

Authorised Version No. 001
Australian Crime Commission (State
Provisions) Regulations 2014

S.R. No. 4/2014

Authorised Version as at
25 February 2014

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1 Objective

The objective of these Regulations is to prescribe—

- (a) the manner of serving a summons under the **Australian Crime Commission (State Provisions) Act 2003**; and
- (b) the form of a warrant to apprehend a person under that Act; and
- (c) the form of a search warrant under that Act.

2 Authorising provision

These Regulations are made under section 50 of the **Australian Crime Commission (State Provisions) Act 2003**.

3 Commencement

These Regulations come into operation on 25 February 2014.

4 Revocation

The Australian Crime Commission (State Provisions) Regulations 2004¹ are **revoked**.

5 Meaning of *the Act*

In these Regulations, *the Act* means the **Australian Crime Commission (State Provisions) Act 2003**.

6 Service of summons to appear before an examiner

(1) For the purposes of section 23(1) and (2)(c) of the Act, each of the following manners of serving a summons is prescribed—

(a) if the person named in the summons is a natural person—

(i) tendering a copy of the summons to the person or, if on tender of the copy the person refuses to accept it, putting it down in the presence of the person or leaving it at or on the place or premises where the person is; or

(ii) if service in the manner specified in subparagraph (i) is not practicable—

(A) leaving a copy of the summons at the last known or usual place of residence or business of the person with another person who is, or is reasonably believed to be, over the age of 16 years and is, or is reasonably believed to be, residing, or employed, at that place; or

(B) sending a copy of the summons by registered post or certified mail to the person at the last known or usual place of residence or business of the person or at the last known or usual postal address of the person; or

(iii) if a Judge has, subject to subregulation (2), given a direction that the summons should be so served—

(A) leaving a copy of the summons with another person identified in the direction, being a person who,

in the opinion of the Judge, is likely to bring the contents of the summons to the notice of the person; or

(B) sending a copy of the summons by registered post or certified mail to an address specified in the direction, being the address of a place that the Judge has reasonable grounds to believe to be a place frequented by the person;

(b) if the person named in the summons is a body corporate—

(i) tendering a copy of the summons to a person who is, or is reasonably believed to be, an officer of, or in the service of, the body corporate and is, or is reasonably believed to be, over the age of 16 years at the head office, a registered office, a principal office or a principal place of business of the body corporate or, if on tender of the copy the person refuses to accept it, leaving it at or on the premises where the person is; or

(ii) sending a copy of the summons by registered post or certified mail to the head office, a registered office, a principal office or a principal place of business of the body corporate or at a postal address of the body corporate.

(2) A Judge must not give a direction referred to in subregulation (1)(a)(iii) in relation to the service of a summons on a person unless the Judge is satisfied on the basis of written information provided by an examiner that—

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- (a) service of the summons on the person in a manner specified in subregulation (1)(a)(i) or (ii) has not been, or is not likely to be, successful; and
 - (b) there is a likelihood that service of the summons in a manner specified in subregulation (1)(a)(iii) would result in the summons coming to the notice of the person.
- (3) In this regulation *Judge* means—
- (a) a Judge of the Federal Court; or
 - (b) a Judge of a court of Victoria.

7 Warrant for apprehension of witness

A warrant issued under section 24(1) of the Act for the apprehension of a person must be in accordance with the form set out in Schedule 1.

8 Search warrant

A search warrant issued by an issuing officer under section 29 of the Act must be in accordance with the form set out in Schedule 2.

SCHEDULES

SCHEDULE 1

Regulation 7

WARRANT TO APPREHEND

Australian Crime Commission (State Provisions) Act 2003

SECTION 24

TO [*insert full name of person to whom warrant is issued*], *[a member of the Australian Federal Police and member of the staff of the ACC]
*[a member of the Police Force of the State] *[any other person]:

On the basis of—

- (a) the application made by [*insert full name of applicant*], an examiner appointed under section 46B(1) of the Australian Crime Commission Act 2002 of the Commonwealth (the *examiner*), in this matter; and
- (b) my satisfaction by evidence on oath that there are reasonable grounds to believe that [*insert full name and address of person to be apprehended*]—

*[who has been ordered, under section 28 of the **Australian Crime Commission (State Provisions) Act 2003** to deliver *[his] *[her] passport to the examiner is nevertheless likely to leave Australia for the purpose of avoiding giving evidence before the examiner;]

*[in relation to whom a summons has been issued under section 19(1) of the **Australian Crime Commission (State Provisions) Act 2003**—

- (i) has absconded or is likely to abscond; or
- (ii) is otherwise attempting, or is otherwise likely to attempt, to evade service of the summons;]

*[has committed an offence under section 23(1) of the **Australian Crime Commission (State Provisions) Act 2003**, or is likely to do so;]

I, [*insert full name of Judge*], a Judge of [*insert name of court*], *[sitting in chambers and] acting under section 24 of the **Australian Crime Commission (State Provisions) Act 2003**, and being satisfied that there are reasonable grounds for issuing a warrant, authorise you, using no more force than is reasonably necessary for the execution of this warrant—

- (a) if necessary, to break into and enter any premises, vessel, aircraft or vehicle to execute the warrant; and

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- (b) to apprehend [*insert full name of person to be apprehended*]:
to bring *[him] *[her], as soon as practicable, before a Judge of the
Federal Court or the Supreme Court to be dealt with according to law.

Issued at: [*insert place of issue*] on: [*insert date of issue*]

by: [signature and designation of Judge]

* *Delete if not applicable*

SCHEDULE 2

Regulation 8

SEARCH WARRANT

Australian Crime Commission (State Provisions) Act 2003

SECTION 29

TO *[insert full name of person to whom warrant is issued]*, *[a member of the Australian Federal Police and member of the staff of the ACC]*
[a member of the Police Force of the State] *[any other person]* who is the executing officer for this warrant:

On the basis of—

- (a) an application made *[under section 29(1)]* *[by telephone under section 30(1)]* of the **Australian Crime Commission (State Provisions) Act 2003** for the issue of a warrant under section 29 of the Act in relation to—
- [land situated at [insert address];]*
 - [premises situated at [insert address];]*
 - [the vessel [insert name] owned by [insert name and address of owner];]*
 - [the aircraft [insert identifying marks] owned by [insert name and address of owner];]*
 - [the vehicle, the registration number of which is [insert registration number of the vehicle], a [insert type of vehicle] that is owned by [insert name and address of owner];] and*
- (b) information given to me *[by affidavit]* *[by affidavit and orally]* that there are reasonable grounds for issuing this warrant under section 29 of the **Australian Crime Commission (State Provisions) Act 2003** for the purposes of seizing and preventing the concealment, loss, mutilation or destruction of any of the things specified in Schedule 1, that may be in or on the *[land]* *[premises]* *[vessel]* *[aircraft]* *[vehicle]* on *[insert date of application or a date within 1 month after the date of application]* and that are connected with the special ACC *[operation]* *[investigation]* specified in Schedule 2;

Sch. 2

I [*insert full name of issuing officer*], a *[Judge] *[Magistrate] of [*insert name of court*], being satisfied that there are reasonable grounds for issuing a warrant, authorise you, with such assistance as you think necessary and using no more force than is reasonably necessary for the execution of this warrant:

- (a) *[at any time of the day or night] *[between the hours of [am/pm and am/pm] to enter *[upon] *[into] the *[land] *[premises] *[vessel] *[aircraft] *[vehicle]; and
- (b) to search the *[land] *[premises] *[vessel] *[aircraft] *[vehicle] for things of a relevant kind specified in Schedule 1 that are connected with the special ACC *[operation] *[investigation] specified in Schedule 2; and
- (c) to seize things of a relevant kind specified in Schedule 1 that are connected with the special ACC *[operation] *[investigation] specified in Schedule 2 found *[upon] *[in] the *[land] *[premises] *[vessel] *[aircraft] *[vehicle] and to deliver them to any person participating in the special ACC *[operation] *[investigation].

THIS WARRANT ceases to have effect at the end of [*insert date that is not later than 1 month after the date of issue of the warrant*].

Issued at: [*insert place of issue*] on: [*insert date of issue*]

by: [signature and designation of issuing officer]

(The following statement is to be completed by the issuing officer if the warrant is issued on an application made by telephone under section 30 of the Australian Crime Commission (State Provisions) Act 2003.)

*[This warrant is issued for the following reasons: [*insert the reasons*]]

SCHEDULE 1

[Insert a description of the particular thing or things, connected with the special ACC operation/investigation specified in Schedule 2, that is, or are, authorised to be seized by the executing officer under this warrant]

SCHEDULE 2

1. The special ACC *[operation] *[investigation] is [*insert description of the special ACC operation/investigation*].
2. The relevant criminal activity that is the subject of the special ACC *[operation] *[investigation] is [*insert description of the relevant criminal activity, specifying the serious and organised crime to which the activity relates*].

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3. The ACC is conducting a special *[operation] *[investigation] in accordance with a determination by the Board of the ACC under section 8(1)(a) of the **Australian Crime Commission (State Provisions) Act 2003** that the *[ACC State intelligence operation] *[ACC State investigation] is a special *[operation] *[investigation]. The determination of the Board is [*insert details of the determination of the Board*].

* *Delete if not applicable*

ENDNOTES

1. General Information

The Australian Crime Commission (State Provisions) Regulations 2014, S.R. No. 4/2014 were made on 18 February 2014 by the Governor in Council under section 50 of the **Australian Crime Commission (State Provisions) Act 2003**, No. 52/2003 and came into operation on 25 February 2014: regulation 3.

The Australian Crime Commission (State Provisions) Regulations 2014 will sunset 10 years after the day of making on 18 February 2024 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

There are no amendments made to the Australian Crime Commission (State Provisions) Regulations 2014 by statutory rules, subordinate instruments and Acts.

Endnotes

3. Explanatory Details

¹ Reg. 4: S.R. No. 15/2004.