



New South Wales

Law Enforcement (Powers and Responsibilities) Amendment Regulation 2006

under the

Law Enforcement (Powers and Responsibilities) Act 2002

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Law Enforcement (Powers and Responsibilities) Act 2002*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to amend the *Law Enforcement (Powers and Responsibilities) Regulation 2005 (the Principal Regulation)* as a consequence of the commencement of certain amendments to the *Law Enforcement (Powers and Responsibilities) Act 2002 (the Act)* made by the *Crimes and Courts Legislation Amendment Act 2005*. The amendments to the Principal Regulation include the prescribing of particulars that must be contained in records relating to the detention of an intoxicated person under Part 16 of the Act.

This Regulation also makes amendments by way of statute law revision.

This Regulation is made under the *Law Enforcement (Powers and Responsibilities) Act 2002*, including sections 66, 67, 112, 209 and 238 (the general regulation-making power).

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Clause 1

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**Law Enforcement (Powers and Responsibilities)
Amendment Regulation 2006**

under the

Law Enforcement (Powers and Responsibilities) Act 2002

1 Name of Regulation

This Regulation is the *Law Enforcement (Powers and Responsibilities) Amendment Regulation 2006*.

2 Commencement

This Regulation commences on 24 February 2006.

3 Amendment of Law Enforcement (Powers and Responsibilities) Regulation 2005

The *Law Enforcement (Powers and Responsibilities) Regulation 2005* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 33 Legal assistance for Aboriginal persons or Torres Strait Islanders

Omit “an organisation that provides legal assistance to Aboriginal persons and Torres Strait Islanders” from clause 33 (a).

Insert instead “an Aboriginal legal aid organisation”.

[2] Clause 33 (2)

Insert at the end of clause 33:

(2) In this clause:

Aboriginal legal aid organisation means any of the following organisations:

- (a) Kamilaroi Aboriginal Legal Service,
- (b) Many Rivers Aboriginal Legal Service,
- (c) South Eastern Aboriginal Legal Service,
- (d) Sydney Regional Aboriginal Corporation Legal Service,
- (e) Western Aboriginal Legal Service,
- (f) Wiradjuri (Central Southern) Aboriginal Legal Service.

[3] Clause 37 When crime scene is established

Omit the clause.

[4] Clause 39A

Insert after clause 39:

39A Records relating to detention of intoxicated persons

- (1) For the purposes of section 209 of the Act, the following particulars must be contained in a record made by a police officer referred to in section 209 (1) (a) of the Act in relation to the detention of an intoxicated person:
 - (a) the name and rank of the police officer,
 - (b) the name and date of birth of the intoxicated person (if they can be ascertained after making reasonable inquiries),
 - (c) the grounds on which the person is detained,
 - (d) the date and time when the following occur:
 - (i) the person’s detention commences,

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Schedule 1 Amendments

- (ii) the person is brought to the authorised place of detention,
 - (e) the name and address of the authorised place of detention.
- (2) For the purposes of section 209 of the Act, the following particulars must be contained in a record made by a person referred to in section 209 (1) (b) of the Act (*the responsible detention officer*) in relation to the detention of an intoxicated person at an authorised place of detention:
 - (a) the name and rank of the responsible detention officer,
 - (b) the name and rank of the police officer who brings the intoxicated person to the authorised place of detention,
 - (c) the name and date of birth of the intoxicated person (if they can be ascertained after making reasonable inquiries),
 - (d) the date and time when the following occur:
 - (i) the intoxicated person is brought to the authorised place of detention,
 - (ii) the intoxicated person is released from detention,
 - (e) the name of each detention officer at the authorised place of detention who is responsible for the intoxicated person's detention,
 - (f) details of any arrangement by a detention officer at the authorised place of detention for medical treatment or medication to be administered to the intoxicated person and the time at which the arrangement is made.
- (3) For the purposes of section 209 of the Act, a record made in relation to the search of an intoxicated person by a person referred to in section 209 (1) (c) of the Act must contain the following particulars:
 - (a) the name and rank of the person who carries out the search (*the searching detention officer*),
 - (b) the name and date of birth of the intoxicated person (if they can be ascertained after making reasonable inquiries),
 - (c) a description of any personal belongings of the intoxicated person of which the searching detention officer has taken possession as a result of a search of the intoxicated person.
- (4) Nothing in this clause requires a detention officer to make a record, in relation to the detention of an intoxicated person, containing any particular that is contained in a record made in relation to the same detention of the intoxicated person by a detention officer of the same kind.

(5) In this clause:

detention officer has the same meaning as it has in Part 16 of the Act.

[5] Schedule 1, Forms

Omit “injury* to” wherever occurring in Forms 4 and 19.

Insert instead “injury to*”.

[6] Schedule 1, Form 7

Omit the heading to Part 2 of the Form. Insert instead:

Part 2 Authorised officer’s record of application for warrant

[7] Schedule 1 Form 9

Omit “In executing this search warrant the applicant”.

Insert instead “In executing this search warrant a police officer”.

[8] Schedule 1, Form 12

Insert “, a police officer, and all other police officers” after “(the applicant)”.

[9] Schedule 1, Form 12

Insert above “This warrant may be executed.”:

The applicant has reasonable grounds for suspecting that it is necessary to exercise crime scene powers at the crime scene for the purpose of preserving, or searching for and gathering, evidence of the commission of:

- (a)* the offence of [*Specify offence.*], which is a serious indictable offence
- (b)* the offence of [*Specify offence.*] that is being/was/may have been* committed in connection with a traffic accident that has resulted in the death of/serious injury to* a person.

[10] Schedule 1, Forms 12 and 14

Omit “In executing this warrant the applicant” wherever occurring.

Insert instead “In executing this warrant a police officer”.

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Schedule 1 Amendments

[11] Schedule 1, Form 19

Omit “[*Name and rank*] of [*Place of work*]” where firstly occurring.
Insert instead “the police”.

[12] Schedule 1, Form 19

Omit “the police officer authorised to enter the premises under the warrant”.
Insert instead “any police officer executing the warrant”.

[13] Schedule 1, Form 19

Omit “officer executing the warrant has”. Insert instead “have”.

BY AUTHORITY
