

South Australia

## **Australian Crime Commission (South Australia) Regulations 2004**

under the *Australian Crime Commission (South Australia) Act 2004*

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Legislative history

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### **1—Short title**

These regulations may be cited as the *Australian Crime Commission (South Australia) Regulations 2004*.

### **2—Commencement**

These regulations come into operation on the day on which they are made.

### **3—Interpretation**

In these regulations, unless the contrary intention appears—

*Act* means the *Australian Crime Commission (South Australia) Act 2004*.

### **4—Service of summons to appear before an examiner**

- (1) For the purposes of sections 23(1) and 23(2) of the Act, each of the following manners of serving a summons is prescribed:
  - (a) where 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 upon 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) 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, 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 upon 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 upon information furnished in writing by an examiner, that—
- (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 the State.

#### **5—Warrant for apprehension of witness**

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

#### **6—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.

## Schedule 1—Warrant to apprehend (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 (South Australia) Act 2004* 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 (South Australia) Act 2004*—

- (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 (South Australia) Act 2004*, 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 (South Australia) Act 2004*, 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
- (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: [insert signature and designation of Judge]

\* Omit if inapplicable

## Schedule 2—Search warrant (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) the application made *\*[under section 29(1)] \*[by telephone under section 30(1)]* of the *Australian Crime Commission (South Australia) Act 2004* 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 (South Australia) Act 2004* 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;

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: *[insert 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 (South Australia) Act 2004.)*

*\*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]*.
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 (South Australia) Act 2004* 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]*.

\* *Omit if inapplicable.*

### **Schedule 3—Revocation of *Australian Crime Commission (South Australia) (Transitional) Regulations 2004***

The *Australian Crime Commission (South Australia) (Transitional) Regulations 2004* are revoked.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations

| Year | No  | Reference                     | Commencement  |
|------|-----|-------------------------------|---------------|
| 2004 | 152 | <i>Gazette</i> 8.7.2004 p2499 | 8.7.2004: r 2 |