

SOUTH AUSTRALIA

**NATIONAL CRIME AUTHORITY (STATE PROVISIONS)
REGULATIONS, 1985**

SUMMARY OF PROVISIONS

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reg. 4

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LEGISLATIVE HISTORY

**REGULATIONS UNDER THE NATIONAL CRIME AUTHORITY
(STATE PROVISIONS) ACT, 1984**

*National Crime Authority (State Provisions)
Regulations, 1985*

being

No. 105 of 1985: *Gaz.* 6 June 1985, p. 2085

as varied by

No. 113 of 1994: *Gaz.* 7 July 1994, p. 38¹

¹ Came into operation 7 July 1994: reg. 2.

Notes: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

2.

1. These regulations may be cited as the *National Crime Authority (State Provisions) Regulations, 1985*.

2. In these regulations, unless the contrary intention appears:

"Act" means the *National Crime Authority (State Provisions) Act, 1984*;

"Authority" means the National Crime Authority established by section 7 of the Commonwealth Act.

Search Warrant

3. A warrant issued by a Judge of a prescribed court under section 12 of the Act shall be in accordance with Form 1 in the Schedule.

Order to show cause why passport of witness should not be delivered to Authority

4. An order made by a Judge of the Federal Court under subsection (1) of section 15 of the Act shall be in accordance with Form 2 in the Schedule.

* * * * *

Service of summons to appear before Authority

6. (1) For the purposes of subsections (1) and (2) of section 17 of the Act, each of the following manners of serving a summons is prescribed:

- (a) where a 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 upon the place or premises where the person is;
 - (ii) if service in the manner specified in subparagraph (i) is not practicable—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 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;
 - (iii) if a Judge has, subject to subregulation (2), given a direction that the summons should be so served—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 sending it 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;

3.

- (b) where 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, above 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 upon the premises;
 - (ii) sending a copy of the summons by registered post or certified mail to the head 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 shall not give a direction referred to in subparagraph (iii) of paragraph (a) of subregulation (1) of this regulation in relation to the service of a summons on a person unless the Judge is satisfied upon information furnished in writing by a solicitor employed by the Authority, that:

- (a) service of the summons on the person in a manner specified in subparagraph (i) or (ii) of paragraph (a) of subregulation (1) of this regulation 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 subparagraph (iii) of paragraph (a) of subregulation (1) of this regulation 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 the Court of a State or Territory.

7. A warrant issued under subsection (1) of section 20 of the Act for the apprehension of a person shall be in accordance with Form 4 in the Schedule.

THE SCHEDULE

FORM 1

Regulation 3

National Crime Authority (State Provisions) Act, 1984

WARRANT UNDER SECTION 12

To: (name)

*a member of the Australian Federal Police.

*a member of the Police Force of the (insert "Northern Territory" or name of State, as case requires).

WHEREAS—

- (a) an application has been made *under subsection 12(1)/*by telephone under subsection 13(1)/of the *National Crime Authority (State Provisions) Act, 1984* for the issue of a warrant under section 12 of the Act in relation to
- *land situated at
 - *premises situated at
 - *the vessel (insert name) owned by (insert name and address);
 - *aircraft (specify identifying marks) owned by (insert name and address);
 - *vehicle Registration No. _____, a (specify type of vehicle) owned by (insert name and address); and
- (b) I, (full name) _____, a Judge of (specify court), am satisfied, on information given to me *by affidavit/*orally/*both by affidavit and orally/, that there are reasonable grounds for issuing this warrant under that section for the purpose of preventing the concealment, loss, mutilation or destruction of any† _____ that there may be on (insert date of the day that is, in relation to the application, the relevant day for the purposes of section 12 of the *National Crime Authority (State Provisions) Act, 1984* or, if that day is the day on which, or a day before the day on which, the warrant is issued, insert "this day") *upon/*in/the above-mentioned‡ _____ and that are connected with the matter relating to a relevant criminal activity specified in the Schedule, being a matter into which the National Crime Authority is conducting a special investigation:

YOU ARE HEREBY AUTHORIZED, with such assistance as you think necessary and if necessary by force—

- (c) to enter *upon/*into/the abovementioned‡ _____
*between the hours of _____ and _____ ;/
*at any time of the day or night;/
- (d) to search the‡ _____ for† _____ connected with the matter specified in the Schedule;
and
- (e) to seize any† _____ connected with the matter specified in the Schedule found
*upon/*in/the‡ _____ and deliver them to the Authority.

5.

SCHEDULE

(Specify matter relating to relevant criminal activity into which Authority is conducting special investigation and with which the things the seizure of which is to be authorized are connected)

THIS WARRANT ceases to have effect on *(insert date not being later than one month after the date of issue of the warrant)*.

Issued on 19 .

.....
*(Signature and designation
of Judge issuing Warrant)*

§ This warrant is issued for the following reasons:

-
-

.....

* Omit if inapplicable.

† Insert in blank space a description of the particular kind of things the seizure of which is to be authorized by the warrant.

‡ Insert in blank space "land", "premises", "vessel", "aircraft" or "vehicle", as the case requires.

§ To be completed by the Judge issuing the warrant where the warrant is issued upon an application made by telephone in accordance with section 13 of the *National Crime Authority (State Provisions) Act 1984*; omit if inapplicable.

IN THE FEDERAL COURT OF AUSTRALIA)
DISTRICT REGISTRY)
DIVISION)

No. of 19 .

The application of the National
Crime Authority

ORDER TO SHOW CAUSE

TO: (name)
(address)

WHEREAS, upon the application made by the National Crime Authority in this matter, I, (full name), a Judge of the Court, sitting in Chambers, am satisfied by evidence on oath that

- (a) in connection with the investigation that is being conducted by the authority into the matter specified in the Schedule, a matter that was referred to the Authority,
*a summons has been issued under the *National Crime Authority (State Provisions) Act, 1984* requiring you to appear/
*you have appeared/
before the Authority at a hearing *to give evidence/*to produce documents or things/:
- (b) there are reasonable grounds for believing that you may be able to *give/*produce/to the Authority
*evidence that is/
*further evidence that is/
*documents or other things that are/
*further documents or other things that are
relevant to the matter in respect of which the Authority is conducting the investigation and could be of particular significance to the investigation; and
- (c) there are reasonable grounds for suspecting that you intend to leave Australia and that you have in your possession, custody or control a passport issued to you:

I HEREBY REQUIRE you to appear at (time) on (date) before the Court sitting at (address) to show cause why you should not be ordered to deliver the passport to the Authority.

SCHEDULE

(Specify matter into which Authority is conducting the investigation in connection with which order is sought)

Dated 19 .

.....
(Signature and designation of
Judge making order)

* * * * *

7.

FORM 4

Regulation 7

IN THE FEDERAL COURT OF AUSTRALIA)
DISTRICT REGISTRY)
DIVISION)

No. of 19 .

The application of

WARRANT TO APPREHEND

TO:

WHEREAS, upon the application made by *[(*full name*) on behalf of] the National Crime Authority in this matter, I, (*full name*), a Judge of the court, sitting in Chambers, am satisfied by evidence on oath that there are reasonable grounds to believe that (*full name and address of person to be apprehended*) who has been ordered, under section 15 of the *National Crime Authority (State Provisions) Act, 1984*, to deliver †his/†her/passport to the Authority is nevertheless likely to leave Australia for the purpose of avoiding giving evidence before the Authority:

THESE ARE THEREFORE to command you to apprehend (*full name of person to be apprehended*) and to bring †him/†her/, as soon as practicable, before a Judge of the Court to be dealt with according to law.

Dated 19 .

.....
(*Signature and designation
of Judge issuing warrant*)

* Add words within brackets, if necessary.

† Omit if inapplicable.

APPENDIX

LEGISLATIVE HISTORY

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|------------------|------------------------------------|
| Regulation 5: | revoked by 113, 1994, reg. 3 |
| Regulation 6(1): | varied by 113, 1994, reg. 4(a)-(d) |
| Regulation 6(2): | varied by 113, 1994, reg. 4(e) |
| Regulation 6(3): | inserted by 113, 1994, reg. 4(f) |
| Schedule | |
| Form 3: | revoked by 113, 1994, reg. 5 |