Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2004
S.R. No. 68/2004
Version incorporating amendments as at 23 October 2008

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1 Objectives

The objectives of these Regulations are—

(a) to prescribe the manner in which searches without warrant under Division 2 of Part IV of the Drugs, Poisons and Controlled Substances Act 1981 are to be conducted; and

(b) to prescribe the particulars to be included in records of those searches; and

(c) to prescribe the particulars to be included in records of receipt of any volatile substance or item used to inhale a volatile substance seized as a result of those searches; and

(d) to prescribe the particulars to be included in records of apprehension and detention under Division 2 of Part IV of the Drugs, Poisons and Controlled Substances Act 1981; and

(e) to prescribe the particulars to be included in records of the disposal or making safe of any volatile substance or item used to inhale a volatile substance received or seized under Division 2 of Part IV of the Drugs, Poisons and Controlled Substances Act 1981.
2 Authorising provision

These Regulations are made under section 60T of the Drugs, Poisons and Controlled Substances Act 1981.

3 Commencement

These Regulations come into operation on 1 July 2004.

4 Definition

In these Regulations—

the Act means the Drugs, Poisons and Controlled Substances Act 1981.

5 Manner of conducting searches

(1) A member of the police force who conducts a search of a person under section 60E or 60F of the Act must do so in one or more of the following ways—

(a) the member may pass an electronic metal detection device over or in close proximity to the person's outer clothing;

(b) the member may run his or her hands over the person's outer clothing;

(c) the member may request the person to remove his or her outer clothing and gloves, shoes and headgear so that the member may—

(i) pass an electronic metal detection device over or in close proximity to the person's clothing that was immediately under his or her outer clothing; or

(ii) run the member's hands over the person's clothing that was immediately under his or her outer clothing; or
(iii) search the person's outer clothing and gloves, shoes and headgear in accordance with subregulation (2).

(2) A member of the police force who conducts a search of a vehicle, package or thing under section 60E or 60F of the Act must do so in one or more of the following ways—

(a) the member may examine the exterior and interior of the vehicle, package or thing;

(b) the member may pass an electronic metal detection device over or in close proximity to the vehicle, package or thing.

(3) A member of the police force must conduct a search of a person—

(a) in a manner that affords reasonable privacy to the person being searched; and

(b) as quickly as is reasonably practicable.

(4) A search under subregulation (1)(b) or (1)(c)(ii) must, if reasonably practicable, be conducted by a member of the police force who is of the same sex as the person being searched.

6 Searching on private premises

A member of the police force who conducts a search of a person who is under 18 years of age on private premises must—

(a) if reasonably practicable, advise the person that the person may nominate an adult who is on the private premises to be present during the conduct of the search; and

(b) if the person so nominates an adult, take reasonable steps to ensure the adult is present during the conduct of the search.
7 Search records

(1) For the purposes of section 60Q(1) and (2) of the Act, the prescribed particulars are—

(a) the date of the search; and

(b) the time of the search; and

(c) the place where the search took place; and

(d) the name, rank and registered number of the member of the police force who conducted the search; and

(e) the name of the person searched and, if applicable, a description of any vehicle, package or thing searched; and

(f) if applicable, the name of the nominated adult present during the search of the person on private premises; and

(g) the grounds relied on for conducting the search; and

(h) a description of any volatile substance or item used to inhale a volatile substance that is found during the search.

(2) If the member of the police force who conducts a search is unable to obtain the name of the person searched, the member must include in the particulars a description of that person.

Note

A person searched under section 60E or 60F of the Act is under no obligation to provide the person's name.
8 Records of receipt or seizure

(1) For the purposes of section 60Q(3) and (4) of the Act, the prescribed particulars are—

(a) the date of the receipt or seizure; and

(b) the time of the receipt or seizure; and

(c) the place where the receipt or seizure took place; and

(d) the name, rank and registered number of the member of the police force who received or seized the volatile substance or item used to inhale a volatile substance; and

(e) the name of the person from whom the volatile substance or item used to inhale a volatile substance was received or seized; and

(f) the explanation, if any, that the person gave for carrying or possessing the volatile substance or item used to inhale a volatile substance; and

(g) if applicable, the name of the nominated adult present on private premises when the volatile substance or item used to inhale a volatile substance was received or seized; and

(h) the grounds relied on for receiving or seizing the volatile substance or item used to inhale a volatile substance; and

(i) a description of the volatile substance or item used to inhale a volatile substance received or seized.
(2) If the member of the police force who receives or
seizes a volatile substance or an item used to
inhale a volatile substance is unable to obtain the
name of the person from whom the substance or
item is received or seized, the member must
include in the particulars a description of that
person.

Note
A person from whom a volatile substance or an item used to
inhale a volatile substance is received under section 60H of
the Act or seized under section 60J or 60K of the Act is
under no obligation to provide the person's name.

(3) Any prescribed particular in relation to any
volatile substance or item used to inhale a volatile
substance received or seized as a result of a search
that has been recorded in a record under
regulation 7 is not required to be included in the
record under this regulation if the prescribed
particulars under regulation 7 and this regulation
are recorded in the same record.

9 Record of apprehension and detention

(1) For the purposes of section 60Q(5) of the Act, the
prescribed particulars are—

(a) the date of the apprehension and detention;
and

(b) the time of the apprehension and detention;
and

(c) the place or places where the person was
apprehended and detained; and

(d) the name, rank and registered number of the
member of the police force who apprehended
and detained the person; and

(e) the name of the person apprehended and
detained; and
(f) the grounds relied on for the person's apprehension and detention; and

(g) the time of the release of the person; and

(h) if applicable, the name of the suitable person into whose care the detained person was released.

(2) If the member of the police force who apprehends and detains a person is unable to obtain the name of the person apprehended and detained, the member must include in the particulars a description of that person.

Note
A person apprehended and detained under section 60L of the Act is under no obligation to provide the person's name.

(3) Any prescribed particular in relation to any apprehension and detention of a person following a search for, or receipt or seizure of, a volatile substance or an item used to inhale a volatile substance that has been recorded in a record under regulation 7 or 8 is not required to be included in the record under this regulation if the prescribed particulars under regulation 7 or 8 and this regulation are recorded in the same record.

10 Record of disposal or making safe

(1) For the purposes of section 60Q(6) of the Act, the prescribed particulars are—

(a) the name of the person, if known, from whom the volatile substance or item used to inhale a volatile substance was received or seized; and

(b) a description of the volatile substance or item used to inhale a volatile substance to be disposed of or made safe; and
(c) the date on which the volatile substance or item used to inhale a volatile substance was disposed of or made safe; and

(d) the time at which the volatile substance or item used to inhale a volatile substance was disposed of or made safe; and

(e) the place at which the volatile substance or item used to inhale a volatile substance was disposed of or made safe; and

(f) the reason for the belief that the disposal or making safe of the volatile substance or item used to inhale a volatile substance was necessary; and

(g) the name, rank and registered number of the member of the police force who believed that the disposal or making safe of the volatile substance or item used to inhale a volatile substance was necessary.

(2) Any prescribed particular in relation to the disposal or making safe of a volatile substance or an item used to inhale a volatile substance received or seized following a search that has been recorded in a record under regulation 8 is not required to be included in the record under this regulation if the prescribed particulars under regulation 8 and this regulation are recorded in the same record.

Reg. 11 revoked by S.R. No. 71/2008 reg. 5.
ENDNOTES

1. General Information


The Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2004 will sunset 10 years after the day of making on 22 June 2014 (see section 5 of the Subordinate Legislation Act 1994).
2. Table of Amendments

This Version incorporates amendments made to the Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2004 by statutory rules, subordinate instruments and Acts.

- Date of Making: 13.6.06
- Date of Commencement: 13.6.06

Drugs, Poisons and Controlled Substances (Volatile Substances) (Amendment) Regulations 2008, S.R. No. 71/2008
- Date of Making: 24.6.08
- Date of Commencement: 30.6.08: reg. 3
3. **Explanatory Details**

No entries at date of publication.