application is made.*

23 Operational guideline for emergency use of surveillance devices

23.1 *A police officer authorising the emergency use of a surveillance device should consider the alleged conduct or threatened conduct and whether it is likely that using a surveillance device will help reduce any perceived risk of serious injury to a person.*

Application for approval of emergency use of surveillance devices

37.(1) This section applies if, under the Act, a police officer of at least the rank of inspector authorises the use of a surveillance device.⁵²

(2) An application for approval by a Supreme Court judge of the authorisation must state the following—

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

⁵¹ Under section 68(5)(b), information about previous warrants must be included in the application. See also the Act, section 137 (Transitional provision about noncompliance with requirements for warrants etc.).

⁵² See the Act, section 69 (Emergency use of surveillance devices).

SCHEDULE 2 (continued)

- (b) when the applicant authorised the use of the surveillance device;
- (c) whether the application relates to the use of a class A device or class B device;
- (d) a description of—
 - (i) the place or moveable object where the device was used; and
 - (ii) the type of surveillance device used at the place or on the moveable object;
- (e) if known—the identity of the person allegedly responsible for the risk of serious injury to a person;
- (f) information or evidence that may be relied on to support a reasonable belief that, when the police officer authorised the use—
 - (i) there was a risk of serious injury to a person; and
 - (ii) using a surveillance device may help reduce the risk;
- (g) how using the device helped reduce the risk of serious injury to a person;
- (h) anything necessary to satisfy the issuer of the things mentioned in section 68(10) of the Act.

24 Operational guideline for application for approval of emergency use of surveillance devices

24.1 *The applicant must cause a record to be made in the register of applications for surveillance warrants as soon as reasonably practicable after the application is made.*

25 Operational guidelines for powers relating to installation of surveillance device

25.1 *Before a person enters a place to install a surveillance device, the police officer coordinating the installation of the device must ensure the warrant is still in force and be reasonably satisfied of the following—*

- (a) *if the warrant authorises entry to a specified place—the place*

SCHEDULE 2 (continued)

- to be entered is the specified place;*
- (b) *if the warrant authorises entry to a specified class of place—*
 - (i) *the place to be entered is a place of the specified class; and*
 - (ii) *the person specified in the warrant is, or is likely to be, in the place;*
 - (c) *if the warrant authorises the use of a listening device in a public place—the person specified in the warrant is, or is likely to be, in the place;*
 - (d) *if the warrant authorises the installation of a class A device that is a tracking device, or a class B device, in a vehicle or another moveable object—*
 - (i) *the vehicle is carrying or will carry something or someone involved in the offence for which the warrant was issued; or*
 - (ii) *the moveable object is or may contain something related to the offence or a person involved in the offence.*

25.2 *Also, the police officer must ensure compliance with any condition of the issue of the warrant.*

Powers relating to use of surveillance device

38.(1) Unless authorised under the warrant, the authorised interceptor must suspend the use of a listening device if a relevant conversation being intercepted starts, or is about to start, and the conversation is between a person and his or her lawyer (“**relevant conversation**”).

(2) The authorised interceptor may resume the use of a listening device suspended under subsection (2) in relation to a relevant conversation—

- (a) to decide if the conversation has ended; or
- (b) after the conversation ends.

(3) The police officer coordinating the investigation to which the warrant relates must, as soon as reasonably practicable after the warrant ends, cause

SCHEDULE 2 (continued)

to be made in the register of applications for surveillance warrants⁵³ the entries required under section 102.⁵⁴

26 Operational guideline for powers relating to use of surveillance device

26.1 *Before using a listening device, or a listening device together with a visual surveillance device, under a surveillance warrant, an authorised interceptor must ensure—*

- (a) *the surveillance warrant authorises the use of a class A device; and*
- (b) *compliance with any conditions of the issue of the warrant.*

Report on activities under a surveillance warrant

39.(1) This section applies if, as a condition of a surveillance warrant, a Supreme Court judge imposes a condition requiring a report on activities under the warrant to be given to the Supreme Court judge.

(2) Within the time stated in the condition, the police officer coordinating the investigation must ensure a report complying with this section is given to the Supreme Court judge.

(3) The report must be accompanied by a copy of the warrant and state the following—

- (a) the reporting police officer's name, rank, registered number and station;
- (b) when the warrant was issued;
- (c) the type of serious indictable offence or, for a class B device, the type of indictable offence, to which the warrant relates;
- (d) when the use of the surveillance device started;

⁵³ The register is kept under the Act, section 78 (Register of surveillance and covert search warrants and applications).

⁵⁴ Section 102 (Covert search warrants and surveillance warrants).

SCHEDULE 2 (continued)

- (e) if the warrant has ended—the surveillance device is no longer being used;
- (f) the facts and circumstances of compliance with the warrant and any of its conditions of issue;
- (g) for a warrant authorising the use of a listening device or a visual surveillance device—
 - (i) whether any recording, photograph or transcript kept, includes information not related to the offence mentioned in the warrant; and
 - (ii) whether the information relates to an investigation of another indictable offence started because of information obtained under the warrant or is linked to another offence under investigation; and
 - (iii) how long the listening device or visual surveillance device was used under the warrant; and
 - (iv) how many people were involved in the conversation or the activity monitored and, if known, each person’s identity.

Security of facilities used under a surveillance warrant

40.(1) This section applies to premises containing equipment being used to electronically record a conversation or visual images under a surveillance warrant for a class A device.

- (2) The premises must—
 - (a) be capable of being locked; and
 - (b) have suitable facilities for securely storing any recording made under the warrant; and
 - (c) be used in a way that prevents anyone outside it from hearing or seeing anything being listened to or monitored.
- (3) An authorised interceptor must take reasonable steps to ensure—
 - (a) only police officers helping or involved in the investigation (“**case**

SCHEDULE 2 (continued)

officers⁵⁵), authorised interceptors, and others authorised under subsection (4) enter the premises; and

- (b) the premises are locked when unattended; and
- (c) when the premises are unattended, any recordings made under the warrant are securely stored at the premises or another secure place; and
- (d) a case officer stores any recordings taken from the premises in a secure place.

(4) The other persons who may enter the premises are as follows—

- (a) the police officer who applied for the surveillance warrant;
- (b) persons responsible for the management of the premises;
- (c) persons appointed by the commissioner to investigate misconduct;
- (d) anyone else the authorised interceptor permits to be present for helping in the investigation.

(5) Only a case officer may take a recording made under a surveillance warrant from the facility.

Storage of recordings made under a surveillance warrant

41. A person must not remove information obtained under a surveillance warrant or transcripts of recordings made under the warrant from the secure place in which the information or recording is kept, other than for 1 of the following purposes—

- (a) to take it to another secure place;
- (b) to disclose it to someone to whom relevant information may be disclosed;⁵⁵
- (c) to destroy it.

⁵⁵ For authorised disclosure, see the Act, section 71 (Disclosure of information obtained using surveillance warrant).

SCHEDULE 2 (continued)

Destruction of recordings made under a surveillance warrant

42.(1) This section applies if a provision of the Act or an order of a Supreme Court judge requires the destruction of information obtained under a surveillance warrant or any transcripts of recordings made under the warrant.

(2) If the information is an audio or video recording, the recording must be destroyed by incinerating it or electronically or magnetically erasing it.

(3) If the information is a transcript, the transcript must be destroyed by incinerating or shredding it.

Application for covert search warrant

43. An application for a covert search warrant must state the following—

- (a) the applicant's name, rank, registered number and station;
- (b) a description of the place to be searched;
- (c) the type of organised crime related offence to which the application relates;
- (d) for an occupied place—the name of the occupier of the place and any person reasonably suspected of being involved in the offence, if known;
- (e) a description of the nature of the thing sought that is reasonably suspected of being evidence of the commission of an offence relating to organised crime;
- (f) information or evidence that may be relied on to satisfy a judge there are reasonable grounds for believing there is at a place evidence of the organised crime;
- (g) if there are relevant search warrants, covert search warrants or surveillance warrants,⁵⁶ for each warrant—
 - (i) the type of warrant and, for a surveillance warrant—the class

⁵⁶ See the Act, section 74(2)(b).

SCHEDULE 2 (continued)

- of device to which the warrant related; and
- (ii) when and where the warrant was issued; and
 - (iii) for a surveillance warrant or covert search warrant—how long the warrant was in force; and
 - (iv) whether the warrant related to a person or a place; and
 - (v) the type of offence to which the warrant related; and
 - (vi) any evidence seized during a previous search; and
 - (vii) how a previous covert search or surveillance warrant helped in the investigation or another investigation; and
 - (viii) any proceedings started after the search or use of the surveillance device;
- (h) anything necessary to satisfy the Supreme Court judge of the things mentioned in section 74(6) of the Act.

27 Operational guidelines for applications for covert search warrants

27.1 *Police officers should look to related background information or other factors to verify the reliability of information received.*

27.2 *Before information given anonymously is relied on for an application for a surveillance warrant or covert search warrant, it should be verified by at least 1 factor of a corroborating nature, for example, the proven reliability of information provided in the past by apparently the same anonymous informant.*

27.3 *The identity of an informant need not be disclosed when making an application, but the officer concerned should be prepared to deal with any questions the issuer may have about the accuracy of information provided by that source or any other related matters.*

27.4 *As soon as reasonably practicable after the application is made, the applicant must cause a record of the making of the application*

SCHEDULE 2 (continued)

to be made in the register of applications for a covert search warrants.⁵⁷

Application for extension of covert search warrant

44. An application for an extension of a covert search warrant must state the following—

- (a) the applicant's name, rank, registered number and station;
- (b) a description of the place to be searched;
- (d) for an occupied place—the name of the occupier of the place and any person reasonably suspected of being involved in the offence, if known;
- (e) the type of organised crime related offence to which the warrant relates;
- (f) a description of the nature of the thing sought that is reasonably suspected of being evidence of the commission of an offence relating to organised crime;
- (g) information or evidence that may be relied on to satisfy a judge there are reasonable grounds for believing there is at the place evidence of organised crime;
- (h) in relation to any relevant search warrant, covert search warrant or surveillance warrant,⁵⁸ for each warrant—
 - (i) information about the type of warrant and, for a surveillance warrant—the class of device to which the warrant related; and
 - (ii) when and where the warrant was issued; and
 - (iii) for a surveillance warrant or covert search warrant—how long the warrant was in force; and

⁵⁷ For information about the register, see section 102 (Covert search warrants and surveillance warrants).

⁵⁸ See the Act, section 74(2)(b).

SCHEDULE 2 (continued)

- (iv) whether the warrant related to a person or a place; and
- (v) the type of offence to which the warrant related; and
- (vi) any evidence seized during the search; and
- (vii) how a covert search warrant or surveillance warrant helped in the investigation or another investigation; and
- (viii) any proceedings started after the search or use of the surveillance device; and
- (j) anything necessary to satisfy the Supreme Court judge of the things mentioned in section 74(6) of the Act.

28 *Operational guideline for applications for extension of covert search warrants*

28.1 *As soon as reasonably practicable after the application is made, the applicant must cause a record of the making of the application to be made in the register of applications for covert search warrants.*⁵⁹

Powers under a covert search warrant

45. Unless a court otherwise orders, anything seized under a covert search warrant must be dealt with in the way specified in part 4.⁶⁰

29 *Operational guidelines for powers under covert search warrants*

29.1 *Before a person enters a place specified in a covert search warrant, the police officer coordinating the search must ensure the warrant is still in force.*

29.2 *A police officer must—*

⁵⁹ For information about the register, see section 102 (Covert search warrants and surveillance warrants).

⁶⁰ Part 4 (Dealing with things seized)

SCHEDULE 2 (continued)

- (a) *be reasonably satisfied the place to be entered is the place specified in the warrant; and*
- (b) *ensure compliance with any condition on the warrant.*

29.3 *As soon as reasonably practicable after a covert search is made, the applicant must cause a record of the search to be made in the appropriate register.*

Report on covert search

46. A report on the exercise of powers under a covert search warrant must be accompanied by a copy of the warrant and state the following⁶¹—

- (a) the reporting police officer's name, rank, registered number and station;
- (b) when and where the warrant was issued;
- (c) the organised crime related offence mentioned in the warrant;
- (d) when the powers under the warrant were exercised;
- (e) the facts and circumstances of compliance with the warrant and any conditions of its issue;
- (f) particulars of anything seized, inspected or photographed under the warrant;
- (g) a description of any order sought in relation to anything seized or photographed under the warrant and the reason for the order.

Examples of order for paragraph (g)—

1. An order that anything seized and any photograph taken be retained for the purpose of the investigation of the organised crime related offence or another serious indictable offence.

2. An order that anything seized and any photograph taken be retained for the purpose of a proceeding started under the *Crimes (Confiscation) Act 1989* relating to an offence arising out of the investigation.

3. An order that anything seized and any photograph taken be retained for use as

⁶¹ See the Act, section 76 (Report on covert search).

SCHEDULE 2 (continued)

evidence in the prosecution of the persons named in the application.

4. An order that a thing seized be destroyed in a way specified in the Police Responsibilities Code.

PART 4—DEALING WITH THINGS SEIZED

Division 1—Introduction and general requirements

Explanation for pt 4

47.(1) This part deals with responsibilities relating to the powers under the Act that allow a police officer to take possession of a thing under the Act, section 14, or to seize a thing.

(2) Some of the standard safeguards in the Act and other safeguards in this part also apply.⁶²

(3) Nothing in the Act or this code affects the authority of an officer to take something with the consent of the person in lawful possession of the thing if no search power exists.

(4) However, before a police officer takes something with the consent of the person in lawful possession of the thing, the police officer must tell the person that he or she need not give the consent.

Responsibilities of police officer who seizes a thing under the Act

48.(1) A police officer who seizes a thing under the Act must ensure the thing is delivered to a property point or given to a property officer as soon as reasonably practicable after it is seized, unless—

(a) the thing is earlier returned, destroyed or disposed of under the

⁶² See the Act, part 12 (Standard safeguards), divisions 4 (Safeguards for things seized during searches) and 5 (Other safeguards).

SCHEDULE 2 (continued)

Act or this code; or

- (b) it is necessary to keep the thing for use during questioning or for an investigative procedure involving the thing.

(2) However, if the police officer keeps a thing under subsection (1)(b), the police officer must, as soon as reasonably practicable, record in the register the reason for keeping it.

(3) The police officer must deliver a thing kept under subsection (1)(b) to a property officer or property point as soon as reasonably practicable after the reason for keeping it ends.

(4) Until the police officer delivers the thing to a property officer or property point, the police officer is responsible for the safe keeping of the thing.

(5) The police officer must make reasonable inquiries, or ensure all reasonable inquiries are made, to locate any lawful claimant to the thing seized and facilitate the lawful disposal or return of the thing to the owner or person who had lawful possession of the thing before it was seized.

(6) Also, if necessary, the police officer must, as soon as reasonably practicable—

- (a) photograph the thing or arrange for it to be photographed; and
- (b) arrange for any necessary test or examination of the thing; and
- (c) gather or generate any other available secondary evidence in relation to the thing seized; and
- (d) unless circumstances require its retention at a property point—return the thing to the owner or person who had lawful possession of the thing before it was seized.

Examples for subsection (6)(d)—

1. A weapon that was used to threaten or harm another.
2. A document or money that must be retained so it can be shown to a court.
3. For an offence involving property, for example, stealing or fraud, ownership of the property is in doubt or the suspect denies the offence and maintains a claim to the property.

SCHEDULE 2 (continued)

4. A thing with particular characteristics that would tend to prove a matter before a court and can not be explained or presented in another way.

5. A thing that was seized during a covert search.

30 Operational guideline for delivering anything seized to a property point

30.1 *If an officer decides to retain a thing seized for use as direct evidence, the officer should be in a position to justify the decision.*

Receipt for seized property

49. A receipt given for a thing seized⁶³ must include the following—

- (a) the date and time the thing was seized;
- (b) if taken from a person—the name, address and telephone contact number of the person, if known;
- (c) if taken from an occupied place—the name, address and telephone contact number of the occupier of the place, if known;
- (d) a description of the thing seized;
- (e) the name, rank, station and telephone contact number of the police officer who seized the thing;
- (f) where the thing will be taken, if known;
- (g) the date the receipt is issued.

31 Operational guideline for receipts for seized things

31.1 *It may not be reasonably practicable for a police officer on beat duties to carry a receipt book for seized things.*

⁶³ See the Act, section 107 (Receipt for seized property).

SCHEDULE 2 (continued)

Disposal of perishable things seized

50.(1) This section applies if—

- (a) a police officer seizes something, other than a dangerous drug, that is perishable; and
- (b) either—
 - (i) the thing can not be returned to the owner or the person who had lawful possession of it before it was seized; or
 - (ii) the owner or person who had lawful possession of the thing before it was seized can not be contacted to obtain directions about how to deal with the thing.

(2) The police officer or a property officer must dispose of the thing in a way that—

- (a) does not cause an actual or apparent conflict of interest; and
- (b) benefits the community generally or a community group.

Examples for subsection (2)(a)—

1. A friend, relative or business associate of the property officer will benefit from the disposal of the thing seized.
2. Circumstances may give rise to claims of an unfair advantage to any person or organisation.

Example for subsection (2)(b)—

Vegetables that are suspected of being stolen may be given to a community organisation running a kitchen to feed the homeless.

(3) If the property officer reasonably suspects the thing seized is unfit for human consumption or can not be disposed of in a way that satisfies subsection (2), the property officer must dispose of it in a way that does not cause danger to anyone or the community generally.

SCHEDULE 2 (continued)

Division 2—Retaining anything seized

Establishment of places for keeping things seized

51.(1) Each police station is a property point for this code.

(2) Also, the commissioner may establish as a property point for a thing or a particular class of thing seized under the Act—

- (a) a police establishment; or
- (b) another place the commissioner considers provides safe and secure storage for a thing or class of thing seized.

Examples for subsection (2)(b)—

1. A mini-storage shed hired for a limited time at the end of an investigation.
2. A place kept by a government entity for the storage and destruction of drugs, poisons and other chemicals.
3. A vehicle holding yard whether or not the property of the commissioner.
4. A livestock holding area.
5. A bank night safe facility.
6. A safe or drop safe.
7. Another secure place, suitable for the safe storage of a thing seized, either permanently or for a limited time.

(3) Unless the place is a police establishment, the commissioner may only establish a property point with the consent of the occupier of the place.

Appointment of property officers for keeping things seized

52.(1) The commissioner may appoint either of the following persons as property officers on conditions the commissioner considers appropriate—

- (a) a member of the police service;
- (b) with the consent of the chief executive of a government entity other than the police service—an officer or employee of the government entity.

SCHEDULE 2 (continued)

(2) A property officer must perform the functions of a property officer to the extent required under the appointment.

(3) If the commissioner does not appoint a person as a property officer for a particular property point, the officer in charge of a police station or police establishment in the district in which the property point is established is the property officer for the particular property point for this code.

Functions of property officer

53.(1) A property officer has the following functions—

- (a) to receive anything seized by a police officer under the Act;
- (b) to keep records of anything received at the property point or by the property officer, including—
 - (i) the date the thing was received; and
 - (ii) the particulars of the police officer who seized the thing; and
 - (iii) a description of the thing seized; and
 - (iv) if it is removed from the property officer's custody—when and why it left the property officer's custody and when it was returned;
- (c) to ensure the safe and secure storage at the property point of the thing seized;
- (d) if appropriate—to transfer or arrange the transfer of the thing seized to—
 - (i) another property point for its safe and secure storage; or
 - (ii) another place for destruction or disposal;
- (e) if required by this code or an order made under the Act or any other Act—to destroy or dispose of the thing seized in the way specified under this code;
- (f) if the thing is money other than money, that must be retained so it can be used as an exhibit in a court—depositing the money in a financial institution account operated by the police service.

SCHEDULE 2 (continued)

(2) Also, as soon as reasonably practicable after the property officer receives a seized thing, the property officer must ensure the thing is capable of being easily identified.

Example for subsection (2)—

The thing may have attached to it a label or tag with a number or other identifier identical to the number or identifier the property officer has assigned to the thing in the record.

Division 3—Dealing with dangerous drugs, things relating to dangerous drugs, and controlled substances

Application of division

54. This division applies only to a thing seized under the Act that a police officer reasonably suspects is 1 of the following—

- (a) a dangerous drug;
- (b) a thing used in or for manufacturing a dangerous drug;
- (c) a thing that has been used or is for use in the administration, consumption or smoking of a dangerous drug and has no intrinsic value.

Example for paragraph (b)—

A controlled substance.

Example for paragraph (c)—

A soft drink can used to smoke cannabis resin.

Destruction of dangerous drugs etc. where seized

55.(1) A police officer who seizes a thing must destroy the thing seized, or ensure the thing seized is destroyed if—

- (a) the thing is a dangerous drug, a controlled substance or another thing used in or for manufacturing a dangerous drug; and
- (b) it is not reasonably practicable to retain the thing or take it to or

SCHEDULE 2 (continued)

keep it at a property point; and

- (c) it is necessary to destroy the thing at the place where it is seized—
 - (i) to prevent the thing being used in the commission of an offence; or
 - (ii) because an analyst considers it is in the interests of health or safety of any person or the community generally to destroy it.

(2) The police officer must ensure a record is made of—

- (a) the type of dangerous drug or controlled substance the thing is suspected to be, and as far as reasonably practicable—
 - (i) the weight or volume of the thing destroyed; or
 - (ii) for plants—the number and height of the plants destroyed; and
- (b) anything else destroyed that is reasonably suspected of being used in or for manufacturing a dangerous drug.

Example of a record for subsection (2)(a)(ii)—

Photographs showing the number and height of the plants.

(3) The police officer must, if reasonably practicable, take a sample of the thing seized, or ensure a sample of the thing seized is taken, for analysis.

(4) Also, the police officer must, if reasonably practicable, remove or cause to be removed, the residue of anything destroyed under this section.

Dealing with dangerous drugs or controlled substances

56.(1) This section applies if a property officer retains at a property point a thing seized that is reasonably suspected of being a dangerous drug or a controlled substance.

(2) The property officer must record the type of dangerous drug or controlled substance the thing is suspected to be and, as far as reasonably practicable—

SCHEDULE 2 (continued)

- (a) the weight or volume of the thing; or
- (b) for plants—the number and height of the plants.

(3) If it is not reasonably practicable to retain all of the thing seized, the property officer must keep a sample of the thing for analysis or for use as evidence in a proceeding for an offence of which the thing is evidence.

(4) If retention of the thing, part of the thing, or a sample of it is no longer required for analysis or as evidence in a proceeding, the property officer must destroy the thing or arrange for it to be destroyed—

- (a) within 28 days after it is seized; or
- (b) as soon as reasonably practicable after an order to destroy the thing is made under the Act or another Act.

Destruction of things used in the administration of a dangerous drug

57.(1) If a property officer is reasonably satisfied a thing seized—

- (a) has been used, or is for use, in the administration, consumption or smoking of a dangerous drug; and
- (b) has no intrinsic value; and
- (c) is no longer required as evidence in a proceeding;

the property officer must destroy the thing in a way that prevents the thing being used in the commission of an offence.

Example for subsection (1)—

A pipe used for smoking cannabis and made from an orange juice container, hose and a steel cone may be destroyed by cutting the juice container and hose into unusable pieces and breaking the cone with a hammer.

(2) The property officer must destroy the thing within 28 days after it is seized under the Act or as soon as reasonably practicable after an order to destroy the thing is made under the Act or another Act.

SCHEDULE 2 (continued)

(3) If the property officer disposes of a thing that is a hypodermic syringe or needle in a way required under the *Drugs Misuse Regulation 1987*, the thing is taken to have been destroyed.⁶⁴

Destruction of dangerous drugs etc.

58.(1) Unless a court otherwise orders, if a thing seized is a controlled substance, the thing must be destroyed—

- (a) in a way decided by an analyst; and
- (b) by either of the following—
 - (i) the Government Chemical Laboratory;
 - (ii) a person licensed under the *Environmental Protection Act 1994* to dispose of or destroy toxic waste.

(2) If a thing seized is a dangerous drug, the thing must be destroyed in one of the following ways—

- (a) for plant material—by high-temperature or low-temperature incineration;
- (b) for a dangerous drug in the form of a powder—
 - (i) by high-temperature incineration; or
 - (ii) by dilution;
- (c) for a dangerous drug in the form of a tablet—
 - (i) by high-temperature incineration; or
 - (ii) by crushing it into a powder and diluting it.

(3) Unless a court otherwise orders, if a thing seized is something used in or for manufacturing a dangerous drug, the thing must be destroyed in a way that prevents it being used in or for manufacturing a dangerous drug.

(4) A person who destroys a controlled substance, dangerous drug or a

⁶⁴ *Drugs Misuse Regulation 1987*, see section 9 (Prescribed procedures for the disposal of hypodermic syringes and needles).

SCHEDULE 2 (continued)

thing used in or for manufacturing a dangerous drug, must, before destroying the thing, have regard to the following—

- (a) the *Workplace Health and Safety Act 1995*;
- (b) the safety of the community generally;
- (c) how effective the way of destroying the drug, substance or thing will be in preventing it from being used in or for the commission of an offence;
- (d) the impact destroying the drug, substance or thing may have on the environment.

(5) Also, unless section 55⁶⁵ applies, a thing that is a dangerous drug or a controlled substance must be destroyed in the presence of a police officer of at least the rank of inspector or another person authorised by the commissioner, unless the thing is destroyed by or in the presence of either of the following—

- (a) an analyst at a government chemical laboratory;
- (b) an officer of the department within which the *Health Act 1937* is administered.

(6) In this section—

“dangerous drug” includes ephedrine and pseudoephedrine.

“high-temperature incineration” means incineration using a device designed to incinerate things at a temperature of at least 1 200° C.

“low-temperature incineration” means incineration that is not high-temperature incineration.

⁶⁵ Section 55 (Destruction of dangerous drugs etc. where seized)

SCHEDULE 2 (continued)

Division 4—Applications for orders relating to things seized

Order after property seized

59. An application for an order relating to seized property⁶⁶ must state the following—

- (a) the applicant's name, rank, registered number and station;
- (b) a description of the thing seized;
- (c) the circumstances of the seizure, including, for example, if the thing was seized under a search warrant;
- (d) relevant information about the thing seized including, for example, the following—
 - (i) the nature of any interest a person has in the thing;
 - (ii) the appropriate value of the thing;
 - (iii) whether the thing may be needed as evidence in a proceeding and the type of offence or forfeiture proceeding for which it may be evidence;
- (e) the order sought;
- (f) the reasons for seeking the order.

⁶⁶ See the Act, section 108 (Requirements after property is seized).

SCHEDULE 2 (continued)

**PART 5—ARREST, TREATMENT AND
QUESTIONING OF PERSONS**

Division 1—Introduction

Explanation for pt 5

60.(1) This part deals with responsibilities relating to the powers under the Act that allow a police officer to question someone or start a proceeding against someone.

(2) Some of the standard safeguards in the Act and other safeguards in this code may also apply.

32 Operational guidelines for information about persons in custody or under arrest

32.1 *This guideline applies if a police officer takes a person who—*

(a) is under arrest; or

(b) is not under arrest but in custody;

to a crime scene or somewhere else for the investigation or as part of an investigation of an offence.

32.2 *Before taking the person to a police station or watch-house, the police officer must ensure relevant information about the person is recorded in the register as soon as reasonably practicable, for example, by contacting a person at a police station by radio and asking the person to make relevant entries about the person in the register.*

Division 2—Questioning suspects about indictable offences

Application of div 2

61. This division only applies to indictable offences.

SCHEDULE 2 (continued)

Questioning generally

62.(1) A police officer who is questioning a person in custody⁶⁷ must not obtain a confession by threat or promise.⁶⁸

(2) Also, the police officer, must avoid or attempt to avoid any situation or circumstance that may give rise to any suggestion—

- (a) of oppression, unfairness, fear or dominance by a police officer; or
- (b) that the person questioned may have been overborne, oppressed or otherwise unfairly or unjustly interviewed.

Asking persons to attend for questioning

63.(1) This section applies if a police officer wants to question a person who is in custody as a suspect and is not a person mentioned in section 48(2) of the Act.⁶⁹

(2) Before questioning the person, the police officer must caution the person.

(3) If the police officer approaches the person at a place other than a police station or police establishment, the caution must substantially comply with the following—

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

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

⁶⁷ See the Act, section 94 (When is a person “in custody” for this part).

⁶⁸ Under the *Criminal Law Amendment Act 1894*, section 10 (Confessions), a confession induced by threat or promise can not be received in evidence.

⁶⁹ Section 48(2) of the Act mentions the following people—

- a person who is lawfully arrested for an indictable offence
- a person who is refused bail
- a person who is in custody because bail has been revoked
- a person who is in custody under a sentence of imprisonment or, for a child, a detention order.

SCHEDULE 2 (continued)

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?'.

(4) If the person, while not in the company of a police officer, attends a police station or police establishment for the purpose of questioning, the caution must substantially comply with the following—

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

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

Did you come here of your own free will?’.

(5) Before the police officer starts to question the person in custody, the police officer must caution the person in a way that substantially complies with the following—

‘Do you understand that you are not under arrest?

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

(6) If the police officer reasonably suspects the person does not understand the caution, the officer may ask the person to explain the meaning of the caution in his or her own words.

(7) If necessary, the police officer must further explain the caution.

33 Operational guideline for asking persons to attend for questioning

33.1 *A police officer who asks a child to attend a police station for questioning should consider arranging for an interview friend to be present then, instead of arranging for the interview friend's presence when the child reaches the police station.*

Cautioning persons in custody about his or her right to silence

64.(1) This section applies if a person in custody is to be cautioned under

SCHEDULE 2 (continued)

section 99 of the Act.⁷⁰

(2) A police officer must caution the person in a way that substantially complies with the following—

‘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, or answer any question or make any statement unless you wish to do so.

However, if you do say something or make any statement, it may later be used as evidence. Do you understand this warning?’.

(3) If the police officer reasonably suspects the person does not understand the caution, the police officer may ask the person to explain the meaning of the caution in his or her own words.

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

(5) If questioning is suspended or delayed, the police officer must ensure the person being questioned is aware that he or she still has the right to remain silent and, if necessary, again caution the person when questioning resumes.

(6) If a police officer cautions a person in the absence of someone else who is to be present during the questioning, the caution must be repeated in the other person’s presence.

Right to remain silent not affected

65.(1) This section applies if a suspect, the suspect’s lawyer, or someone whose presence is required during questioning of the suspect indicates to the police officer questioning or intending to question the suspect that—

- (a) if questioning has not started—the suspect does not want to answer questions; or
- (b) if questioning has started—the suspect does not want to answer any further questions.

⁷⁰ Section 99 (Cautioning of persons in custody)

SCHEDULE 2 (continued)

(2) The police officer must clarify the suspect's intent to exercise his or her right to silence by asking the suspect—

- (a) whether the suspect does not want to answer any questions generally or only questions about the offence for which the person is being questioned; and
- (b) if any further question was asked relating to the offence or another offence, whether the suspect would not answer the question.

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

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

- (a) why he or she has decided to answer questions; and
- (b) if a police officer or someone else in authority has told the suspect to answer questions.

Right to communicate with friend, relative or lawyer

66.(1) If a police officer must advise a person in custody of his or her right to contact a friend, relative or lawyer, the advice the police officer gives must substantially comply with the following—

‘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 that person 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.

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

SCHEDULE 2 (continued)

(2) If the police officer reasonably suspects the person does not understand the advice, the police officer may ask the person to explain the meaning of the advice in his or her own words.

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

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

- (a) if there is a regional lawyer list available and the person has not asked to speak to a particular lawyer—the regional lawyer list; and
- (b) a telephone directory for the region.

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

- (a) dissuading the person from obtaining legal advice; or
- (b) persuading a person to arrange for a particular lawyer to be present.⁷¹

(6) A reasonable time to delay the questioning to allow a friend, relative or lawyer to arrive at the place of questioning will depend on the particular circumstances, including for example—

- (a) how far the person has to travel to the place; and
- (b) when the person indicated he or she would arrive at the place.

(7) What is a reasonable time to delay questioning to allow the person to speak to a friend, relative or lawyer will depend on the particular circumstances, including for example the number and complexity of the matters under investigation.

(8) Unless special circumstances exist, a delay of more than 2 hours may be unreasonable.

⁷¹ For circumstances where this may not apply see the Act, section 106 (When sections 95-97, 100 and 102 do not apply).

SCHEDULE 2 (continued)

Questioning persons with impaired capacity

67.(1) This section applies to a person in custody whose capacity to look after or manage his or her own interests is impaired because of either of the following—

- (a) an obvious loss or partial loss of the person's mental functions;
- (b) an obvious disorder, illness or disease that affects a person's thought processes, perceptions of reality, emotions or judgement, or that results in disturbed behaviour.

(2) A police officer must not question a person mentioned in subsection (1) unless—

- (a) before questioning starts, the police officer has, if practicable, allowed the person to speak to a carer in circumstances in which the conversation will not be overheard; and
- (b) a carer is present while the person is being questioned.

(3) Also, the police officer must suspend questioning and comply with subsection (2) if, during questioning, it becomes apparent that the person being questioned is a person mentioned in subsection (1).

(4) This section applies as if it were a section to which section 106⁷² of the Act applies.

Questioning intoxicated persons

68.(1) If a police officer wants to question or to continue to question a person in custody who is apparently under the influence of liquor or a drug, the police officer must delay the questioning until the police officer is reasonably satisfied the influence of the liquor or drug no longer affects the person's ability to understand his or her rights and decide whether or not to answer questions.

⁷² Section 106 (When sections 95–97, 100 and 102 do not apply)

SCHEDULE 2 (continued)

(2) This section applies as if it were a section to which section 106⁷³ of the Act applies.

Procedure for reading back a written record

69.(1) This section applies if a police officer makes a written record of things said by or to a person in custody during questioning because it is not reasonably practicable to electronically record the things said.⁷⁴

(2) Before reading to the person the written record of the things said, the police officer questioning the person must explain the procedure in a way that substantially complies with the following—

‘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 record. I will now read the written record aloud.

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

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

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

Do you understand this procedure?

Do you agree (state the substance of what was said to the person and the person’s reply)?’.

(3) If the police officer reasonably suspects the person does not understand the explanation, the police officer may ask the person to explain the procedure in his or her own words.

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

⁷³ Section 106 (When sections 95–97, 100 and 102 do not apply)

⁷⁴ See the Act, section 104 (Recording of questioning etc.)

SCHEDULE 2 (continued)

34 Operational guidelines for questioning suspects

- 34.1** *A suspect interview is often a very important part of an investigation into an offence. Not only is it important for bringing suspected offenders to justice, it is may also be important in establishing a person's innocence by facilitating the early recording of a person's account of an event that is relevant to an investigation.*
- 34.2** *Whenever possible, an officer involved in a suspect interview should, before questioning the person—*
- (a) become familiar with any background information relevant to the offence, for example by reading over any relevant statements by witnesses; and*
 - (b) identify any offences that may be relevant to the suspect interview including the elements of the offences and any defences that may be raised in the interview; and*
 - (c) identify any issues relevant to the commission of the offence; and*
 - (c) as far as reasonably practicable, plan the interview, so relevant issues can be progressively and systematically dealt with in an ordered way.*
- 34.3** *Questions should be as clear as possible, should only relate to one issue at a time, and should never suggest an answer other than, for example, yes or no. Simple but probing questions beginning with 'who', 'what', 'when', 'where', 'why' and 'how' are often the most effective during a suspect interview.*
- 34.4** *The person must be given a reasonable opportunity to reply to questions asked.*
- 34.5** *If a suspect interview does take a long time to complete, the officer should suggest a break from questioning at regular intervals.*

Excluding persons unreasonably interfering with questioning

70.(1) This section applies if a person who is a friend, relative, lawyer, interview friend or carer (the “**relevant person**”) is present during the questioning of a person in custody and unreasonably interferes with the questioning.

(2) It is not unreasonable interference for a relevant person to do any of

SCHEDULE 2 (continued)

the following—

- (a) to seek clarification of a question;
- (b) to challenge an improper question put to the person in custody;
- (c) to challenge the way in which a question is put;
- (d) for a lawyer—
 - (i) to advise the person not to answer any question or any further question; or
 - (ii) to say he or she wishes to give the person in custody further legal advice.

(3) However, the following may unreasonably interfere with the questioning—

- (a) conduct that prevents or unreasonably obstructs proper questions being put to the person in custody or the person's response to a question being recorded;
- (b) answering questions on behalf of the person in custody;
- (c) providing written replies during the questioning for the person in custody to quote.

(4) Before excluding a person from being present during questioning because the police officer considers the person is unreasonably interfering with the questioning, the police officer must—

- (a) warn the person not to interfere with the questioning; and
- (b) tell the person that he or she may be excluded from being present during the questioning if he or she continues to unreasonably interfere with the questioning; and
- (c) give the person 1 further opportunity to stop unreasonably interfering.

(5) If a police officer excludes a person from being present during questioning, the police officer must—

- (a) if the person excluded was a friend, relative or lawyer—again

SCHEDULE 2 (continued)

advise the person in custody that he or she has a further opportunity to telephone or speak to another friend, relative or lawyer, to ask a person to be present during the questioning; and

- (b) if the person in custody arranges for another person to be present—delay the questioning for a reasonable time to allow the person to be present during the questioning.

(6) Also, the police officer must arrange for someone else to be present during the questioning if—

- (a) the police officer must not question the person without an interview friend or carer being present because of a requirement under the Act or this code; and
- (b) the person has not arranged for another person to be present during the questioning.

35 Operational guideline for excluding persons from being present during questioning

35.1 *A police officer who decides to exclude a person from being present during questioning must be in a position to satisfy the court the decision was properly made.*

Questioning of Aboriginal people and Torres Strait Islanders

71.(1) Before a police officer notifies a representative of a legal aid organisation that an Aborigine or Torres Strait Islander who has not arranged for a lawyer to be present during questioning is in custody, the police officer must inform the person in custody, in a way that substantially complies with the following, that the organisation will be notified—

‘As you have not arranged for a lawyer to be present, a legal aid organisation will be notified that you are here to be questioned about your involvement in an indictable offence’.⁷⁵

⁷⁵ For the obligation to notify the legal aid organisation, see the Act, section 96 (Questioning of Aboriginal people and Torres Strait Islanders).

SCHEDULE 2 (continued)

(2) However, the police officer must, unless he or she already knows the person in custody, first ask questions necessary to establish the person's level of education and understanding.

(3) The questions the police officer may ask include questions, not related to the person's involvement in the offence, that may help the police officer decide if the person—

(a) is capable of—

- (i) understanding the questions put to him or her and effectively communicating answers to the questions; and
- (ii) understanding what is happening to him or her; and
- (iii) understanding his or her rights at law; and

(b) is aware of the reason the questions are being asked.

(4) If the person in custody has indicated he or she does not wish to telephone or speak to a friend, relative or lawyer or arrange for a person to be present during questioning, the police officer conducting the questioning must inform the person that he or she may have an interview friend present during the questioning.

(5) The information given under subsection (4) must substantially comply with the following—

‘Is there any reason why you don't want to telephone or speak to a friend, relative or lawyer, and arrange for a person to be present during questioning?’

Do you understand that arrangements can be made for an interview friend to be present during the questioning?

Do you also understand that you do not have to have an interview friend present during questioning? Do you want to have an interview friend present?’.

(6) If the police officer reasonably suspects the person is at a disadvantage in comparison with members of the Australian community

SCHEDULE 2 (continued)

generally, and the person has not arranged for another person to be present during the questioning, the police officer must arrange for an interview friend to be present.⁷⁶

Provision of information relating to a person in custody

72.(1) If a person who is a relative, friend or lawyer of a person in custody asks for information about the person's whereabouts, the police officer receiving the request must, if the person asking for the information is not known to the police officer, ask the person—

- (a) if he or she is a relative, friend or lawyer of the person in custody; and
- (b) for his or her name and address or, for a lawyer, place of business; and
- (c) if the person makes the request personally—for proof of his or her identity.⁷⁷

(2) The police officer may also ask any other question the police officer considers necessary to establish that the person is a relative, friend or lawyer of the person in custody.

(3) Also, the police officer must make or cause to be made a check of the register for information about the person in custody.

Right to interpreter

73.(1) For deciding whether to arrange for the presence of an interpreter, a police officer may ask a person in custody in relation to an offence any question, other than a question related to the person's involvement in the offence, that may help the police officer decide if the person needs an

⁷⁶ See the Act, section 105 (List of interview friends and interpreters).

⁷⁷ See the Act, section 100 (Provision of information relating to a person in custody).

SCHEDULE 2 (continued)

interpreter.⁷⁸

(2) In particular, the police officer may ask questions that indicate whether or not the person—

- (a) is capable of—
 - (i) understanding the questions put to him or her and effectively communicating answers to the questions; and
 - (ii) understanding what is happening to him or her; and
 - (iii) understanding his or her rights at law; and
- (b) is aware of the reason why the questions are being asked.

Right of foreign national to communicate with embassy etc.

74.(1) A police officer who reasonably suspects a person in custody in relation to an offence is not an Australian citizen may ask the person any question, other than a question related to the person's involvement in the offence, that may help the police officer decide if the person is not an Australian citizen and of which country the person is a citizen.⁷⁹

(2) The way the police officer informs the person of his or her right to telephone or attempt to telephone the embassy or consular office of the country of which the person is a citizen must substantially comply with the following—

‘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 person does not understand the advice, the police officer may ask the person to explain the

⁷⁸ See the Act, section 101 (Right to interpreter).

⁷⁹ See the Act, section 102 (Right of foreign national to communicate with embassy etc.).

SCHEDULE 2 (continued)

advice in his or her own words.

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

Rights of a person in custody to be electronically recorded

75.(1) If it is not practicable for a police officer to electronically record the giving to a person in custody of information (including a caution), the police officer must make a written record of the giving of the information and the person's response.⁸⁰

(2) The police officer must make the record as if the Act, section 104(6) to (10)⁸¹ applied to the giving of the information and the response.

Division 3—Questioning etc. of persons detained

Application of division

76. This division only applies to indictable offences.

What is a reasonable time to detain a person for investigations or questioning?

77.(1) When deciding what is a reasonable time to detain a person for investigations or questioning, a police officer must consider the following—

- (a) whether the person's detention is necessary for the investigation of an indictable offence;
- (b) the number of indictable offences under investigation;
- (c) the seriousness and complexity of an indictable offence under investigation;

⁸⁰ See the Act, section 103 (Rights of person in custody to be electronically recorded).

⁸¹ Section 104 (Recording of questioning etc.)

SCHEDULE 2 (continued)

- (d) whether the person has indicated a willingness to make a statement or to answer any questions;
- (e) the person's age, physical capacity and condition, and mental capacity and condition;
- (f) for a person arrested—any time spent questioning the person before the arrest;
- (g) the need to delay or suspend questioning of the person for the purpose of time out.

(2) If the suspect decides not to answer questions or not to continue answering questions, continuing the detention period may not be reasonable unless—

- (a) it is necessary to carry out further investigations before charging the suspect; or
- (b) the suspect consents, or another authority requires the suspect, to participate in an investigative procedure.

Examples for subsection (2)(b)—

1. The suspect consents to taking part in an identification parade.
2. A magistrate orders a medical examination involving the suspect.

36 Operational guideline for deciding what is a reasonable time to detain a person

36.1 *A police officer who detains a person for investigations or questioning, should be in a position to later satisfy a court that the period of detention was reasonable in the circumstances.*

Persons helping in covert investigations not under arrest

78.(1) If a person in custody following an arrest agrees to take part in a covert investigation under the Act, section 55, the agreement must if reasonably practicable, be electronically recorded.⁸²

⁸² Section 55 (Persons helping in covert investigations not under arrest)

SCHEDULE 2 (continued)

(2) However, the person may refuse to consent to the electronic recording of the agreement.

(3) If the agreement is not electronically recorded, a police officer must make a written record of the circumstances of the agreement.

Application for extension of detention period

79.(1) An application by a police officer for the extension of a detention period must be made in a way that allows the person or the person's lawyer to make submissions about the application.

Example for subsection (1)—

If the application is faxed to a magistrate, the detained person may speak to the magistrate by telephone.

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

- (a) tell the detained person or his or her lawyer of the application; and
- (b) give the person a copy of the application; and
- (c) ask the person or his or her lawyer if—
 - (i) he or she agrees to the application or wants to oppose it; and
 - (ii) he or she wants to make submissions or say anything to the justice or magistrate hearing the application.

(3) The application must state the following—

- (a) the applicant's name, rank, registered number and station;
- (b) the following information about the person detained—
 - (i) the person's name, age and address;
 - (ii) whether the person is lawfully arrested for an indictable offence, has been refused bail, is in custody because bail has been revoked, or is in custody under sentence of imprisonment or, for a child, a detention order;
 - (iii) whether the person is an Aborigine, a Torres Strait Islander, a child or a person with impaired capacity;

SCHEDULE 2 (continued)

- (iv) if the person is a child—whether a parent of the child has been advised of the child’s detention;
 - (c) whether, since the questioning or detention started, the person has asked to telephone or speak to a relative, friend or lawyer and has since spoken to a relative, friend, lawyer, interview friend or carer;
 - (d) when the detention period started, how long the person has been questioned and what delays to questioning have happened;
 - (e) the offence to which the questioning or investigation relates and information and evidence about the nature and seriousness of the offence;
 - (f) information or evidence that supports a reasonable suspicion the detained person has committed the offence mentioned in the application;
 - (g) what investigations have taken place;
 - (h) why further detention of the person is necessary including, for example, what further investigations are proposed;
 - (i) the time sought for time out, the purpose of the time out, and the period of time sought for questioning.
- (4) The applicant must tell the justice or magistrate whether or not the detained person or his or her lawyer wants to make submissions or say anything to the justice or magistrate.

37 Operational guidelines for application for extension of detention period

37.1 *If reasonably practicable, a police officer applying for an extension of a detention period warrant must apply to a justice at a magistrates court.*

37.2 *To avoid any suggestion of bias that may lead a court to question the validity of an extension of the detention period, a police officer should not apply to a justice who is a member of the police service.*

SCHEDULE 2 (continued)

Removal of persons from lawful custody

80. An application for an order to remove a person from lawful custody⁸³ must state the following—

- (a) the name, rank, registered number and station of the applicant;
- (b) the name and age of the person detained;
- (c) where the person is held in custody;
- (d) whether the person held in custody has been refused bail, is in custody because bail has been revoked, or is in custody under sentence of imprisonment or, for a child, a detention order;
- (e) the type of indictable offence to which the questioning or investigation relates;
- (f) whether the removal of the person into police custody is for questioning the person or for a described investigative procedure;
- (g) whether the person has been advised of the application;
- (h) information or evidence about the nature and seriousness of the offence;
- (i) information or evidence that may be relied on—
 - (i) to support a suspicion the detained person has committed the offence mentioned in the application; and
 - (ii) to satisfy a magistrate that removal of the person from a prison or a detention centre is necessary for questioning the person or the investigation of the offence.

Use of time out during extended detention period

81.(1) If an order extending a detention period states how much time is to be allowed as time out, the time allowed as time out must be used for a purpose stated in the application, unless the justice or magistrate who issued the order otherwise orders or the person in custody expressly agrees not to

⁸³ See the Act, section 49 (Removal of persons from lawful custody).

SCHEDULE 2 (continued)

use the time for that purpose.

(2) The agreement must be electronically recorded.

Requirements after detention period ends

82.(1) As soon as reasonably practicable after a detention period ends, the person detained must be released, unless the person is to be charged with an offence or is to be served with a notice to appear or summons.

(2) However, if the person is lawfully held in custody because bail has been refused or revoked or under sentence or detention, the person must be returned to custody in the watch-house, correctional centre or detention centre where the person was held before the detention period started.

Division 4—Dealing with persons arrested

Alternatives to arrest

83. A police officer who decides to start a proceeding against a person must remember that, although it may be lawful to arrest a person without a warrant, it may be more appropriate to start a proceeding against the person by notice to appear or by complaint and summons.

Arrest may be discontinued

84. If an arrested person is to be released because it is more appropriate to take the person before a court by notice to appear or complaint and summons, the arresting police officer must, without unreasonable delay, serve the notice to appear or summons on the person.⁸⁴

⁸⁴ See the Act, section 38 (Arrest maybe discontinued).

SCHEDULE 2 (continued)

Police officer who starts proceeding to ensure destruction of identifying particulars

85.(1) This section applies if a police officer takes a person's identifying particulars and the identifying particulars must be destroyed.⁸⁵

(2) The police officer who starts the proceeding for the relevant offence must take all reasonably necessary steps to ensure the identifying particulars are destroyed as soon as reasonably practicable after the obligation to destroy them arises.

Examples of steps for ensuring particulars are destroyed—

1. Advising a watch-house keeper who may be in possession of the identifying particulars of the requirement for destruction.
2. Advising a person responsible for the collating and storing of identifying particulars at a central facility of the requirement for destruction.

Division 5—Medical and dental procedures

38 Operational guideline for recording consent to performance of medical or dental procedure

38.1 *It is preferable to electronically record consent to the performance of a medical or dental procedure.*

Application for order approving a medical or dental procedure

86. An application for an order to perform a medical or dental procedure on a person in custody for an indictable offence must state the following—

- (a) the name, rank, registered number and station of the applicant;
- (b) the name and age of the person in lawful custody;
- (c) whether the person detained is lawfully arrested for an indictable offence, has been refused bail or is in custody because bail has been revoked;

⁸⁵ See the Act, section 58 (Destruction of identifying particulars).

SCHEDULE 2 (continued)

- (d) the type of indictable offence to which the application relates;
- (e) whether the application is for an order for the performance of a stated medical or a dental procedure;
- (f) information or evidence about the nature and seriousness of the offence;
- (g) information or evidence that may be relied on to support a reasonable belief that performing the procedure on the person may provide evidence of the commission of the offence.

Presence of independent persons required

87.(1) This section applies if a person wishes to have an independent person present while a medical or dental procedure is being performed.⁸⁶

(2) A reasonable time to delay performing the medical or dental procedure to allow the independent person to arrive at the place where the procedure is to be done will depend on the particular circumstances, including, for example—

- (a) how far the person has to travel to the place; and
- (b) the time the person indicated he or she would arrive at the place.

(3) Unless special circumstances exist, a delay of more than 2 hours may be unreasonable.

⁸⁶ See the Act, section 61 (Presence of independent person required).

SCHEDULE 2 (continued)

PART 6—WITNESS IDENTIFICATION*Division 1—General requirements for witness identification***Explanation for pt 6**

88.(1) This part deals with the responsibilities of a police officer relating to identifying suspected offenders.

(2) Some of the standard safeguards in the Act and other safeguards in this code may also apply.

Management of witnesses during identification procedure

89.(1) The way an identification procedure is conducted must allow only 1 witness involved in the procedure to see or hear the procedure at a time.

(2) Also, after a witness has taken part in the procedure, the witness must, as far as reasonably practicable, be prevented from speaking about the procedure to any other witness until the procedure ends.

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

(4) A police officer must not stop a person being present during the procedure to support the witness unless—

- (a) the other person is a witness involved in the procedure; or
- (b) the officer suspects the person will influence the witness's decision or disrupt the procedure.

(5) If a police officer stops someone being present during the procedure to support a witness, the police officer must—

- (a) give to the witness the reasons for preventing the person from being present; and
- (b) advise the witness he or she may arrange for someone else to be

SCHEDULE 2 (continued)

- present to support the witness; and
- (c) if asked—allow someone else to be present.

Division 2—Identification parades

Application

90.(1) This division applies if a police officer conducts an identification parade.

Recording of consent and identification parade

91.(1) A police officer must, if reasonably practicable, electronically record asking a person to take part in an identification parade and the person's response.

(2) If it is not reasonably practicable to electronically record asking for the person's consent or the person's answer, the police officer must make a written record of the question asked and the response.

(3) The police officer must make the record as if the Act, section 104(6) to (10)⁸⁷ applied to the questions and the response.

(4) Also, if reasonably practicable, the police officer must cause the behaviour and position of each person in the identification parade to be photographed or otherwise electronically recorded.

Explanation of procedure

92.(1) A police officer must explain the procedure for an identification parade to a suspect before conducting the identification parade.

(2) If the police officer reasonably suspects the person does not understand the procedure, the police officer must ask the person to explain the procedure in his or her own words.

⁸⁷ Section 104 (Recording of questioning etc.)

SCHEDULE 2 (continued)

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

(4) The explanation must include the police officer telling the person the following—

- (a) the identification parade can not be conducted unless he or she agrees;
- (b) he or she may have a friend, relative or lawyer present at the identification parade if that person can attend within a reasonable time;
- (c) anyone present may not interfere with the procedure in any way;
- (d) he or she may choose a position in the parade and change his or her position in the parade after each witness has viewed the parade;
- (e) the person's identity will not be given to a witness unless he or she is identified by a witness and a proceeding is started against the person.

Identification parade conditions

93. A police officer conducting an identification parade, must as far as reasonably practicable, replicate the conditions, described by the witness, when the witness saw a person involved in the offence, including by—

- (a) changing the lighting in the room; and
- (b) varying the distance from which the witness views the suspect; and
- (c) concealing aspects of the suspect and other participants.

Conducting the identification parade

94.(1) Each witness must view the identification parade separately.

(2) The police officer conducting the identification parade must ask the witness to carefully view the parade and to state whether the witness recognises anyone in the parade.

SCHEDULE 2 (continued)

(3) The police officer must ask the question in a way that does not suggest the identity of a suspect.

(4) If the witness indicates he or she recognises a person in the identification parade, the officer conducting the parade must ask the witness to clearly identify the person recognised, for example, by stating the number of the person identified or describing his or her position in the parade.

Use of suitable persons in the identification parade

95. An identification parade must include the suspect and at least 11 other people of similar physical appearance and wearing similar clothing.

39 Operational guideline for identification parades

39.1 *If it is not practicable to conduct an identification parade, the police officer should consider using other identification procedures.*

Division 3—Identification using photographs

Application

96. This section applies if a police officer wants to use a photoboard for identification purposes under the Act.

General requirements

97. To avoid directing the attention of the witness to a particular photograph, the police officer must ensure nothing is marked on any photograph or the backing board on which the photograph is mounted.

Conducting a photoboard identification

98.(1) A police officer showing witnesses a photoboard must show the photoboard to each witness separately.

SCHEDULE 2 (continued)

(2) Also, the police officer must ask the witness to carefully view the photoboard and to state whether the witness recognises any person whose photo is on the photoboard.

(3) The police officer must put the question in a way that does not suggest the identity of a suspect.

(4) If the witness indicates he or she recognises a person in a photo on the photoboard, the police officer must ask the witness—

- (a) to clearly state the number of the photograph the witness has identified as being that of a suspect; and
- (b) to write the photograph number and the date the photoboard was shown to the witness—
 - (i) on the front of an unmarked photocopy of the photoboard; or
 - (ii) on the back of the photoboard or the selected photograph;
- (c) to sign the photoboard, photocopy or photograph where the person has written on it.

PART 7—THE REGISTER**Searches**

99. The following details of a search must be included in the register—

- (a) for a search of a person—
 - (i) if known—the name of the person; and
 - (ii) when and where the person was searched; and
 - (iii) the purpose of the search; and
 - (iv) whether the search involved the removal of outer clothing in circumstances requiring the search to be conducted out of public view; and

SCHEDULE 2 (continued)

- (v) for a search because of a reasonable suspicion—how long the person was detained for the search; and
- (vi) a description of anything seized because of the search;
- (b) for a search of a vehicle—
 - (i) if known—the name of the person in possession of the vehicle and anyone detained; and
 - (ii) the registration number or a description of the vehicle; and
 - (iii) when and where the search took place; and
 - (iv) the purpose of the search; and
 - (v) how long the vehicle was detained for the search; and
 - (vi) a description of anything seized because of the search; and
 - (vii) whether anything was damaged because of the search;
- (c) for a search of a place other than a vehicle—
 - (i) if known—the name of the person in possession of the place and anyone detained; and
 - (ii) when and where the search took place; and
 - (iii) the purpose of the search; and
 - (iv) a description of anything seized because of the search; and
 - (v) whether anything was damaged because of the search;
- (d) information about the return, destruction or disposal of anything seized.

Arrests and suspects

100. The following details of an arrest, a person in custody⁸⁸ or a person detained for questioning or investigations⁸⁹ must be included in the

⁸⁸ See the Act, section 94 (When is a person “in custody” for this part).

⁸⁹ Section 50 (Initial period of detention for investigation or questioning)

SCHEDULE 2 (continued)

register—

- (a) if known—the name of the person;
- (b) when the person was arrested or in custody or detained;
- (c) for an arrest—where a person is held;
- (d) for a person in custody or detained—each place to which the person is taken to or held for questioning or the investigation, and when;
- (e) any significant event affecting the time for which questioning was suspended or delayed, for example, because of a time out period and the purpose of the time out;
- (f) any apparent injury the person received during the arrest, custody, detention or search.

Search warrants and notices to produce

101. The following details about search warrants and notices to produce must be included in the register—

- (a) for a search warrant—
 - (i) when and where the warrant was issued; and
 - (ii) if known—the name of the person mentioned in the application as the person suspected of being involved in the offence or suspected offence mentioned in the application; and
 - (iii) the type of offence or forfeiture proceeding to which the warrant related; and
 - (iv) the benefits derived from the warrant including, for example, anything seized during the search and any proceeding started after the search;
- (b) for a notice to produce—
 - (i) the date and place the notice was issued; and

SCHEDULE 2 (continued)

- (ii) if known—the name of the person mentioned in the application who is suspected of being involved in the offence or suspected offence; and
 - (iii) the type of offence or forfeiture proceeding to which the notice to produce related; and
 - (iv) the benefits derived from the notice to produce including, for example, anything seized during the search or produced under the notice, and any proceeding started after the search;
- (c) information about the return, destruction or disposal of anything seized.

Certain covert acts

102.(1) The following information about applications for surveillance warrants must be recorded in the register—

- (a) when and where the application for the warrant was made;
- (b) the name of the suspect and the description of the place mentioned in the application;
- (c) whether or not the warrant was issued;
- (d) if a warrant was issued—how long the warrant was in force.

(2) The following information about surveillance warrants must be recorded in the register—

- (a) if and when powers were exercised under the warrant;
- (b) if a surveillance device was not installed under the warrant, why it was not installed;
- (c) the benefits derived from the warrant, including, for example—
 - (i) any proceeding started; and
 - (ii) a brief description of how using a surveillance device helped in the investigation of the offence or another indictable offence or helped prevent, detect or provide evidence of an offence.

SCHEDULE 2 (continued)

(3) For a covert act consisting of the disclosure of information under section 71(2)(d) or (e) of the Act, the following information must be recorded in the register—

- (a) the name of—
 - (i) the person who disclosed the information or authorised its disclosure; and
 - (ii) the person to whom the information was disclosed;
- (b) brief particulars of the information disclosed and the reason for disclosing it;
- (c) when the information was disclosed.

Property seized other than during a search

103. The following details of property seized other than during a search must be included in the register—

- (a) the name of the person from whom the property was seized, if known;
- (b) when and where it was seized;
- (c) the reason it was seized;
- (d) a description of the thing seized;
- (e) information about the return, destruction or disposal of the thing.

Register of directions given

105. The following details of a direction given to a person under the Act, section 88,⁹⁰ must be included in a register—

- (a) when the direction was given;
- (b) the location of the person when given the direction;

⁹⁰ Section 88 (Direction may be given to person)

SCHEDULE 2 (continued)

- (c) if known—the name of the person given the direction;
- (d) the reason for giving the direction;
- (e) the apparent demographic category of the person.

SCHEDULE 3

DICTIONARY

section 3

“analyst” see the *Drugs Misuse Act 1986*, section 4, definition “analyst”.

“ASIO” means the Australian Security Intelligence Organization established under the *Australian Security Intelligence Organization Act 1979* (Cwlth).

“Austrac” means the Australian Transaction Reports and Analysis Centre established under the *Financial Transaction Reports Act 1988* (Cwlth).

“authorised interceptor” means—

- (a) a police officer; or
- (b) a staff member authorised by the commissioner to intercept and record communications under a surveillance warrant.

“carer”, of a person with impaired capacity, means a parent or other person who provides or is able to provide support necessary to help the person receiving the care by looking after or managing the person’s interests.

“controlled substance” see the *Drugs Misuse Act 1986*, section 43A, definition “controlled substance”.

“identification procedure” includes any procedure involving a witness a police officer may use to help gather evidence or information about the identity of a person suspected of having committed an offence.

“Independent Commission Against Corruption” means the Independent Commission Against Corruption established under the *Independent Commission Against Corruption Act 1988* (NSW).

SCHEDULE 3 (continued)

“member of the police service” see the *Police Service Administration Act 1990*, section 2.2.⁹¹

“National Crime Authority” means the National Crime Authority established under the *National Crime Authority Act 1984* (Cwlth).

“New South Wales Crime Commission” means the New South Wales Crime Commission established under the *Crime Commission Act 1985* (NSW).

“Police Integrity Commission” means the Police Integrity Commission established under the *Police Integrity Commission Act 1996* (NSW).

“property officer” see section 52.

“property point” see section 51.

“staff member” see the *Police Service Administration Act 1990*, section 1.4, definition “staff member”.

⁹¹ *Police Service Administration Act 1990*, section 2.2 (Membership of Service)

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 10 November 1999. Future amendments of the Police Powers and Responsibilities Regulation 1998 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	nil	28 April 1998
1A	to SL No. 48 of 1999	19 April 1999
1B	to SL No. 107 of 1999	3 August 1999

5 List of legislation

Police Powers and Responsibilities Regulation 1998

made by the Governor in Council on 19 March 1998
 notfd gaz 20 March 1998 pp 1219–20
 ss 1–2 commenced on date of notification
 remaining provisions commenced 6 April 1998 (see s 2 and 1997 No. 67 s 2)
exp 1 September 2008 (see SIA s 54)

as amended by—

Police Powers and Responsibilities Amendment Regulation (No. 1) 1999 SL No. 48

notfd gaz 1 April 1999 pp 1534–6
 commenced on date of notification

Police Powers and Responsibilities Amendment Regulation (No. 2) 1999 SL No. 107

notfd gaz 11 June 1999 pp 675–8
 ss 1–2 commenced on date of notification
 remaining provisions commenced 11 June 1999 (see s 2)

Police Powers and Responsibilities Amendment Regulation (No. 3) 1999 SL No. 222

notfd gaz 24 September 1999 pp 346–7
 commenced on date of notification

6 List of annotations

PART 1—PRELIMINARY

pt hdg ins 1999 SL No. 222 s 3

PART 2—PROPOSAL FOR NOTIFIED AREA

pt hdg ins 1999 SL No. 222 s 4

Applying for the declaration of a notified area**s 3A** ins 1999 SL No. 222 s 4**What must be done before applying for a temporary declaration****s 3B** ins 1999 SL No. 222 s 4**What must be done before applying for a permanent declaration****s 3C** ins 1999 SL No. 222 s 4**Contents of approved form of application****s 3D** ins 1999 SL No. 222 s 4**PART 3—OTHER MATTERS****pt hdg** ins 1999 SL No. 222 s 4**Postponed expiry—Act, s 136****s 7A** ins 1999 SL No. 48 s 3**SCHEDULE 2—POLICE RESPONSIBILITIES CODE****Division 4—Dealing with persons arrested****div hdg** amd 1999 SL No. 222 s 5**Division 5—Medical and dental procedures****div hdg** amd 1999 SL No. 222 s 6**Certain covert acts****s 102** sub 1999 SL No. 107 s 4(1)**Information disclosed****s 104** om 1999 SL No. 107 s 4(2)