

Western Australia

Criminal Investigation Regulations 2007

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Criminal Investigation Regulations 2007

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Criminal Investigation Regulations 2007

1. Citation

These regulations are the *Criminal Investigation Regulations 2007* ¹.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which section 156 of the Act comes into operation.

3. Terms used in these regulations

In these regulations, unless the contrary intention appears —

“**Act**” means the *Criminal Investigation Act 2006*;

“**approved course**” means a course approved under regulation 6;

“**Commissioner**” means the Commissioner of Police;

“**forensic procedure power**” means a power that may be exercised when doing a forensic procedure on a person under Part 9 of the Act by a qualified person.

4. Forms prescribed

Each form in Schedule 1 is prescribed for the purposes of the section of the Act for which it is prescribed.

5. Forms, completing

- (1) A form in Schedule 1 may be adapted as necessary for the purposes of the section of the Act for which it is prescribed.
- (2) If an item in a form in Schedule 1 does not have enough space to complete it, the person completing it must —
 - (a) insert in the item “See attachment [*number*]”; and
 - (b) attach to the form a separate document titled “Attachment [*number*] — [*name of the item*]”.

Example: A single attachment to Form 1 for the item “Thing(s) to be searched for” will be titled “Attachment 1 — Thing(s) to be searched for”.

6. Approving courses for certain forensic procedures

- (1) Any act done by the Commissioner under this regulation must be in writing.
- (2) The Commissioner may approve a course of training or study in relation to exercising a forensic procedure power if satisfied that a person who satisfactorily completes the course is competent to exercise the power when doing the procedure on another person.
- (3) The Commissioner may amend or cancel an approval given under subregulation (2).
- (4) Notice of any act done by the Commissioner under subregulation (2) or (3) must be published in the *Gazette*.

7. Qualified persons for certain forensic procedures

- (1) Any act done by the Commissioner or his or her delegate under this regulation must be in writing.
- (2) If the Commissioner is satisfied —
 - (a) on the basis of a person’s qualifications or experience in relation to exercising a forensic procedure power that the person is competent to exercise the power when doing the procedure on another person; or

- (b) that a person has successfully completed an approved course in relation to exercising a forensic procedure power,

the Commissioner may give the person a certificate that says the person is qualified to exercise the power when doing the forensic procedure, either generally or in a way or circumstances specified in the certificate.

- (3) A certificate may relate to more than one forensic procedure power.
- (4) The Commissioner may cancel a person's certificate —
 - (a) if there is good reason to do so; or
 - (b) if the person ceases to be a person whose official duties may include doing forensic procedures.
- (5) If the Commissioner cancels a person's certificate, the Commissioner must give the person a notice of the fact and of the effect of subregulation (6).
- (6) A person who is given a notice under subregulation (5) must return the certificate concerned to the Commissioner within 14 days after the day on which he or she is given the notice.
Penalty: a fine of \$500.
- (7) The Commissioner must keep a register of persons who have certificates.
- (8) The Commissioner may delegate his or her functions under this regulation, other than this power of delegation, to a police officer who is, or is acting as, a superintendent or an officer of a rank more senior than a superintendent.
- (9) A person who is given a certificate in relation to a forensic procedure power is, subject to the terms of the certificate, a qualified person for the purposes of Part 9 of the Act in relation to exercising the power when doing the procedure.

8. Authorised person prescribed (Act s. 120)

For the purposes of section 120 of the Act, a person appointed under the *Criminal Injuries Compensation Act 2003* as the Chief Assessor or as an Assessor is prescribed to be an authorised person.

9. Senior officer prescribed (Act s. 140)

For the purposes of section 140 of the Act, the Commissioner appointed under the *Corruption and Crime Commission Act 2003* is prescribed as a senior officer in relation to any authorised officer who, under section 184(3) of that Act, is prescribed to be a public officer for the purposes of the Act.

Schedule 1 — Forms

[r. 4]

1. Search warrant (Act s. 42)

Criminal Investigation Act 2006 s. 42		Search warrant	
To ¹	All police officers.		
Application	The applicant has applied under the <i>Criminal Investigation Act 2006</i> s. 41 to me, a Justice of the Peace, for a search warrant.		
Applicant's details ²	Name of officer		
	Office held		Registered No.
	Station/squad		
Suspected offence(s)			
Warrant	<p>This warrant authorises you to search the place described below for the person described below, or for the thing(s) or class of thing described below, using the powers in the <i>Criminal Investigation Act 2006</i> s. 43 and 44.</p> <p>This warrant must be executed in accordance with s. 43 to s. 45 of that Act.</p>		
Place to be searched ³			
Person or thing(s) to be searched for ⁴			
Execution period ⁵	This warrant must be executed within days after the date it is issued.		
Issuing details	Name of JP		
	Date		Time
JP's signature	<p>Issued by me on the above date and at the above time.</p> <p>Justice of the Peace</p>		
Execution details	Start	Date: 	Time:
	End	Date: 	Time:
	Occupier present? Yes/No Search audiovisually recorded? Yes/No		
	Other place entered under s. 44(2)(a)? Yes/No If yes, official details of senior officer who approved the entry:		
	Person found/Thing(s) seized? Yes/No		
Officer in charge of execution ²	Name		
	Office held		Registered No.
	Station/squad		

Notes to Form 1 —

Form 1

1. If the applicant is a public officer, include a reference to the officers who can execute the warrant (see the Act s. 43(5)).
2. This must comply with the Act s. 42(2)(a) read with s. 3(1) “official details”.
3. State the address or geographical location of the place to be searched. If a vessel, vehicle or aircraft is to be searched, describe it and give the address or geographical location of it.
4. Describe the person or the thing(s) or class of things to be searched for.
5. This period must not exceed 30 days (see the Act s. 42(2)(f)).

2. Order to produce a business record (Act s. 53)

<i>Criminal Investigation Act 2006 s. 53</i>		Order to produce a business record	
To ¹			
Application	The applicant has applied under the <i>Criminal Investigation Act 2006</i> s. 52 to me, a Justice of the Peace, for an order to produce a business record.		
Applicant's details ²	Name of officer		
	Office held		Registered No. <input type="text"/>
	Station/squad		
Business record(s) to be produced	Description of record(s) ³	Version to be produced ⁴	
	1. <input type="text"/>		
	2. <input type="text"/>		
Order ⁵	You are ordered to produce the version of the record or records described above at the place described below on or before <i>[date]</i> .		
Warning	It is an offence not to obey this order without a reasonable excuse.		
Where record(s) to be produced			
Issuing details	Name of JP		
	Date <input type="text"/>	Time <input type="text"/>	
JP's signature	Issued by me on the above date and at the above time. Justice of the Peace		
Service details ⁶	On <i>[date]</i> I served a copy of this order on the person to whom it is addressed by:		
	Signature of server <input type="text"/>		
Server's details ²	Name of officer		
	Office held		Registered No. <input type="text"/>
	Station/squad		

Notes to Form 2 —

1. State the name and address of the person to whom the order applies.
2. This must comply with the Act s. 53(2)(a) read with s. 3(1) "official details".
3. This must comply with the Act s. 53(2)(c).
4. This must comply with the Act s. 53(2)(e) and (f). Specify whether original or copy and whether paper, electronic or other version is to be produced.

Form 2

5. The date on or before which the order must be obeyed must allow a reasonable time for the person to comply with the order (see the Act s. 53(2)(h)).
6. State how the copy was served in accordance with the Act s. 54.

3. Data access order (Act s. 59)

<i>Criminal Investigation Act 2006 s. 59</i>		Data access order	
To ¹			
Application	The applicant has applied under the <i>Criminal Investigation Act 2006</i> s. 58 to me, a magistrate, for a data access order.		
Applicant's details ²	Name of officer		
	Office held		Registered No. <input type="text"/>
	Station/squad		
Data storage device details ³			
Order	<p>You are ordered to provide information or assistance that is reasonable and necessary to allow the above applicant to do any or all of the following —</p> <p>(a) to gain access to any data the above data storage device may contain;</p> <p>(b) to copy any such data to another data storage device;</p> <p>(c) to reproduce any such data on paper.</p> <p>You must obey this order on or before <i>[date]</i>.</p>		
Warning	It is an offence not to obey this order without a reasonable excuse.		
Issuing details	Name of magistrate		
	Date	<input type="text"/>	Time <input type="text"/>
Magistrate's signature	<p>Issued by me on the above date and at the above time.</p> <p>Magistrate</p>		
Service details	<p>On <i>[date]</i> I served a copy of this order on the person to whom it is addressed personally.</p> <p>Signature of server</p>		
Server's details ²	Name of officer		
	Office held		Registered No. <input type="text"/>
	Station/squad		

Notes to Form 3 —

1. State the name and address of the person to whom the order applies.
2. This must comply with the Act s. 59(2)(a) read with s. 3(1) "official details".
3. Describe the data storage device to which the order relates.

Form 4

4. FP warrant (involved person) (Act s. 90)

<i>Criminal Investigation Act 2006 s. 90</i>		FP warrant (involved person)	
To ¹	All police officers.		
Application	The applicant has applied under the <i>Criminal Investigation Act 2006</i> s. 89 to me, a magistrate, for a FP (involved person) warrant.		
Applicant's details ²	Name of officer		
	Office held		Registered No.
	Station/squad		
Involved person	Full name		
	Date of birth		
Offence(s) ³			
Procedure authorised ⁴ [Tick one box]	Non-intimate forensic procedure Intimate forensic procedure Internal forensic procedure of this kind —		
Relevant thing to be searched for ⁵			
Warrant	This warrant authorises you — <ul style="list-style-type: none"> to arrest the involved person named above; and to detain him or her for a reasonable period in order to do the above forensic procedure. This warrant also authorises the doing of the above forensic procedure on the involved person named above without the consent or consents referred to in s. 86(1) or (2) of the Act. The above forensic procedure must be done in accordance with Part 9 Division 6 of the Act.		
Execution period ⁶	This warrant must be executed within days after the date it is issued.		
Issuing details	Name of magistrate		
	Date		Time
Magistrate's signature	Issued by me on the above date and at the above time. Magistrate		
Execution details	Start	Date: 	Time:
	End	Date: 	Time:
	Involved person arrested or detained? Yes/No		
	Procedure done by: ⁷		
Relevant thing seized or sample taken? Yes/No If yes, describe it:			

Officer in charge of execution ²	Name			
	Office held		Registered No.	
	Station/squad			

Notes to Form 4 —

1. If the applicant is a public officer, include a reference to the officers who can execute the warrant (see the Act s. 90(8)).
2. This must comply with the Act s. 90(6)(a) read with s. 3(1) “official details”.
3. Offence(s) in respect of which the involved person is suspected to be an involved person.
4. If an internal forensic procedure is authorised, specify the kind of procedure that is proposed to be done on the involved person.
5. “Relevant thing” is defined in the Act s. 73.
6. This period must not exceed 14 days (see the Act s. 90(6)(g)).
7. Full name(s) of who did the procedure on the involved person and their qualification (e.g. doctor, nurse).

Form 5

5. FP warrant (suspect) (Act s. 100)

Criminal Investigation Act 2006 s. 100		FP warrant (suspect)	
To ¹	All police officers.		
Application [*Delete the inapplicable]	The applicant has applied under the <i>Criminal Investigation Act 2006</i> s. 99 to me, a *Justice of the Peace/magistrate, for an FP (suspect) warrant.		
Applicant's details ²	Name of officer		
	Office held		Registered No.
	Station/squad		
Suspect	Full name		
	Date of birth		
Offence(s) ³			
Procedure authorised ⁴ [Tick one box]	Non-intimate forensic procedure Intimate forensic procedure Internal forensic procedure of this kind —		
Relevant thing to be searched for ⁵			
Warrant	This warrant authorises you — <ul style="list-style-type: none"> to arrest the suspect named above; and to detain him or her for a reasonable period in order to do the above forensic procedure. This warrant also authorises the doing of the above forensic procedure on the suspect named above without the consent or consents referred to in s. 94(1) or (2) of the Act. The above forensic procedure must be done in accordance with Part 9 Division 6 of the Act.		
Execution period ⁶	This warrant must be executed within days after the date it is issued.		
Issuing details	Name of JP/magistrate		
	Date		Time
JP/Magistrate's signature	Issued by me on the above date and at the above time. Justice of the Peace/Magistrate		

Execution details	Start	Date:	Time:	End	Date:	Time:
	Suspect arrested or detained? Yes/No					
	Procedure done by: ⁷					
	Relevant thing seized or sample taken? Yes/No If yes, describe it:					
Officer in charge of execution ²	Name					
	Office held				Registered No.	
	Station/squad					

Notes to Form 5 —

1. If the applicant is a public officer, include a reference to the officers who can execute the warrant (see the Act s. 100(8)).
2. This must comply with the Act s. 100(5)(a) read with s. 3(1) “official details”.
3. Offence(s) that the suspect is suspected of having committed.
4. If an internal forensic procedure is authorised, specify the kind of procedure that is proposed to be done on the suspect.
5. “Relevant thing” is defined in the Act s. 73.
6. This period must not exceed 14 days (see the Act s. 100(5)(g)).
7. Full name(s) of who did the procedure on the involved person and their qualification (e.g. doctor, nurse).

Form 6

6. Seizure notice (Act s. 147)

<i>Criminal Investigation Act 2006 s. 147</i>		Seizure notice	
To	The owner of the property to which this notice is attached and to anyone else who reads this notice.		
Property description			
Seizure notice	<p>Under the <i>Criminal Investigation Act 2006</i> the property described above, to which this notice is attached, has been seized because it is a thing relevant to an offence.</p> <p>You must not lease, sell, transfer, mortgage, give away, move, use, destroy, or otherwise deal with the property without a court order or proper authorisation.</p> <p>For information about this seizure notice, contact the officer below.</p>		
Warning	It is an offence under the <i>Criminal and Found Property Disposal Act 2006 s. 10</i> to deal with this property.		
Issuing details ¹	Name of officer		
	Office held	Registered No.	
	Contact details		
	Date	Time	
Officer's signature	<p>I issued and attached this notice to the above property on the above date and at the above time.</p> <p>Police officer/Public officer</p>		
Removal	This notice must not be removed except by a officer with the same functions as the above officer.		

Note to Form 6 —

1. This must comply with the Act s. 100(5)(a) read with s. 3(1) “official details”.

Notes

¹ This is a compilation of the *Criminal Investigation Regulations 2007*. The following table contains information about that regulation ^{1a}.

Compilation table

Citation	Gazettal	Commencement
<i>Criminal Investigation Regulations 2007</i>	22 Jun 2007 p. 2941-58	r. 1 and 2: 22 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b) and <i>Gazette</i> 22 Jun 2007 p. 2837)

^{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 Amendment Regulations 2008</i> r. 3 and 4 ²	13 Jun 2008 p. 2519-22	Operative on commencement of the <i>Acts Amendment (Justice)</i> <i>Act 2008</i> s. 36 (see r. 2(b))

² On the date as at which this compilation was prepared, the *Criminal Investigation Amendment Regulations 2008* r. 3 and 4 had not come into operation. They read as follows:

“

3. The regulations amended

The amendment in these regulations is to the *Criminal Investigation Regulations 2007*.

4. Schedule 1 amended

Schedule 1 is amended by inserting before Form 1 the following —

“

1A. Move on order (Act s. 27)

Western Australia <i>Criminal Investigation Act 2006</i> s. 27	Move on order¹	Serial Number MO
To	Given names:	Surname:

	Address	No. & Street		
		Town/suburb		Postcode:
	Date of birth	/ /	M F	MDL/ID No.
Order	Under the <i>Criminal Investigation Act 2006</i> s. 27, I order you to leave— ²			
[Optional. Tick whichever apply]	In addition— ³ I order you to go— beyond m/km from the above place; or beyond the area bounded by— ⁴ I order you to obey the above order(s) until p.m./a.m. on / /20			
Warning	If you do not obey this order you may be liable to a fine of \$12 000 and imprisonment for 12 months.			
Issuing officer's signature and details	I issue this order on this date and at this time Date / /20			
	Signature Time			
	Rank & surname			
	Registered No.		Station/squad	
Witnessing officer	Rank & surname			
	Registered No.		Station/squad	
Recipient's signature	I acknowledge receiving this order. I understand what it says. [Optional]			

Conduct giving rise to order [Tick whichever apply]	The recipient— (a) was doing an act— (i) that involved the use of violence against a person; or (ii) that will cause a person to use violence against another person; or (iii) that will cause a person to fear violence will be used by a person against another person; or (b) was just about to do an act likely to— (i) involve the use of violence against a person; or (ii) cause a person to use violence against another person; or (iii) cause a person to fear violence will be used by a person against another person; or (c) was committing any other breach of the peace; or (d) was hindering, obstructing or preventing any lawful activity being, or about to be, carried out by another person; or (e) was intending to commit an offence; or (f) had just committed or was committing an offence. Description of any offence that was or was about to be committed— Disorderly behaviour in public (<i>The Criminal Code</i> s. 74A) Obstructing public officer (<i>The Criminal Code</i> s. 172) Consuming liquor contrary to the <i>Liquor Control Act 1988</i> s. 119 Other:
Recipient's other details	
Identifying information	Height: cm Build: Hair colour: Facial hair:
	Other: ⁵
Dress	
Ethnic appearance ⁶	Aboriginal Arab/Middle Eastern Caucasian East Asian Indian/Pakistani African/Afro-American Pacific Islander/Maori South/Central American Southern European Other:
Additional information	Vehicle involved? Yes/No. If yes, recipient was driver/passenger. Reg No: Colour, make & model: Other information:
Officer's notes	

Notes and instructions for move on order form —

1. The *Criminal Investigation Act 2006* s. 27(1) allows a police officer to order a person who is in a public place, or in a vehicle used for public transport, to leave it, or a part of it if the officer reasonably suspects that the person is doing one of the things listed in s. 27(1) (see the conduct part of the form).
An officer giving a move on order to a person must take into account the likely effect of the order on the person, including but not limited to the effect on the person's access to the places where he or she usually resides, shops and works, and to transport, health, education or other essential services. (See s. 27(3)).
2. Specify the public place, or vehicle used for public transport, or the part of it, from which the person is being ordered to move.
3. This distance or area must be reasonable (see s. 27(2)(a)).
4. This period must be reasonable and not longer than 24 hours (see s. 27(2)(b)).
5. E.g. tattoos, scars, marks, piercings.
6. Ethnic appearance must be stated and recorded on IMS.

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