



Western Australia

Criminal Investigation (Identifying People) Regulations 2002

Compare between:

[14 Jun 2016, 02-b0-00] and [01 Jul 2016, 02-c0-02]

Criminal Investigation (Identifying People) Regulations 2002

1. Citation

These regulations may be cited as the *Criminal Investigation (Identifying People) Regulations 2002*¹.

2. Commencement

These regulations come into operation on the day on which Part 2 of the *Criminal Investigation (Identifying People) Act 2002* comes into operation¹.

3. Public officers (s. 5(1))

[(1), (2) deleted]

- (3) The office of fisheries officer to which appointments are made under section 11 of the *Fish Resources Management Act 1994* is prescribed under section 5(1)(a) of the Act.
- (4) The powers in the Act that a holder of the office of fisheries officer may exercise are specified under section 5(1)(b) of the Act to be all the powers that the Act provides may be exercised by a public officer.

*[Regulation 3 amended in Gazette 27 Jun 2006 p. 2305;
3 Jul 2015 p. 2668.]*

3A. Forensic purpose for which police officers may be required to undergo identifying procedure (s. 22(1))

The forensic purpose of investigating an offence or a suspected offence or offences generally is prescribed for section 22(1) of the Act.

[Regulation 3A inserted in Gazette 19 Nov 2002 p. 5507.]

4. Qualified persons (s. 52)

- (1) For the definition of **qualified person** in section 52 of the Act, a person is qualified to do any non-intimate identifying procedure if the person is —
 - (a) a forensic scientist approved under subregulation (3); or
 - (b) a forensic technician approved under subregulation (3); or
 - (c) a police officer who has satisfactorily completed a course of training approved for this paragraph under subregulation (3); or
 - (d) a fisheries officer appointed under section 11 of the *Fish Resources Management Act 1994* who has satisfactorily completed a course of training approved for this paragraph under subregulation (3).
- (2) For the definition of **qualified person** in section 52 of the Act, a person is qualified to do the intimate identifying procedure of taking a sample of blood if —
 - (a) the person is a police officer who has satisfactorily completed a course of training approved for this paragraph under subregulation (3); and
 - (b) the sample is to be taken by means of a lancet or a finger blood sampling device.
- (2a) For the definition of **qualified person** in section 52 of the Act, a person is qualified to do the intimate identifying procedure of photographing an identifying feature of a person on his or her

private parts if the person is a police officer who has satisfactorily completed a course of training approved for this subregulation under subregulation (3).

- (3) The Commissioner may by notice published in the *Gazette* —
- (a) approve a person as a forensic scientist for subregulation (1)(a) or as a forensic technician for subregulation (1)(b); or
 - (b) approve a course of training for subregulation (1)(c) or (d), (2)(a) or (2a); or
 - (c) amend or revoke a notice under paragraph (a) or (b).

- (4) In this regulation —

police officer means a person appointed under Part I or IIIA of the *Police Act 1892*.

[Regulation 4 amended in Gazette 19 Nov 2002 p. 5507-8; 27 Jun 2006 p. 2305.]

5. Law enforcement officers (s. 73(1)(e))

A person is a law enforcement officer for section 73(1)(e) of the Act if the person is —

- (a) a member of the police force of another State or a Territory or a member of the Australian Federal Police; or
- (aa) an officer appointed under the *Corruption, Crime and Misconduct Act 2003* section 179; or
- (ab) a public service officer employed in the Public Sector Commission, but only if the forensic purpose of the disclosure concerns a matter that is relevant to the functions of the Public Sector Commissioner under the *Corruption, Crime and Misconduct Act 2003*; or
- (b) an officer of Customs within the meaning of the *Customs Act 1901* of the Commonwealth; or

r. 5B

- (c) a person appointed under the *Fisheries Management Act 1991* (Commonwealth) section 83 to be an officer for the purposes of that Act; or
- (d) a person authorised under the *Migration Act 1958* (Commonwealth) as an authorised officer for the purposes of carrying out identification tests under that Act.

[Regulation 5 amended in Gazette 19 Nov 2002 p. 5508; 14 Oct 2005 p. 4556; 22 Dec 2009 p. 5275; 26 Jun 2015 p. 2269.]

5A. Disclosure of identifying information ~~for certain national databases~~ (s. ~~s.~~ s. 73(1)(n))

~~(1) The purpose of a national database created, kept, operated, controlled or managed by the Australian Bureau of Criminal Intelligence or by the CrimTrac Agency is prescribed under~~
For section 73(1)(n) of the Act ~~as a purpose for which identifying, the purpose of the Australian Crime Commission's national policing information~~ obtained functions under the Act ~~may be disclosed.~~

~~(2) In subregulation (1) —~~

~~Australian Bureau of Criminal Intelligence~~ means the organisation established under that name by an agreement made on ~~6 February 1981 between the~~ Crime Commission Act 2002 (Commonwealth, the States and the Northern Territory); is prescribed.

~~CrimTrac Agency~~ means the body of that name established as an Executive Agency under section 65 of the *Public Service Act 1999* of the Commonwealth.

[Regulation 5A inserted in Gazette ~~19 Nov 2002~~ 14 Jun 2016 p. ~~5508~~ 1834.]

5B. DNA database indexes (s. 76)

(1) In this regulation —

commencement day means the day on which the *Criminal Investigation (Identifying People) Amendment Act 2013* section 28 comes into operation²;

crime scene index means an index of DNA profiles derived from material obtained from —

- (a) a place (whether within or outside Australia) where an offence was, or is reasonably suspected to have been, committed; or
- (b) a place (whether within or outside Australia) where evidence associated with, relevant to, or of assistance in investigating, an offence was situated; or
- (c) on or in the body of a person who was involved when an offence was committed, whether as a suspect for, or as a victim of, or as a witness to, the offence; or
- (d) on or in anything worn or carried by a person referred to in paragraph (c) at the time of the offence; or
- (e) anything in respect of which an offence was committed or that was used in committing, or in connection with committing, an offence,

together with information about when and where the material was obtained, but does not include the DNA profile of a person reasonably suspected to have committed the offence, if the profile was obtained from that person;

former section 76 means section 76 of the Act as in effect immediately before commencement day;

missing persons index means an index of DNA profiles derived from material that relates to, or that may relate to, a missing person, together with information about when and where the material was obtained;

offence means —

- (a) an offence under the law of this State, another State, a Territory or the Commonwealth; or
- (b) an offence under the law of a jurisdiction outside Australia the elements of which, if they had occurred in

Australia, would have constituted an offence referred to in paragraph (a);

offenders index means an index of the DNA profiles obtained —

- (a) under Part 6 or 7 of the Act from suspects, if the profiles were, immediately before commencement day, lawfully in the offenders index (as defined in former section 76); or
- (b) under Part 8A of the Act, or the former Schedule 1 clause 6 (as defined in section 68A(1) of the Act), from serious offenders; or
- (c) under the corresponding law of a participating jurisdiction from people who have been convicted of an offence under the law of that jurisdiction,

together with the personal details of the people whose profiles they are;

suspects index means an index of the DNA profiles obtained —

- (a) under Part 6 or 7 of the Act from suspects; or
- (b) under the former Schedule 1 clause 6 (as defined in section 68A(1) of the Act) from remand prisoners; or
- (c) under the corresponding law of a participating jurisdiction from people who are suspected of having committed an offence under the law of that jurisdiction,

together with the personal details of the people whose profiles they are;

unknown deceased persons index means an index of the DNA profiles derived —

- (a) from material obtained from deceased people whose personal details are unknown; or
- (b) from material that relates, or may relate, to deceased people whose personal details are unknown,

together with information about when and where the material was obtained;

volunteers (limited purposes) index means an index of the DNA profiles obtained —

- (a) under Part 4 Division 2 of the Act from volunteers; or
- (b) under Part 5 of the Act from victims and witnesses; or
- (c) under the corresponding law of a participating jurisdiction from people similar to those referred to in paragraphs (a) and (b); or
- (d) under Part 4 Division 3 of the Act, or under the corresponding law of a participating jurisdiction, from deceased people,

in respect of which there are limits as to the forensic purposes for which they may be used, together with the personal details of the people whose DNA profiles they are;

volunteers (unlimited purposes) index means an index of the DNA profiles obtained —

- (a) under Part 4 Division 2 of the Act from volunteers; or
- (b) under Part 5 of the Act from victims and witnesses; or
- (c) under the corresponding law of a participating jurisdiction from people similar to those referred to in paragraphs (a) and (b); or
- (d) under Part 4 Division 3 of the Act, or under the corresponding law of a participating jurisdiction, from deceased people,

in respect of which there are no limits as to the forensic purposes for which they may be used, together with the personal details of the people whose DNA profiles they are.

- (2) For the purposes of paragraph (c) of the definition of ***DNA database*** in section 76 of the Act, the following indexes are prescribed —

- (a) a crime scene index;
- (b) a missing persons index;
- (c) an offenders index;

- (d) a suspects index;
- (e) an unknown deceased persons index;
- (f) a volunteers (limited purposes) index;
- (g) a volunteers (unlimited purposes) index.

[Regulation 5B inserted in Gazette 15 Apr 2014 p. 1057-9.]

6. Corresponding laws (s. 87, 88(a))

Each law listed in the Table to this regulation is prescribed under section 88(a) of the Act to be a corresponding law for the definition of that expression in section 87 of the Act.

Table

Part 1D of the *Crimes Act 1914* of the Commonwealth
Crimes (Forensic Procedures) Act 2000 of New South Wales
Part 3 Division 1 Subdivision 30A of the *Crimes Act 1958*
of Victoria
Chapter 17 of the *Police Powers and Responsibilities Act 2000*
of Queensland
Criminal Law (Forensic Procedures) Act 2007 of South Australia
Forensic Procedures Act 2000 of Tasmania
Part VII Division 7 of the *Police Administration Act* of the Northern
Territory
Part 2 Division 3 of the *Youth Justice Act* of the Northern Territory
Correctional Services Act 2014 (Northern Territory) sections 51
and 52
Crimes (Forensic Procedures) Act 2000 of the Australian Capital
Territory

*[Regulation 6 amended in Gazette 19 Nov 2002 p. 5508;
27 Jun 2006 p. 2306; 2 Oct 2007 p. 4973; 3 Jul 2015 p. 2669.]*

7. Authorised officers (s. 87, 88(b))

Each office listed in the Table to this regulation is prescribed under section 88(b) of the Act for the definition of **authorised officer** in section 87 of the Act.

Table

Manager or Coordinator, Forensics, Australian Federal Police
Commander, Forensic Services Group, New South Wales Police Force
Director, Victoria Forensic Services Department, Victoria Police
Superintendent, Forensic Services Group, Queensland Police Service
Officer in Charge, Forensic Services Branch, South Australia Police
Inspector, Forensic Services, Tasmania Police
Director, Forensic Science Branch, Northern Territory Police
Officer in Charge, ACT Property and Forensic Intelligence Team, Australian Federal Police, Australian Capital Territory

*[Regulation 7 amended in Gazette 19 Nov 2002 p. 5509;
3 Jul 2015 p. 2669.]*

8. Registrar (s. 87, 88(c))

The office of Divisional Officer, Forensic Division, Police Force of Western Australia is prescribed under section 88(c) of the Act for the definition of **Registrar** in section 87 of the Act.

[9. Deleted in Gazette 2 Oct 2007 p. 4973.]

10. Form of warrants (s. 33(6), 46(4))

- (1) The form of an IP warrant (involved protected person) is set out for section 33(6) of the Act in Schedule 3.
- (2) The form of an IP warrant (suspect) is set out for section 46(4) of the Act in Schedule 4.

[Regulation 10 inserted in Gazette 19 Nov 2002 p. 5509.]

[Schedules 1 and 2 deleted in Gazette 2 Oct 2007 p. 4973.]

Schedule 3 — IP warrant (involved protected person)

[r. 10(1)]

[Heading inserted in Gazette 19 Nov 2002 p. 5512.]

Criminal Investigation (Identifying People) Act 2002, s. 33

IP WARRANT (INVOLVED PROTECTED PERSON)

Strike out any parts of this form that are not applicable

Applicant	Name:	Rank and registered number or official title:
------------------	-------------------------	---

Involved protected person	Name:
--	-------------------------

Offence
----------------	----------------

Identifying particular to be obtained	<input type="checkbox"/> Print <input type="checkbox"/> Photograph <input type="checkbox"/> Impression <input type="checkbox"/> Sample of hair <input type="checkbox"/> DNA profile <input type="checkbox"/> Other (describe)
--	--

Non-intimate identifying procedure
---	-------------------------

Use for limited forensic purposes (if applicable)
---	----------------------------------

Use for unlimited forensic purposes (if applicable)
---	----------------------------------

May identifying information be put on a forensic database?	Yes / No
---	----------

Authority to arrest and detain and do identifying procedure	This warrant authorises you: <ul style="list-style-type: none"> • to arrest the involved protected person to whom this warrant relates and to detain him or her for a reasonable period to do the identifying procedure specified in this warrant; and • if applicable, to do the identifying procedure on that person against the responsible person's will.
--	---

Period for execution of warrant (Not to exceed 14 days)	From:/...../..... To:/...../.....
---	--

Date and time of issuing warrant	Date:/...../..... Time:
---	--

Criminal Investigation (Identifying People) Regulations 2002
Schedule 3 IP warrant (involved protected person)

Magistrate	Name:
-------------------	----------------

[Schedule 3 inserted in Gazette 19 Nov 2002 p. 5512-13; amended in Gazette 15 Apr 2014 p. 1060.]

Schedule 4 — IP warrant (suspect)

[r. 10(2)]

[Heading inserted in Gazette 19 Nov 2002 p. 5513.]

<i>Criminal Investigation (Identifying People) Act 2002, s. 46</i>
--

IP WARRANT (SUSPECT)

Strike out any parts of this form that are not applicable

Applicant	Name:	Rank and registered number or official title:
------------------	-------------------------	---

Suspect	Name:
----------------	----------------

Offence
----------------	----------------

Identifying particular to be obtained	<input type="checkbox"/> Print <input type="checkbox"/> Measurement <input type="checkbox"/> Photograph <input type="checkbox"/> Impression <input type="checkbox"/> Sample of hair <input type="checkbox"/> DNA profile <input type="checkbox"/> Other (describe)
--	--

Identifying procedure
------------------------------	----------------

Authority to arrest and detain and do identifying procedure	This warrant authorises you: <ul style="list-style-type: none">• to arrest the suspect to whom this warrant relates and to detain him or her for a reasonable period to do the identifying procedure specified in this warrant; and• to do the identifying procedure on the suspect against his or her will or the responsible person's will, as the case requires.
--	--

Period for execution of warrant (Not to exceed 14 days)	From:/...../..... To:/...../.....
---	--

Date and time of issuing warrant	Date:/...../..... Time:
---	--

JP or Magistrate	Name:
-------------------------	----------------

[Schedule 4 inserted in Gazette 19 Nov 2002 p. 5513-14; amended in Gazette 15 Apr 2014 p. 1060.]

Notes

¹ This is a compilation of the *Criminal Investigation (Identifying People) Regulations 2002* and includes the amendments made by the other written laws referred to in the following table^{1a}. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Criminal Investigation (Identifying People) Regulations 2002</i>	28 Jun 2002 p. 3103-5	29 Jun 2002 (see r. 2 and <i>Gazette</i> 28 Jun 2002 p. 3037)
<i>Criminal Investigation (Identifying People) Amendment Regulations 2002</i>	19 Nov 2002 p. 5507-14	20 Nov 2002 (see r. 2 and <i>Gazette</i> 19 Nov 2002 p. 5505)
<i>Criminal Investigation (Identifying People) Amendment Regulations 2005</i>	14 Oct 2005 p. 4556	14 Oct 2005
<i>Criminal Investigation (Identifying People) Amendment Regulations 2006</i>	27 Jun 2006 p. 2304-6	27 Jun 2006
Reprint 1: The <i>Criminal Investigation (Identifying People) Regulations 2002</i> as at 23 Mar 2007 (includes amendments listed above)		
<i>Criminal Investigation (Identifying People) Amendment Regulations 2007</i>	2 Oct 2007 p. 4972-3	r. 1 and 2: 2 Oct 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 3 Oct 2007 (see r. 2(b))
<i>Criminal Investigation (Identifying People) Amendment Regulations 2009</i>	22 Dec 2009 p. 5274-5	r. 1 and 2: 22 Dec 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 23 Dec 2009 (see r. 2(b))
<i>Criminal Investigation (Identifying People) Amendment Regulations 2014</i>	15 Apr 2014 p. 1056-60	r. 1 and 2: 15 Apr 2014 (see r. 2(a)); r. 4: 16 Apr 2014 (see r. 2(b) and <i>Gazette</i> 15 Apr 2014 p. 1053); Regulations other than r. 1, 2 and 4: 16 Apr 2014 (see r. 2(c))
<i>Criminal Investigation (Identifying People) Amendment Regulations 2015</i>	26 Jun 2015 p. 2269	r. 1 and 2: 26 Jun 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2015 (see r. 2(b)(ii) and <i>Gazette</i> 26 Jun 2015 p. 2235)

Citation	Gazettal	Commencement
<i>Criminal Investigation (Identifying People) Amendment Regulations (No. 2) 2015</i>	3 Jul 2015 p. 2668-9	r. 1 and 2: 3 Jul 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 4 Jul 2015 (see r. 2(b))

Reprint 2: The *Criminal Investigation (Identifying People) Regulations 2002* as at 11 Dec 2015 (includes amendments listed above)

~~^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.~~

Provisions that have not come into operation

Citation	Gazettal	Commencement
<i>Criminal Investigation (Identifying People) Amendment Regulations 2016</i> r. 3 and 4³	14 Jun 2016 p. 1833-4	r. 1 and 2: 14 Jun 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2016 (see r. 2(b))

² 16 April 2014 (see *Gazette* 15 April 2014 p. 1053).

~~³ On the date as at which this compilation was prepared, the *Criminal Investigation (Identifying People) Amendment Regulations 2016* r. 3 and 4 had not come into operation. They read as follows:~~

~~**3. Regulations amended**~~

~~These regulations amend the *Criminal Investigation (Identifying People) Regulations 2002*.~~

~~**4. Regulation 5A replaced**~~

~~Delete regulation 5A and insert:~~

~~**5A. Disclosure of identifying information (s. 73(1)(n))**~~

~~For section 73(1)(n) of the Act, the purpose of the Australian Crime Commission's national policing information functions under the *Australian Crime Commission Act 2002* (Commonwealth) is prescribed.~~

Criminal Investigation (Identifying People) Regulations 2002
