

Western Australia

**Criminal Investigation (Identifying People)
Regulations 2002**

As at 27 Jun 2006

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Criminal Investigation (Identifying People) Regulations 2002

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Compilation table

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Criminal Investigation (Identifying People) Regulations 2002

1. Citation

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

2. Commencement

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

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

- (1) The office of aboriginal aide to which appointments are made under Part IIIA of the *Police Act 1892* is prescribed under section 5(1)(a) of the Act.
- (2) The powers in the Act that a holder of the office of aboriginal aide 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.
- (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.]

r. 3A

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;
- (aa) an officer appointed under section 179 of the *Corruption and Crime Commission Act 2003*; or
- (b) an officer of Customs within the meaning of the *Customs Act 1901* of the Commonwealth.

[Regulation 5 amended in Gazette 19 Nov 2002 p. 5508; 14 Oct 2005 p. 4556.]

5A. Disclosure of identifying information for certain national databases (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

section 73(1)(n) of the Act as a purpose for which identifying information obtained 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 Commonwealth, the States and the Northern Territory;

“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 p. 5508.]

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 8A of the *Police Powers and Responsibilities Act 2000* of Queensland
Criminal Law (Forensic Procedures) Act 1998 of South Australia
Forensic Procedures Act 2000 of Tasmania
Sections 31, 31A, 31B, 51 and 70B of the *Juvenile Justice Act* of the Northern Territory
Part VII Division 7 of the *Police Administration Act* of the Northern Territory
Section 95B of the *Prisons (Correctional Services) Act* of the Northern Territory
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.]*

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

General Manager, Forensic Services, Australian Federal Police
Director of Forensic Services, New South Wales Police Service
Director, Victoria Forensic Science Centre, Victoria Police
Superintendent, Forensic Services Branch, Queensland Police Service
Officer in Charge, Forensic Services Branch, South Australia Police
Inspector, Forensic Services, Tasmania Police
Director, Forensic Science Centre, Northern Territory Police
Officer in Charge, Operations, Monitoring and Intelligence Support (OMIS), Australian Federal Police, Australian Capital Territory

[Regulation 7 amended in Gazette 19 Nov 2002 p. 5509.]

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. Form of applications for warrants (s. 15(3), 32, 45)

- (1) The form of an application to a magistrate under section 32 of the Act for an IP warrant (involved protected person) is set out for section 15(3) of the Act in Schedule 1.
- (2) The form of an application to a JP or magistrate, as the case requires, under section 45 of the Act for an IP warrant (suspect) is set out for section 15(3) of the Act in Schedule 2.

[Regulation 9 inserted in Gazette 19 Nov 2002 p. 5509.]

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.

r. 10

- (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.]

Schedule 1 — Application for IP warrant (involved protected person)

[r. 9(1)]

<i>Criminal Investigation (Identifying People) Act 2002, s. 15(3) and 32</i>
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APPLICATION FOR 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:
	of:	
	Signature:	
	
	Time and date:	

Name of involved protected person

Offence
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Grounds (for suspecting the person is an involved person)

Identifying particular sought	Print	Photograph	Impression	Sample of hair	D.N.A. profile

Non-intimate identifying procedure
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Grounds (for suspecting the identifying particular will afford evidence)
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Grounds (s. 31(a)) (for suspecting the investigation would be prejudiced)
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Grounds (s. 32(4)) (for suspecting any applicable matters in section 32(4) of the Act)
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Note: This application must be made to a magistrate.

[Schedule 1 inserted in Gazette 19 Nov 2002 p. 5510-11.]

Schedule 2 — Application for IP warrant (suspect)

[r. 9(2)]

<i>Criminal Investigation (Identifying People) Act 2002, s. 15(3) and 45</i>
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APPLICATION FOR IP WARRANT (SUSPECT)

Strike out any parts of this form that are not applicable

Applicant	Name:	Rank and registered number or official title:
	of:	
	Signature:	
	Time and date:	

Name of suspect
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Suspected offence
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Identifying particular sought	Print	Photograph	Impression	Sample of hair	D.N.A. profile
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Identifying procedure
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Grounds (for suspecting the suspect has committed the offence)
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Grounds (for suspecting the identifying particular will afford evidence)
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Note: If this application is to be made in respect of an adult, it may be made to a JP. If this application is to be made in respect of a child or an incapable person, it must be made to a magistrate.

[Schedule 2 inserted in Gazette 19 Nov 2002 p. 5511-12.]

Schedule 3 — IP warrant (involved protected person)

[r. 10(1)]

<i>Criminal Investigation (Identifying People) Act 2002, s. 33</i>
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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	Print	Photograph	Impression	Sample of hair	D.N.A. profile

Non-intimate identifying procedure

Use for limited forensic purposes (if applicable)

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

Use for unlimited forensic purposes (if applicable)
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May identifying information be put on a forensic database?	Yes / No
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Authority to arrest and detain and do identifying procedure	<p>This warrant authorises you:</p> <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.
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Period for execution of warrant (Not to exceed 14 days)	<p>From:/...../..... To:/...../.....</p>
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Date and time of issuing warrant	<p>Date:/...../.....</p> <p>Time:</p>
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Magistrate	<p>Name:</p> <p>.....</p>
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[Schedule 3 inserted in Gazette 19 Nov 2002 p. 5512-13.]

Schedule 4 — IP warrant (suspect)

[r. 10(2)]

Criminal Investigation (Identifying People) Act 2002, s. 46

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	Print	Photograph	Impression	Sample of hair	D.N.A. profile

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.

Criminal Investigation (Identifying People) Regulations 2002
Schedule 4 IP warrant (suspect)

Period for execution of warrant (Not to exceed 14 days)	From:/...../..... To:/...../.....
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Date and time of issuing warrant	Date:/...../..... Time:
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JP or Magistrate	Name:
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[Schedule 4 inserted in Gazette 19 Nov 2002 p. 5513-14.]

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.

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