



New South Wales

Police Powers (Drug Detection Dogs) Regulation 2002

under the

Police Powers (Drug Detection Dogs) Act 2001

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Police Powers (Drug Detection Dogs) Act 2001*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The *Police Powers (Drug Detection Dogs) Act 2001* (*the Act*) authorises the use of dogs by police officers for the purposes of detecting drug offences, and sets out the circumstances in which dogs may be used for the random detection of drugs in connection with persons in public places.

The object of this Regulation is:

- (a) to prescribe certain modifications to the application of the *Search Warrants Act 1985* to a warrant under the Act, and, in particular, to prescribe certain forms in respect of a warrant issued under section 8 of the Act, and
- (b) to prescribe public transport routes on which a police officer may, without a warrant, use a dog to carry out general drug detection.

This Regulation comprises or relates to matters of a machinery nature.

This Regulation is made under the *Police Powers (Drug Detection Dogs) Act 2001*, including sections 7, 8 and 11 (the general regulation-making power).

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Police Powers (Drug Detection Dogs) Regulation 2002

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Police Powers (Drug Detection Dogs) Regulation 2002*.

2 Definitions

(1) In this Regulation:

the Act means the *Police Powers (Drug Detection Dogs) Act 2001*.

warrant means a warrant issued under section 8 of the Act.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

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Part 2 Authorised places

Part 2 Authorised places

3 Prescribed train routes

- (1) For the purposes of section 7 (1) (c) of the Act, the following public passenger vehicle routes are prescribed:
- (a) the Bankstown route, being the train line that is:
 - (i) between Liverpool station and Sydney Central station, and
 - (ii) via Bankstown station,
 - (b) the Inner West route, being the train line that is:
 - (i) between Liverpool station and Sydney Central station, and
 - (ii) via Regents Park station,
 - (c) the Eastern Suburbs route, being the train line that is between Bondi Junction station and Sydney Central station,
 - (d) the Illawarra route, being the train line that is between Bomaderry station and Sydney Central station, and including the train line between Sutherland station and Cronulla station via Kirrawee station, but not including the train line between Lysaghts station and Port Kembla station,
 - (e) the Northern route, being the train line that is:
 - (i) between Newcastle station and Sydney Central station, and
 - (ii) via Strathfield station,
 - (f) the South route, being the train line that is:
 - (i) between Campbelltown station and Sydney Central station, and
 - (ii) via Circular Quay station, and
 - (iii) via Granville station,
 - (g) the Western route, being the train line that is:
 - (i) between Penrith station and Sydney Central station, and
 - (ii) via Strathfield station,and including the Olympic Park loop.

- (2) A route prescribed by this clause includes a train travelling on any part of the train line described in respect of the route, irrespective of whether:
 - (a) the train stops at a station on the train line, or
 - (b) the train has travelled or will travel on any other train line.
- (3) A route prescribed by this clause includes the route of any bus being used to convey persons between train stations on the prescribed route because trains are not running between those stations, and any stopping place of such a bus.

4 Prescribed bus routes

For the purposes of section 7 (1) (c) of the Act, the following public passenger vehicle routes are prescribed:

- (a) the Albury route, being the bus route that is:
 - (i) between Albury and Sydney, and
 - (ii) via Goulburn and the Hume Highway,
- (b) the Grafton route, being the bus route that is:
 - (i) between Grafton and Sydney, and
 - (ii) via Kempsey and the Pacific Highway.

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Part 3 Warrants

Part 3 Warrants

5 Modification of application of Search Warrants Act 1985 to a warrant

In its application to a warrant issued under section 8 of the *Police Powers (Drug Detection Dogs) Act 2001*, Part 3 of the *Search Warrants Act 1985* is modified as provided in this Part.

6 Form of application for warrant

Form 1 is the form for an application for a warrant.

7 Form of warrant

Form 2 is the form for a warrant.

8 Search Warrants Act 1985—sections 15A and 16

Sections 15A and 16 of the *Search Warrants Act 1985* do not apply to a warrant.

9 Occupier's notice

An occupier's notice is not required in connection with the execution of a warrant.

10 Form of report to authorised justice on execution of a warrant

Form 3 is the form, in respect of a warrant, for a report to an authorised justice under section 21 of the *Search Warrants Act 1985*.

11 Keeping and inspection of records

- (1) The following documents must be kept in relation to each warrant that is issued:
 - (a) the application for the warrant,
 - (b) the report on the execution of the warrant.
- (2) The documents must be kept at a Local Court for at least 6 years from the date on which the warrant was issued, but may be destroyed after that period has expired.
- (3) During the hours that the Local Court is open to the public, the documents may be inspected by any person.

Schedule 1 Forms

(Clause 2)

Form 1 Application for a warrant

(Clause 6)

(Police Powers (Drug Detection Dogs) Act 2001)

On
[date]

I,
[name]

being a person with authority to apply for a warrant under section 8 of the *Police Powers (Drug Detection Dogs) Act 2001* apply for a warrant to use a dog to carry out general drug detection in a public place in New South Wales, being

.....
.....
.....
.....
[address/description of public place]

during the period/periods⁽¹⁾ of
.....
[describe period/periods]

I swear/solemnly, sincerely and truly declare and affirm that:⁽¹⁾

1. I am a police officer of the rank of stationed at
.....
2. I have reasonable grounds for believing the following matters which justify this application for the issue of a warrant:⁽²⁾
.....
.....
.....
.....

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Schedule 1 Forms

3. Any general drug detection to be carried out under the warrant will/will not⁽¹⁾ be part of a covert police operation. The reason the warrant is to be part of a covert police operation is⁽⁵⁾:

.....
.....
.....

4. *[To be completed if a previous application for the warrant has been made and refused.]*⁽³⁾

The following are details of the refusal of the previous application:

.....
.....
.....

[The following need not be completed if the previous application was made to an authorised justice who was not a Magistrate and this application is made to a Magistrate.]

The additional information which I consider justifies the making of this further application is:

.....
.....
.....

Sworn/declared and affirmed⁽¹⁾ before me on the day
of
at
in the State of New South Wales

.....
[Applicant's signature]

Justice of the Peace⁽⁴⁾

- (1) Delete whichever is inapplicable.
- (2) Include all those matters which justify the issue of a warrant to use a dog to carry out general drug detection in the public place. If an offence or breach of an Act or Regulation is alleged, specify the particular offence. If the experience of the applicant or source of the information is relevant, then include this in the grounds. If space is insufficient continue overleaf or attach a separate sheet.
- (3) Attach copy of previous application to this Form.

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Schedule 1 Forms

4. *[To be completed if the warrant may be executed by night.]*

The grounds on which I relied to justify the execution of the warrant by night are as follows⁽¹⁾:

- (a) execution of the warrant by day is unlikely to be successful,
- (b) there is likely to be less risk to the safety of any person,
- (c)
-
-

5. The warrant was issued at a.m./p.m.
on
[date]

Signed
[Authorised Justice]⁽³⁾

- (1) Delete whichever is inapplicable.
- (2) Either identify or specify the relevant particulars of the grounds in the application that are relied on. If space is insufficient continue overleaf or attach a separate sheet.
- (3) Return this Form, together with a copy of the warrant to the Local Court to which the issuing justice is attached, or if there is no such Local Court, to the Local Court to which it is intended to forward the documentation.

Note. If the time for expiry of the warrant is subsequently extended under section 20 of the *Search Warrants Act 1985*, the authorised justice should note that fact on this Form.

Form 2 Warrant

(Clause 7)

(Police Powers (Drug Detection Dogs) Act 2001)

This warrant expires at am/pm on
[date]

and must not be used after that time.

Note. If no time for expiry is specified above, the warrant expires 72 hours after the time it was issued or, in the case of a telephone warrant, 24 hours after the time it was issued.

On
[date]

.....
[name of authorised justice]

a justice authorised and empowered to issue warrants under section 8 of the *Police Powers (Drug Detection Dogs) Act 2001* granted this warrant authorising

..... of
[name] [rank] [place of work]

(the applicant), a police officer, and all other police officers:

1. To use a dog to carry out general drug detection in
.....
.....
.....
.....
[describe public place]

, a public place, during the period/periods⁽³⁾ of
.....
[describe period/periods]

being between the hours of 6.00 am and 9.00 pm⁽¹⁾.

This warrant authorises/does not authorise⁽³⁾ the general drug detection above to be carried out as part of a covert police operation.

In executing this warrant the applicant may exercise the powers provided by the *Search Warrants Act 1985* and the above Act. These include the power to:

- (a) Use any persons necessary to assist in the execution of this warrant.
- (b) To use a dog to carry out the detection of prohibited drugs or plants in the possession or control of a person.

Signed by me
.....
[Print name]⁽²⁾
.....

[Signature]

Date

(1) If there is a need for execution by night, specify the other times.

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Schedule 1 Forms

- (2) Where the application is made in person or by facsimile transmission the authorised justice should sign and date the warrant and initial any corrections. In the case of a telephone warrant in circumstances where facsimile facilities are not available, the justice should use this Form as a copy of the terms of the warrant and the applicant should complete the warrant in the terms dictated by the justice and then sign and date the warrant.
- (3) Delete whichever is inapplicable.

Note. The applicant must deliver this warrant when reporting to the issuing justice within 10 days after the execution of the warrant, or if not executed, within 10 days after the expiry of the warrant.

Form 3 Report to authorised justice on the execution of a warrant⁽¹⁾

(Clause 10)

(Police Powers (Drug Detection Dogs) Act 2001)

This report is made to the authorised justice who issued the attached warrant under section 8 of the *Police Powers (Drug Detection Dogs) Act 2001*.⁽²⁾

[If the Warrant was not executed]

- 1. The warrant was not executed for the following reasons:
.....
.....
.....

[If the Warrant was executed]

- 2. The warrant was executed during the period/periods⁽³⁾ of
.....
[describe period/periods]

- 3. The result of the execution of the warrant is briefly as follows:
.....
.....
.....
.....

Signed

Date Name

Rank or Designation

Place of Work

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Forms

Schedule 1

Date of Receipt of Report by Authorised Justice

Signed

[Authorised Justice]

- (1) This report must be made within 10 days after the execution of the warrant or the expiry of the warrant, whichever first occurs.
- (2) Unless completed on the back of the warrant, attach the original warrant issued by the authorised justice or telephone search warrant completed by the applicant.
- (3) Delete whichever is inapplicable.

Note. On completion of the Report, forward the Report and attachments to the Local Court to which the issuing justice is attached, or if there is no such Local Court, to the Local Court to which it is intended to forward the documentation.

BY AUTHORITY