
JUSTICE

JM301*

Justices Act 1902

Justices (Forms) Amendment Regulations 1999

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Justices (Forms) Amendment Regulations 1999*.

2. Commencement

These regulations come into operation on the day on which section 17 of the *Acts Amendment (Jurisdiction and Criminal Procedure) Act 1992* comes into operation.

3. The regulations amended

The amendments in these regulations are to the *Justices (Forms) Regulations 1982**.

[* Published in Gazette 6 August 1982, pp. 3059-64.
For amendments to 10 June 1999 see 1998 Index to
Legislation of Western Australia, Table 4, p. 177.]

4. Regulations 3 to 6 replaced

Regulations 3 to 6 are repealed and the following regulation is inserted instead —

“

3. Forms

The forms set out in the Schedule are prescribed for the purposes to which they are respectively applicable.

”.

5. Form 2 amended

Form 2 is amended in the heading by deleting “[Regulation 4A]”.

6. Forms 4 to 9 replaced

Forms 4 to 9 are repealed and the following forms are inserted instead —

“

Form 4

Complaint in all other cases

(previously Form 3 in the Fourth Schedule to the Act)

Western Australia, [Perth] to wit.

The complaint of C.D., of _____, in the said State, _____, made this _____ day of _____, 19____, before the undersigned, one of Her Majesty’s Justices of the Peace for the said State [*or for the magisterial district of*], who says that on the _____ day of _____, 19____, at _____, at _____ [*etc., stating the offence or subject-matter*].

Sworn [*or made*] before me, the day and year first abovementioned, at _____, in the said State.

J.S., J.P.

Form 5

Warrant in the first instance to apprehend a person charged with an indictable offence or a simple offence

(previously Form 8 in the Fourth Schedule to the Act)

To the principal police officer at _____, in the State of Western Australia, and to all other police officers in the said State.

Whereas a complaint has this day been made upon oath before the undersigned, one of Her Majesty’s Justices of the Peace for the said State [*or, etc.*], for that A.B., on the _____ day of _____, 19____, at _____ [*here state shortly the offence or matter of the complaint*]: These are therefore to command you, in Her Majesty’s name forthwith to apprehend the said A.B. and to bring [him] before some one or more of Her Majesty’s Justices of the Peace,

to answer to the said complaint, and be further dealt with according to law.

Given under my hand, at _____ in the said State,
_____ day of _____, 19 ____.

J.S., J.P.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed “on the high seas out of any jurisdiction or place in the State of Western Australia, and within the jurisdiction of the Admiralty of England.”

For offences committed abroad for which the parties may be indicted in this State the warrant also may be the same as in ordinary cases, but describing the offence to have been committed “on land out of the State of Western Australia, to wit, at _____” as the case may be.

Form 6

Warrant to convey accused person before a justice of the place in which the offence was committed

(previously Form 53 in the Fourth Schedule to the Act)

To the principal police officer at _____, in the State of
Western Australia, and all other police officers in the said State.

Whereas A.B. of _____, in the said State has this day
been charged before the undersigned [*one*] of Her Majesty’s Justices
of the Peace for the said State [*or etc.*] that [*etc., as in the summons or
warrant*]: And whereas [*I*] have taken the deposition of C.D., a
witness examined by me in this behalf, but [*I*] am informed that the
principal witnesses to prove the said offence against the said A.B.
reside at _____, in the said State, where the said offence is
alleged to have been committed: These are therefore to command you
forthwith to convey the said A.B. to _____, in the said State,
and take [*him*] before some justice or justices in and near to the place
where the offence is alleged to have been committed to answer further
the said complaint before him or them; and [*I*] hereby further

command you to deliver to the said justice or justices, the complaint
in this behalf, and also the said deposition of C.D. now given into
your possession for that purpose, together with this warrant.

Given under [*my*] hand, at _____, in the said State, this
_____ day of _____, 19 ____.

J.S., J.P.

7. Forms inserted

The Schedule is amended by inserting the following forms after Form 14 —

“

Form 15**Summons of a witness**

(previously Form 7 in the Fourth Schedule to the Act)

To E.F., of _____ in the State of Western Australia.

Whereas a complaint was, on the _____ day of _____, 19____, made before the undersigned, one of Her Majesty's Justices of the Peace for the said State [*or etc.*], that A.B. [*etc., as in the summons or warrant against the defendant*]: These are therefore to require you to appear at _____ in the said State, on the _____ day of _____, 19____, at _____ o'clock in the forenoon, before such justices as may then be there, to testify what you know concerning the matter of the said complaint [and you are further required to bring with you and produce at the time and place abovenamed] [*Here describe the documents to be produced*].

Given under my hand, at _____ in the said State, this _____ day of _____, 19____.

J.S., J.P. [or Clerk of Petty Sessions].

Endorsement of service

On the _____ day of _____, 19____, at _____ I served the within-named E.F. with the within summons by delivering a duplicate of it to him personally [or by leaving a duplicate of it for him with _____ at _____, his last known place of abode].

(Signature)

(Date)

Form 16**Warrant for a witness in the first instance**

(previously Form 13 in the Fourth Schedule to the Act)

To the principal police officer at _____, in the State of Western Australia, and all other police officers in the said State.

Whereas on the _____ day of _____, 19____, at _____ a complaint was made that A.B. [*etc., as in the summons or warrant*], and it being made to appear before me on oath that E.F., of _____, in the said State _____ is likely to give material evidence on behalf of the prosecution [*or as the case may be*] in the matter, and it is probable that the said E.F. will not attend to give evidence without being compelled so to do: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said E.F. and bring [him] before me at _____ in

the said State, or before such other justices as may be there, to testify what [he] knows concerning the matter of the said complaint.

Given under my hand, at _____, in the said State, this
_____ day of _____, 19____.

J.S., J.P.

Form 17

**Warrant where a witness has not obeyed a
summons to attend the examination of a person
charged with an indictable offence or the hearing of
a charge of a simple offence or breach of duty**

(previously Form 12 in the Fourth Schedule to the Act)

To the principal police officer at _____, in the State of
Western Australia, and all other officers in the said State.

Whereas on the _____ day of _____, 19____, a
complaint was made that A.B. [*etc., as in the summons or warrant*],
and a summons was duly issued to E.F., of _____ in the said
State _____ requiring [him] to appear on _____ day of
_____, 19____, at _____ in the said State, before such
justices as might then be there, to testify what [he] knew concerning
the matter of the said complaint: And whereas proof has been made
that such summons was duly served upon the said E.F.: And whereas
the said E.F. neglected to appear at the time and place appointed by
the said summons, and no just excuse has been offered for such
neglect: These are therefore to command you, in Her Majesty's name,
forthwith to apprehend the said E.F. and bring [him] before [me]
_____ at _____, in the said State, or before such other
justices as may then be there, to testify what [he] knows concerning
the matter of the said complaint.

Given under [my] hand at _____, in the said State, this
_____ day of _____, 19____.

J.S., J.P.

Form 18

**Warrant of commitment of a witness for refusing to
be sworn or to give evidence**

(previously Form 56 in the Fourth Schedule to the Act)

To all police officers in the State of Western Australia, and to the
superintendent [*or keeper*] of Her Majesty's prison [*or the gaol*] at
_____, in the said State.

Whereas on the _____ day of _____, 19____, upon
the hearing of a charge before the undersigned, [*one*] of Her Majesty's
Justices of the Peace for the said State [*or etc.*], that [*etc., as in the
summons or warrant*] E.F., of _____, in the said State
_____, being required to make oath [*or affirmation*] as a

witness to testify what [he] knew concerning the said charge, refused so to do [*or* being duly sworn as a witness, refused to answer certain questions concerning the premises which were put to him] without offering any just excuse for such refusal: These are therefore to command you the said police officers to convey the said E.F. to Her Majesty's prison [*or* the gaol] at _____, in the said State, and deliver [him] to the superintendent [*or* keeper] thereof, together with

this warrant, and [I] hereby command you the said superintendent [*or* keeper] of the said prison [*or* gaol] to receive the said E.F. into your custody in the said prison, [*or* gaol] and keep [him] there for the space of _____ days for [his] contempt, unless in the meantime he consents to be examined and to answer concerning the premises.

Given under [my] hand, at _____, in the said State, this _____ day of _____, 19____.

J.S., J.P.

Form 19

Recognizance to give evidence

(previously Form 26 in the Fourth Schedule to the Act)

Western Australia, [Perth] to wit.

Be it remembered that on the _____ day of _____, 19____, C.D. of _____, in the said State, _____, came before [me] one of Her Majesty's Justices of the Peace in and for the said State [*or*, etc.], and acknowledged [himself] to owe to our Sovereign Lady the Queen the sum of _____, to be made and levied of [his] goods and chattels, lands and tenements, to the use of our said Lady the Queen, her heirs and successors, if [he] the said C.D. shall fail in the condition endorsed.

Taken and acknowledged before [me] the day and year first abovementioned, at _____, in the said State.

J.S., J.P.

Condition

The condition of the within-written recognizance is such that whereas A.B. was this day charged before [me], J.S., the Justice of the Peace within-mentioned, for that [*etc., as in the caption of the depositions*]: If, therefore [he], the said C.D., shall appear at the next criminal sitting of the Supreme Court [*or as the case may be*], to be holden _____, in the State of Western Australia, _____, the _____ day of _____, 19____, and there give evidence upon an information to be then preferred against the said A.B. for the offence aforesaid, then the said recognizance to be void, or else to stand in full force and virtue.

Form 20**Notice of recognizance to be given to the witnesses***(previously Form 27 in the Fourth Schedule to the Act)*

Western Australia, [Perth] to wit.

Take notice that you, C.D., of _____, in the said State, are bound in the sum of _____, to appear at the next [*as in the Condition*], and then and there to give evidence against A.B., and unless you then appear and give evidence accordingly the recognizance entered into by you will be forthwith put in suit and enforced against you.

Dated this _____ day of _____, 19____.

J.S., J.P.

Form 21**Commitment of witness for refusing to enter into recognizance***(previously Form 58 in the Fourth Schedule to the Act)*

To all police officers in the State of Western Australia, and to the superintendent [*or keeper*] of Her Majesty's prison [*or the gaol*] at _____, in the said State.

Whereas on the _____ day of _____, 19____, and upon the hearing of a charge before the undersigned, [*one*] of Her Majesty's Justices of the Peace for the said State [*or, etc.*] that [*etc., as in the summons or warrant*] E.F., of _____, in the said State _____, having been examined as a witness touching the premises, and being required to enter into a recognizance conditioned to give evidence against the said A.B., refused so to do: These are therefore to command you, the said police officers, to convey the said E.F. to Her Majesty's prison [*or the gaol*] at _____, in the said State, and deliver [*him*] to the said superintendent [*or keeper*] thereof, together with this warrant, and [*I*] hereby command you the said superintendent [*or keeper*] of the said prison [*or gaol*], to receive the said E.F. into your custody in the said prison [*or gaol*], there to keep [*him*] until after the trial of the said A.B. for the offence aforesaid, unless in the meantime the said E.F. duly enters into such recognizance as aforesaid in the sum of \$_____, before some Justice of the Peace, conditioned to appear at the next criminal sittings of the Supreme Court [*or as the case may be*] to be held at _____ in the said State, on the _____ day of _____

[*or as the case may be*], and there to give evidence upon any complaint which may be then and there preferred against the said A.B. for the offence aforesaid, and also to give evidence upon the trial of the said A.B. for the said offence.

Given under [*my*] hand, at _____, in the said State, this _____ day of _____, 19____.

J.S., J.P.

Form 22**Order to discharge a witness upon prisoner not
being committed for trial**

(previously Form 70 in the Fourth Schedule to the Act)

To the Superintendent [*or* keeper] of Her Majesty's prison [*or* the
gaol] at _____, in the State of Western Australia.

Whereas by a warrant, dated the _____ day of _____,
19____, under the hand of L.M. [*one*] of Her Majesty's Justices of the
Peace for the said State [*or* etc.], reciting that upon the hearing of a
charge against one A.B. for a certain offence therein mentioned, E.F.
having been examined as a witness, refused to enter into a
recognizance, to give evidence against the said A.B., the said L.M.
committed the said E.F. to your custody, and required you to keep
[him] until after the trial of the said A.B. for the offence aforesaid,
unless in the meantime the said E.F. should enter into such

recognizance as aforesaid: And whereas the said A.B. has not been
committed for trial or held to bail for the said offence, but has been
discharged: These are therefore to direct you to discharge the said E.F.
out of your custody and suffer [him] to go at large as to the said
commitment.

Given under [*my*] hand, at _____ in the said State, this
_____ day of _____, 19____.

J.S., J.P.

Form 23**Certificate of non-appearance or default to be
endorsed on a recognizance**

(previously Form 21 in the Fourth Schedule to the Act)

[I] hereby certify that the said A.B. did not appear at the time
and place in the condition of the within-written recognizance
mentioned.

J.S., J.P.

Form 24**Depositions of witnesses**

(previously Form 29 in the Fourth Schedule to the Act)

Western Australia, [Perth] to wit.

The examination of C.D., of _____, and E.F.,
_____ of _____, taken this _____ day of
_____, 19____, at _____ in the said State, before the
undersigned [*one*], of Her Majesty's Justices of the Peace for the said
State [*or*, etc.], in the presence and hearing of A.B., who is charged
this day before [*me*] that [*he*] [*etc.*, describing the offence as in a
warrant of commitment.]

C.D., on his oath [or affirmation] says as follows [etc., *state the deposition of the witness as nearly as possible in the words he uses, and when his deposition is complete let him sign it*].

E.F., upon his oath [or affirmation] say as follows [etc.]

Taken and sworn [or affirmed] before [me] _____ at _____ in the said State, on the day and year first abovementioned.

J.S., J.P.

Form 25

Statement of the defendant

(previously Form 30 in the Fourth Schedule to the Act)

Western Australia, [Perth] to wit.

A.B. stands charged before the undersigned [one] of Her Majesty's Justices of the Peace for the said State [or, etc.], this _____ day of _____, 19____, that [he], [etc., *as in the caption of the depositions*], and the charge being read to the said A.B. and the witnesses for the prosecution, C.D. and E.F. being severally examined in [his] presence, the said A.B. is now addressed by [me] as follows: — "Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial." Whereupon the said A.B. says as follows — [*here state whatever the prisoner may say, and in his very words, as nearly as possible: get him to sign it if he will*]. A.B.

Taken before [me] at _____ in the said State, the day and year first abovementioned.

J.S., J.P.

Form 26

Gaoler's receipt for the prisoner

(previously Form 67 in the Fourth Schedule to the Act)

I hereby certify that I have received from W.T., police officer, of _____, in the State of Western Australia, the body of A.B., in good health [or *as the case may be*], together with a warrant under the hand of J.S., Esquire, [one] of Her Majesty's Justices of the Peace for the said State [or, etc.].

P.K., Superintendent
[or keeper] of the Prison.

Form 27**Order of dismissal of complaint***(previously Form 40 in the Fourth Schedule to the Act)*

 Western Australia, [Perth] to wit.

Be it remembered that on the _____ day of _____, 19____, a complaint was made that [*etc., as in the summons to the defendant or warrant*], and on this _____ day of _____, 19____, at _____, in the said State, the said complaint came on for hearing before the undersigned [*one*] of Her Majesty's Justices of the Peace for the said State [*or, etc.*] whereupon it appears to [*me*] that the said complaint is not proved [*or the complainant did not appear*], and [*I*] therefore dismiss the said complaint [and adjudge that the said C.D., pay to the said A.B. the sum of _____ for the costs incurred by [him] in [his] defence, and if the said sum is not paid forthwith [*or on or before* _____], * [*I*] order that the same be levied by execution against the goods and chattels of the said C.D., and in default of sufficient goods and chattels* [*I*] adjudge the said C.D. to be imprisoned in Her Majesty's prison [*or the (police) gaol*] at _____ for the term of _____ unless the said sum and all costs and charges of the said execution [and of taking and conveying the said C.D. to prison] are sooner paid.

Given under [*my*] hand, at _____, in the said State this _____ day of _____, 19____.

J.S., J.P.

* *Or where the issuing of warrant of execution would be more injurious to the defendant or his family, than imprisonment, or it appears that he has no goods whereon to levy, then instead of the words between the asterisks ** say — "Inasmuch as it appears to [*me*] that the issuing of a warrant of execution would be more injurious to the said A.B. and his family than imprisonment" [or "that the said A.B. has no goods or chattels whereon to levy the said sums], [*I*] adjudge" [*etc., as above, to the end, but omitting the words "of the said execution and"*].*

Form 28**Certificate of dismissal***(previously Form 41 in the Fourth Schedule to the Act)*

 Western Australia, [Perth] to wit.

[*I*] the undersigned [*one*] of Her Majesty's Justices of the Peace for the said State [*or, etc.*], hereby certify that on the _____ day of _____, 19____, at _____, in the said State, A.B. was charged before [*me*], that [*he*] the said A.B. [*etc., stating the offence and the time and place when and where alleged to have been committed*], and that [*I*] thereupon dismissed the said complaint.

Given under [*my*] hand, at _____, in the said State this _____ day of _____, 19____.

J.S., J.P.

Form 29**Order for any matter where the disobeying of it is punishable by imprisonment***(previously Form 44 in the Fourth Schedule to the Act)*

Western Australia, [Perth] to wit.

Be it remembered that on the _____ day of _____, 19____, complaint was made before the undersigned, [one] of Her Majesty's Justices of the Peace for the said State [or, etc.], that *[stating the facts entitling the complainant to the order, with the time and place when and where they occurred]*, and on the _____ day of _____, 19____, at _____, in the said State, having heard the said complaint, [I] adjudge the said A.B. to *[here state the matter required to be done]*, and if upon a copy of the minute of this order being served upon the said A.B. either personally or by leaving the same for [him] at [his] last known or usual place of abode, [he] shall neglect or refuse to obey the same, [I], adjudge the said A.B. to be imprisoned in Her Majesty's prison *[or the (police) gaol]* at _____, for the term of _____ *[unless the said order is sooner obeyed if the statute authorize this]*, and [I] also adjudge the said A.B. to pay to the said C.D. the sum of _____ for costs, and if the said sum is not paid forthwith *[or on or before _____ next]*, [I] order the same to be levied by execution against the goods and chattels of the said A.B. and in default of sufficient goods and chattels [I] adjudge the said A.B. to be imprisoned in the said prison for the term of _____, to commence at and from the termination of [his] imprisonment aforesaid, unless the said sum for costs, and all the costs and charges of the said execution *[and of taking and conveying the said A.B. to prison]* are sooner paid.

Given under [my] hand, at _____, in the said State, this _____ day of _____, 19____.

J.S., J.P.

Form 30**Warrant of Commitment on an order where the disobeying of it is punishable by imprisonment***(previously Form 61 in the Fourth Schedule to the Act)*

To all police officers in the State of Western Australia, and to the superintendent *[or keeper]* of Her Majesty's prison *[or the gaol]* at _____, in the said State.

Whereas on the _____ day of _____, 19____, upon the hearing of a complaint before the undersigned, [one] of Her Majesty's Justices of the Peace for the said State [or, etc.], that *[etc., as in the order]*, [I] adjudged the said A.B. to *[etc., as in the order]*, and ordered that if upon a copy of the minute of that order being served upon the said A.B. either personally or by leaving the same for [him] at [his] last known or usual place of abode [he] should refuse or neglect to obey the same, the said A.B. should be imprisoned in Her Majesty's prison *[or the gaol]* at _____ in the said State for the term of _____, unless the said order should be obeyed: And whereas it is now proved to [me] that after making of the said order a copy of the minute thereof was duly served upon the said A.B., but [he] then refused *[or neglected]* to obey the same, and has not as yet obeyed the said order: These are therefore to command

you, the said police officers, to apprehend the said A.B. and convey [him] to the prison [*or gaol*] at _____ aforesaid, and deliver him to the superintendent [*or keeper*] thereof, together with this warrant and [I] hereby command you, the said superintendent or officer in charge of the said prison, [*or gaol*] to receive the said A.B. into your custody in the said prison [*or gaol*], there to imprison [him] for the term of _____. Given under [*my*] hand, at _____, in the said State, this _____ day of _____, 19 ____.

J.S., J.P.

Form 31

Certificate that the costs of an appeal are not paid

(previously Form 5 in the Fourth Schedule to the Act)

In The District Court of Western Australia [*or as the case may be*] holden at _____

[*Title of the appeal*]

I hereby certify that at a sitting of The District Court of Western Australia [*or as the case may be*], holden at _____ on the _____ day of _____, 19 ____, an appeal by A.B. against a [*conviction*] of J.S., Esquire, [*one*] of Her Majesty's Justices of the Peace for the said State [*or etc.*], came on to be tried and was then heard and determined, and the said court thereupon ordered that the said [*conviction*] should be affirmed [*or reversed*], and that the said [*appellant*] should pay to the said [*respondent*] the sum of _____ [*his*] costs of the said appeal, and which sum was ordered to be paid to the Registrar [*or as the case may be*] of the said court, on or before the _____ day of _____, 19 ____, to be by him handed over to the said [*respondent*]; and I further certify that the said sum for costs has not, nor has any part thereof, been paid in obedience to the said order.

Dated the _____ day of _____, 19 ____.

G.H. Registrar of the said court [*or as the case may be*].

Form 32

Complaint to ground search warrant

(previously Form 2 in the Fourth Schedule to the Act)

Western Australia, [Perth] to wit.

The complaint of C.D., of _____ in the said State, _____, made this _____ day of _____, 19 ____, before the undersigned, one of Her Majesty's Justices of the Peace for the said State [*or for the magisterial district of* _____, in the said State], who says that the following goods of [him], the said C.D., to wit [*describe them*] were, on the _____ day of _____ [*or have lately been*] feloniously stolen, taken, and carried away, from and out of the dwelling-house [*or as the case may be*] of the said C.D., situated at _____, in the said State; and that he, the said

C.D. has reasonable cause to suspect, and does suspect, that the said goods, or part thereof, are concealed in the dwelling-house or premises [*or as the case may be*] in the occupation of A.B., situated at _____, in the said State. [*Here state grounds of suspicion*]

Sworn [*or made*] before me, the day and year first abovementioned, at _____, in the said State.

J.S., J.P.

Form 33
Search Warrant

(previously Form 9 in the Fourth Schedule to the Act)

To the principal police officer at _____, in the said State of Western Australia, and all other police officers in the said State.

Whereas a complaint has this day been made upon oath before the undersigned, one of Her Majesty's Justices of the Peace for the said State [*or, etc.*], for that [*etc., as in Form 15 to the end, then thus*]: These are therefore to command you, in Her Majesty's name, forthwith, with proper assistance, to enter the said dwelling-house and premises [*or as the case may be*] of the said A.B. [*in the day time*], and there diligently search for the said goods; and if the same, or any part thereof, are found upon search, that you attach the goods so found [*and apprehend the said A.B., and bring (him) before some one or more of Her Majesty's Justices of the Peace, to give an account of how he came by the said goods, and to be further dealt with according to law.*]

Given under my hand, at _____, in the said State, this _____ day of _____, 19 ____.

J.S., J.P.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.