



New South Wales

Terrorism (Police Powers) Regulation 2005

under the

Terrorism (Police Powers) Act 2002

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Terrorism (Police Powers) Act 2002*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The objects of this Regulation are:

- (a) to prescribe certain positions held by persons to whom the Commissioner of Police and the Crime Commissioner may delegate their power to authorise applications for covert search warrants, and
- (b) to prescribe the documents to be kept, and the manner in which those documents may be inspected, in relation to the issue of a covert search warrant, and
- (c) to prevent certain documents from being made available for inspection if their disclosure is likely to identify a person and therefore jeopardise that or any other person's safety, and
- (d) to provide that the Attorney General may approve such forms as may be necessary or convenient for the administration of the Act.

This Regulation is made under the *Terrorism (Police Powers) Act 2002*, including sections 27E (2), 27F (2), 27L (2) and 32 (the general regulation-making power).

This Regulation relates to matters of a machinery nature.

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Terrorism (Police Powers) Regulation 2005

under the

Terrorism (Police Powers) Act 2002

1 Name of Regulation

This Regulation is the *Terrorism (Police Powers) Regulation 2005*.

2 Commencement

This Regulation commences on 13 September 2005.

3 Definitions

In this Regulation:

eligible Judge has the same meaning as in Part 3 of the Act.

the Act means the *Terrorism (Police Powers) Act 2002*.

4 Delegation of powers to give authorisation

- (1) For the purposes of section 27E (2) (a) of the Act, the position of Assistant Commissioner, Counter Terrorism is prescribed.
- (2) For the purposes of section 27E (2) (b) of the Act, the position of Commander, Counter Terrorist Co-ordination Command is prescribed.
- (3) For the purposes of section 27F (2) of the Act, the position of Assistant Commissioner is prescribed.

5 Keeping and inspection of records

- (1) For the purposes of section 27L (2) of the Act, the following documents must be kept in relation to each covert search warrant that is issued:
 - (a) any written application for the warrant,
 - (b) any record relating to the warrant made by or on behalf of an eligible Judge,
 - (c) a copy of any occupier's notice,
 - (d) any report on the execution of the warrant.

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Clause 6

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- (2) During the hours that the Supreme Court registry is open to the public, the documents may be inspected by the occupier of the premises to which the covert search warrant relates or by any other person who is given an occupier's notice relating to the warrant under the Act.

6 Certified records not available for inspection

- (1) An eligible Judge may at any time issue a certificate to the effect that the Judge is satisfied that:
 - (a) a document or part of a document referred to in clause 5 contains matter:
 - (i) that could disclose a person's identity, and
 - (ii) that, if disclosed, is likely to jeopardise that or any other person's safety, or
 - (b) a document or part of a document referred to in clause 5 contains matter that, if disclosed, may seriously compromise the investigation of any matter.
- (2) The document or part of the document to which the certificate relates is not to be made available for inspection under clause 5 (2).
- (3) The certificate is to be kept with the document to which it relates.
- (4) An eligible Judge (whether or not the one that issued the certificate) may revoke the certificate if satisfied (after consideration of submissions from any interested party) that disclosure of the matter to which it relates is no longer likely to jeopardise any person's safety or seriously compromise the investigation of any matter.

7 Approved forms

The Attorney General may approve such forms as may be necessary or convenient for the administration of the Act.

BY AUTHORITY
