



New South Wales

Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Regulation 2009

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*.

JOHN HATZISTERGOS, MLC
Attorney General

Explanatory note

The object of this Regulation is to provide for the form of covert search warrants and other related documents as a consequence of amendments made to the *Law Enforcement (Powers and Responsibilities) Act 2002* (**the Act**) by the *Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Act 2009*.

In particular, this Regulation amends the form of certain existing search warrants and related documents under Part 5 of the Act and provides for the form of the following:

- (a) an application for a covert search warrant,
- (b) records to be made by or on behalf of eligible issuing officers in relation to their determination of such applications,
- (c) a notice required under the Act to be given to occupiers of premises at which covert search warrants are executed and a notice to occupiers of premises adjoining such premises,
- (d) reports to eligible Judges on the execution of covert search warrants.

This Regulation is made under the *Law Enforcement (Powers and Responsibilities) Act 2002*, including sections 66, 67, 67B, 74, 74A and 238 (the general regulation-making power).

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Clause 1 Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Regulation 2009

**Law Enforcement (Powers and Responsibilities)
Amendment (Search Powers) Regulation 2009**

under the

Law Enforcement (Powers and Responsibilities) Act 2002

1 Name of Regulation

This Regulation is the *Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Regulation 2009*.

2 Commencement

This Regulation commences on 29 May 2009 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Law Enforcement (Powers and Responsibilities) Regulation 2005

[1] Clause 3 Definitions

Insert after paragraph (a) of the definition of *search warrant*:

- (a1) a covert search warrant,

[2] Clause 4 Form of application for warrant or notice to produce

Omit clause 4 (1) (a). Insert instead:

- (a) Part 1 of Form 1 is the form for an application for a Part 5 search warrant (other than a covert search warrant), and
- (a1) Part 1 of Form 1A is the form for an application for a covert search warrant, and

[3] Clause 5 Determination of application for warrant or notice to produce— record by eligible issuing officer

Omit “an authorised officer”. Insert instead “an eligible issuing officer”.

[4] Clause 5 (a) and (a1)

Omit clause 5 (a). Insert instead:

- (a) in the case of an application for a Part 5 search warrant (other than a covert search warrant)—Part 2 of Form 1,
- (a1) in the case of an application for a covert search warrant—Part 2 of Form 1A,

[5] Clause 6 Form of warrant or notice to produce

Omit clause 6 (1) (a). Insert instead:

- (a) Form 9 is the form for a Part 5 search warrant (other than a covert search warrant), and
- (a1) Form 9A is the form for a covert search warrant, and

[6] Clause 7 Form of occupier’s notice: section 67 (2) (a)

Omit clause 7 (a). Insert instead:

- (a) Form 17 is the form for an occupier’s notice in relation to a Part 5 search warrant (other than a covert search warrant), and
- (a1) Form 17A is the form for an occupier’s notice in relation to a covert search warrant, and

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[7] Clause 7A

Insert after clause 7:

7A Form of adjoining occupier's notice: section 67B

An adjoining occupier's notice under section 67B of the Act may be in or to the effect of Form 17B.

[8] Clauses 9, 9A and 9B

Omit clause 9. Insert instead:

9 Form of report to eligible issuing officer on execution of warrant (other than covert search warrant) or giving of notice to produce: section 74

- (1) A report to an eligible issuing officer under section 74 of the Act about the execution of a warrant (other than a covert search warrant) must be in or to the effect of Form 20 and must contain the particulars required to complete that Form.
- (2) A report to an eligible issuing officer under section 74 of the Act about the giving of a notice to produce must be in or to the effect of Form 21 and must contain the particulars required to complete that Form.

9A Form of report to eligible issuing officer on execution of covert search warrant: section 74A

- (1) A report to an eligible issuing officer under section 74A of the Act about the execution of a covert search warrant must be in or to the effect of Form 20A and must contain the particulars required to complete that Form.
- (2) A report to an eligible issuing officer under section 74A of the Act about the return or retrieval of a thing under section 49A of the Act must be in or to the effect of Form 20B and must contain the particulars required to complete that Form.

[9] Clause 10 Keeping and inspection of records

Insert after clause 10 (1) (c):

- (c1) a copy of any adjoining occupier's notice,

[10] Clause 10 (5)

Omit "subclause (3)". Insert instead "subclause (4)".

[11] Schedule 1 Forms 1 and 1A

Omit Form 1. Insert instead:

Form 1 Application for Part 5 search warrant (other than covert search warrant)/record of application

(Clauses 4 (1) (a) and 5 (a))

(Law Enforcement (Powers and Responsibilities) Act 2002)

Note. This Form is to be used for search warrants (other than covert search warrants) in relation to indictable, firearms, prohibited weapons, narcotics, child pornography or child prostitution offences or stolen goods. Form 1A should be used for covert search warrants and Form 2 should be used for search warrants (other than Part 5 search warrants).

Part 1 Application

On [Date], I, [Name and rank] of [Place of work], apply for a search warrant to enter and search the premises known as [Address] in the State of New South Wales, being a [Description of premises (eg dwelling house)].

I swear/solemnly, sincerely and truly declare and affirm* that:

- 1 I have reasonable grounds for believing that:
 - (a)* there is, or within 72 hours will be, in or on the premises, the following things: [List items to be searched for. If exact location of items is known, include that information.]
 - (b)* the things are connected with the following searchable offence(s) within the meaning of section 46A (1) (a) of the Law Enforcement (Powers and Responsibilities) Act 2002: [Insert description of offence(s).]
 - (c)* a child prostitution offence, within the meaning of section 47 of the Law Enforcement (Powers and Responsibilities) Act 2002 has recently been committed, is being committed or, within 72 hours will be committed, on or with respect to the premises.

- 2 I rely on the following grounds in support of this application: [Insert the reasonable grounds on which the application for the search warrant is based. If space is insufficient, continue overleaf or attach a separate sheet.]

[3 and 4 are to be completed if a previous application for the warrant has been made and refused. Attach a copy of the previous application to this Form.]

- 3* The following are details of the refusal of a previous application:

- 4* [Need not be completed if the previous application was made to an eligible issuing officer who was not a Magistrate and this application is made to a Magistrate.]

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

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5* I seek that a certificate pursuant to clause 11 of the *Law Enforcement (Powers and Responsibilities) Regulation 2005* be issued, on the following grounds: [*Specify grounds*]

Sworn/declared and affirmed* before me on [*Date*] at [*Place*] in the State of New South Wales.

Applicant [*Print name and insert signature.*]

Justice of the Peace [*Print name and insert signature.*]

[*This application may be sworn before the eligible issuing officer to whom the application is made for the issue of the warrant. Any alterations, deletions or annexures should be initialled or signed by the applicant and witnessed by the justice of the peace.*]

[* *Delete if inapplicable.*]

Warning

It is an offence under section 63 of the *Law Enforcement (Powers and Responsibilities) Act 2002* to give information in this application knowing it is false or misleading in a material particular. The maximum penalty is a fine of \$11,000 or 2 years imprisonment (or both).

Note. In the case of an application by telephone (but not by facsimile), this Form of application should be completed by the eligible issuing officer for record purposes as if it were made in person by the applicant but not verified on oath or affirmation or by affidavit.

Part 2 Eligible issuing officer's record of application for a search warrant

On [*Date*] at [*Time*], I, the undersigned eligible issuing officer, received this application for a search warrant.

- 1* [*To be completed if the application was not made in person.*]
The application was made by [*Specify how the application was made (eg facsimile, telephone)*] and I was/was not* satisfied that the warrant was required urgently and it was/was not* practicable for the application to be made in person.
- 2* [*To be completed if the eligible issuing officer required the applicant to provide further information concerning the grounds on which the warrant was sought.*]
*Further information provided by the applicant, as required by me, is attached.
*Particulars of further information orally provided by the applicant, as required by me, are as follows: [*Specify particulars.*]
- 3 On considering the application I found/did not find* that there were reasonable grounds for issuing the warrant.
- 4 The relevant particulars of the grounds on which I relied to justify the issue of/refusal to issue [*Delete whichever is inapplicable*] the warrant are as follows: [*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.

- 5 *[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:
- (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 if it is executed by night,
 - (c)* an occupier is likely to be on the premises only at night to allow entry without the use of force,
 - (d)* *[Other grounds].*

6 The search warrant was issued at *[Time]* on *[Date]*.

Eligible issuing officer *[Print name and insert signature.]*

[Delete if inapplicable.]*

Note. Return this Form, together with a copy of the warrant and a copy of the occupier's notice, to the Local Court named in the occupier's notice.

Form 1A Application for covert search warrant/record of application

(Clauses 4 (1) (a1) and 5 (a1))

(Law Enforcement (Powers and Responsibilities) Act 2002)

Note. This Form is to be used for covert search warrants in relation to serious offences within the meaning of section 46A of the *Law Enforcement (Powers and Responsibilities) Act 2002*. Form 1 should be used for Part 5 search warrants (other than covert search warrants) and Form 2 should be used for other search warrants.

Part 1 Application

On *[Date]*, I, *[Name and rank or position]* of *[Place of work]*, apply for a covert search warrant to enter and search the premises known as *[Address]* (the subject premises) in the State of New South Wales, being a *[Description of subject premises (eg dwelling house)]*.

I swear/solemnly, sincerely and truly declare and affirm* that:

- 1 I have been authorised to make this application by *[Name and rank or position]* of *[Place of work]*. A copy of the authorisation is attached.
- 2 I have reasonable grounds for suspecting that:
 - (a)* there is, or within 10 days will be, in or on the subject premises, the following things: *[List items to be searched for. If exact location of items is known, include that information.]*
 - (b)* the things are of a kind connected with the following searchable offence(s) within the meaning of section 46A (1) (b) of the *Law Enforcement (Powers and Responsibilities) Act 2002*: *[Insert description of offence(s).]*

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- 3 I consider that it is necessary for the entry and search of the subject premises to be conducted without the knowledge of any occupier of the subject premises.
- 4* The name of the occupier of the subject premises is *[Insert name.]*
- 5* I believe each of the following persons has committed, or is intending to commit, a searchable offence as follows: *[Insert names and the relevant searchable offence for each name.]*
- 6 I believe/do not believe *[Delete whichever is not applicable]* the occupier of the subject premises is knowingly concerned with the commission of the searchable offence(s) of *[Insert description of offence(s).]*
- 7 I rely on the following grounds in support of this application: *[Insert the reasonable grounds on which the application for the covert search warrant is based. If space is insufficient, continue overleaf or attach a separate sheet.]*
- 8* The following powers are proposed to be exercised on entry to the subject premises for the purpose of concealing anything done in the execution of the warrant in accordance with section 47A (2) (d) of the *Law Enforcement (Powers and Responsibilities) Act 2002*: *[Insert description of powers.]*
- 9* I seek authorisation to place a thing in substitution for a seized thing.
- 10* I seek that the covert search warrant authorise the following:
- (a)* the return of a thing seized from the subject premises,
 - (b)* the retrieval of a thing from the subject premises placed in substitution for a thing seized from the premises,
 - (c)* the re-entry to the subject premises to return or retrieve the thing within a period longer than 7 days after the first entry under this warrant.
- 11* I seek authority for service of the occupier's notice on the occupier of the subject premises to be postponed for *[Insert period of up to 6 months]*, on the following grounds: *[Specify grounds.]*
- 12* For the purposes of entering the subject premises, I consider that it is necessary to enter premises adjoining or providing access to the subject premises (the adjoining premises) without the knowledge of the occupier of the adjoining premises, on the following grounds: *[Specify grounds.]*
- 13* The address or other description of the adjoining premises *[Specify address or other description of adjoining premises.]*
- 14* I seek that the service of the adjoining occupier's notice on the occupier of the adjoining premises be dispensed with, on the following grounds: *[Specify grounds.]*
- [15 is to be completed if a previous covert search warrant in respect of the subject premises has been issued.]*
- 15* The following are details of a previous covert search warrant issued in respect of the subject premises:

[16 and 17 are to be completed if a previous application for the warrant has been made and refused. Attach a copy of the previous application to this Form.]

16* The following are details of the refusal of a previous application:

17* The additional information that I consider justifies the making of this further application is:

18* I seek that a certificate pursuant to clause 11A of the *Law Enforcement (Powers and Responsibilities) Regulation 2005* be issued, on the following grounds: [Specify grounds.]

Sworn/declared and affirmed* before me on [Date] at [Place] in the State of New South Wales.

Applicant [Print name and insert signature.]

Justice of the Peace [Print name and insert signature.]

[This application may be sworn before the eligible issuing officer to whom the application is made for the issue of the warrant. Any alterations, deletions or annexures should be initialled or signed by the applicant and witnessed by the justice of the peace.]

[* Delete if inapplicable.]

Warning

It is an offence under section 63 of the *Law Enforcement (Powers and Responsibilities) Act 2002* to give information in this application knowing it is false or misleading in a material particular. The maximum penalty is a fine of \$11,000 or 2 years imprisonment (or both).

Note. In the case of an application by telephone (but not by facsimile), this Form of application should be completed by the eligible issuing officer for record purposes as if it were made in person by the applicant but not verified on oath or affirmation or by affidavit.

Part 2 Eligible issuing officer's record of application for a covert search warrant

On [Date] at [Time], I, the undersigned eligible issuing officer, received this application for a covert search warrant.

1* [To be completed if the application was not made in person.]
The application was made by [Specify how the application was made (eg facsimile, telephone)] and I was/was not* satisfied that the warrant was required urgently and it was/was not* practicable for the application to be made in person.

2* [To be completed if the eligible issuing officer required the applicant to provide further information concerning the grounds on which the warrant was sought.]

*Further information provided by the applicant, as required by me, is attached.

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*Particulars of further information orally provided by the applicant, as required by me, are as follows: [*Specify particulars.*]

- 3 On considering the application I found/did not find* that there were reasonable grounds for issuing the warrant.
- 4 The relevant particulars of the grounds on which I relied to justify the issue of/refusal* to issue the warrant are as follows: [*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.*]
- 5 The covert search warrant was issued at [*Time*] on [*Date*].

Eligible issuing officer [*Print name and insert signature.*]

[* *Delete if inapplicable.*]

Note. Return this Form, together with a copy of the covert search warrant and a copy of the occupier's notice, to the Local Court named in the occupier's notice.

[12] Schedule 1, Forms 9 and 9A

Omit Form 9. Insert instead:

Form 9 Part 5 search warrant (other than covert search warrant)

(Clause 6 (1) (a))

(Law Enforcement (Powers and Responsibilities) Act 2002)

This search warrant expires at [*Time*] on [*Date*] and must not be used after that time.

On [*Date*], an eligible issuing officer empowered to grant search warrants under Division 2 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002*, granted this search warrant authorising [*Name and rank*] of [*Place of work*] (the applicant), a police officer, and all other police officers, as follows:

- 1 To enter the premises known as [*Address*] being a [*Description of premises (eg dwelling house)*].
- 2* To search those premises for any of the following things: [*List and describe the things to be searched for with particularity. If space is insufficient, continue overleaf or attach a separate sheet.*]
The applicant has reasonable grounds for believing that those things are connected with the following searchable offences: [*Specify relevant offences.*]
- 3* To search those premises in connection with the following child prostitution offence(s): [*Specify the offences under the Crimes Act 1900 in relation to which the search is to be made.*]

This search warrant may be executed:

- (a)* only by day (ie between 6 am and 9 pm)

(b)* by day (ie between 6 am and 9 pm) or night (ie between 9 pm and 6 am).

[* *Delete if inapplicable.*]

In executing this search warrant a police officer may exercise the powers provided by the *Law Enforcement (Powers and Responsibilities) Act 2002*. These include the following powers:

- (a) to enter the named premises,
- (b) to search for the things (if any) mentioned in this warrant,
- (c) to use any persons necessary to assist in the execution of the warrant,
- (d) to use such force as is reasonably necessary to enter the premises,
- (e) to break open any receptacle in or on the premises for the purposes of the search of the premises if it is reasonably necessary to do so,
- (f) to search any persons found in or on the premises who are reasonably suspected of having a thing mentioned in this warrant,
- (g) to arrest any persons found in or on the premises whom a police officer suspects on reasonable grounds of having committed an offence,
- (h) to seize, detain, remove from the premises or guard anything mentioned in this warrant and any other thing found by a police officer in the course of executing this warrant that the police officer believes on reasonable grounds is connected with any offence,
- (i) if the warrant is issued in relation to a child prostitution offence—to make in the premises inquiries relating to any such offence,
- (j) to disable any alarm, camera or surveillance device at the premises,
- (k) to pacify any guard dog at the premises,
- (l) to render safe any dangerous article found in or on the premises,
- (m) to operate electronic and other equipment brought to the premises or at the premises to examine a thing found at the premises,
- (n) to move a thing found at the premises to another place for examination in order to determine whether it is or contains a thing that may be seized,
- (o) to operate equipment at the premises to access data (including data held at premises other than the subject premises),
- (p) to do anything that it is reasonably necessary to do for the purpose of preventing the loss or destruction of, or damage to, any thing connected with an offence that the police believe on reasonable grounds to be at those premises, including by blocking any drains at or used in connection with the premises.

Signed [*Insert signature.*]

Date

[The eligible issuing officer should sign and date the warrant and initial any corrections. In the case of a telephone search warrant, in circumstances where the warrant is issued but not furnished to the applicant (for example, because

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facsimile facilities are not available), the applicant is to complete this Form of warrant in the terms dictated by the eligible issuing officer and write on it the date and time when the warrant was signed.]

Form 9A Covert search warrant

(Clause 6 (1) (a1))

(Law Enforcement (Powers and Responsibilities) Act 2002)

Part 1 Information about this covert search warrant

This covert search warrant expires at [Time] on [Date] and must not be used after that time.

On [Date], an eligible issuing officer empowered to grant covert search warrants under Division 2 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002*, granted this covert search warrant authorising [Name and rank or position] of [Place of work] (the applicant), any police officer, any member of staff of the Police Integrity Commission and any member of staff of the New South Wales Crime Commission [*Delete any that are not applicable*], as follows:

- 1 To enter the premises known as [Address] being a [Description of premises (eg dwelling house)].
- 2 To search those premises for any of the following things: [List and describe the things to be searched for with particularity. If space is insufficient, continue overleaf or attach a separate sheet.]
The applicant has reasonable grounds for suspecting that those things are of a kind connected with the offence(s) of: [Specify relevant offences.]

This covert search warrant may be executed by day or by night.

In executing this covert search warrant, the following powers may be exercised under the *Law Enforcement (Powers and Responsibilities) Act 2002*. These include the following powers:

- (a) to enter the named premises with or without the knowledge of any occupier of the premises,
- (b) to search for the things (if any) mentioned in this warrant with or without the knowledge of any occupier of the premises,
- (c) to use any persons necessary to assist in the execution of the warrant,
- (d) to use such force as is reasonably necessary to enter the premises,
- (e) to break open any receptacle in or on the premises for the purposes of the search of the premises if it is reasonably necessary to do so,
- (f) to search any persons found in or on the premises who are reasonably suspected of having a thing mentioned in this warrant,
- (g) to arrest any persons found in or on the premises whom a police officer suspects on reasonable grounds of having committed an offence,

- (h) to seize, detain, remove from the premises or guard anything mentioned in this warrant and any other thing found by an executing officer in the course of executing this warrant that the executing officer believes on reasonable grounds is connected with any offence,
- (i) if the warrant is issued in relation to a child prostitution offence—to make in the premises inquiries relating to any such offence,
- (j) to disable any alarm, camera or surveillance device at the premises,
- (k) to pacify any guard dog at the premises,
- (l) to do anything that it is reasonably necessary to do for the purpose of preventing the loss or destruction of, or damage to, any thing connected with an offence that an executing officer believes on reasonable grounds to be at those premises, including by blocking any drains at or used in connection with the premises,
- (m) to impersonate another person for the purposes of executing the warrant,
- (n) to do anything else that is reasonable for the purpose of concealing anything done in the execution of the warrant from the occupier of the premises, including the following [*Insert powers*],
- (o) to render safe any dangerous article found in or on the premises,
- (p) to operate electronic and other equipment brought to the premises or at the premises to examine a thing found at the premises,
- (q) to move a thing found at the premises to another place for examination in order to determine whether it is or contains a thing that may be seized,
- (r) to operate equipment at the premises to access data (including data held at premises other than the subject premises).

Part 2 Additional information

- 1* This covert search warrant authorises [*Name and rank or position*] of [*Place of work*] (the applicant), any police officer, any member of staff of the Police Integrity Commission and any member of staff of the New South Wales Crime Commission [*Delete any that are not applicable*], to enter the following premises that adjoins or provides access to the subject premises specified in Part 1 without the knowledge of the occupier of the adjoining premises: [*Specify address or other description of adjoining premises.*]
- 2* The name of the occupier of the subject premises is [*Name*].
- 3* The following persons are believed to have committed, or to be intending to commit, the searchable offence(s) specified in Part 1: [*Insert names.*]
- 4 The occupier of the subject premises is/is not [*Delete whichever is not applicable*] believed to be knowingly concerned with the commission of the searchable offence(s) specified in Part 1.
- 5 This covert search is subject to the following conditions: [*Specify conditions.*]

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6 The following kinds of things may be placed in substitution for a thing seized from the subject premises: [*Specify kinds of things.*]

7* This covert search warrant authorises the following:

- (a)* the return of a thing seized from the subject premises,
- (b)* the retrieval of a thing from the subject premises placed in substitution for a thing seized from the premises,
- (c)* the re-entry to the subject premises to return or retrieve the thing, but only within [*Insert period*] of the first entry under this warrant.

[* *Delete if inapplicable.*]

Signed [*Insert signature.*]

Date

[*The eligible issuing officer should sign and date the warrant and initial any corrections. In the case of a telephone search warrant, in circumstances where the warrant is issued but not furnished to the applicant (for example, because facsimile facilities are not available), the applicant is to complete this Form of warrant in the terms dictated by the eligible issuing officer and write on it the date and time when the warrant was signed.*]

[13] Schedule 1, Forms 17, 17A and 17B

Omit Form 17. Insert instead:

Form 17 Occupier's notice for Part 5 search warrant (other than covert search warrant)

(Clause 7 (a))

(Law Enforcement (Powers and Responsibilities) Act 2002)

A search warrant has been issued by an eligible issuing officer. It gives the authority and power to the police to enter and search the premises at [*Address*], being a [*Description of premises (eg dwelling house)*].

Expiry

The search warrant will expire at [*Time*] on [*Date*] / expired on at [*Time*] on [*Date*] [*Delete whichever is not applicable.*]

Warnings

1. You have the right to inspect the search warrant, but you must not hinder or obstruct the search, as to do so may be a criminal offence. Under section 52 of the *Law Enforcement (Powers and Responsibilities) Act 2002*, the maximum penalty for obstructing or hindering a search without reasonable excuse is a fine of \$11,000 or 2 years imprisonment (or both).

2. It is an offence under section 63 (1A) of the *Law Enforcement (Powers and Responsibilities) Act 2002* to give information in this notice knowing it is false

or misleading in a material particular. The maximum penalty is a fine of \$11,000 or 2 years imprisonment (or both).

Powers given by the search warrant

This search warrant authorises police to use such force as is reasonably necessary to enter the premises and to carry out the purposes of the warrant.

The things the police are empowered to search for are: [*If space is insufficient, continue overleaf or attach a separate sheet.*]

The police can seize, detain, remove from the premises or guard any of the things mentioned in the warrant and anything that they find, while executing the search warrant, that is believed on reasonable grounds to be connected with any offence.

The police also have the power to:

- (a) break open any receptacle in or on the premises for the purposes of the search of the premises if it is reasonably necessary to do so, and
- (b) search any persons on the premises who are reasonably suspected of having a thing that is mentioned in the warrant, and
- (c) arrest any person who is reasonably suspected of committing an offence, and
- (d) if the warrant is issued in relation to a child prostitution offence—make inquiries relating to any such offence, and
- (e) disable any alarm, camera or surveillance device at the premises, and
- (f) pacify any guard dog at the premises, and
- (g) render safe any dangerous article found in or on the premises, and
- (h) operate electronic and other equipment brought to the premises or at the premises to examine a thing found at the premises, and
- (i) move a thing found at the premises to another place for examination in order to determine whether it is or contains a thing that may be seized, and
- (j) operate equipment at the premises to access data (including data held at premises other than the subject premises), and
- (k) do anything that it is reasonably necessary to do for the purpose of preventing the loss or destruction of, or damage to, any thing connected with an offence that the police believe on reasonable grounds to be at those premises, including by blocking any drains at or used in connection with the premises.

Issue details

The search warrant was granted by an eligible issuing officer under the *Law Enforcement (Powers and Responsibilities) Act 2002* on [Date] at [Time].

The warrant was issued on the application of [Name and rank] of [Place of work].

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Basis for the issue of the warrant

The warrant was granted on the basis that the eligible issuing officer found that there were reasonable grounds for the issue of the warrant and, in particular, that the applicant had reasonable grounds to believe that:

- (a)* there were on the premises the things listed above, which were things connected with the offence of: [*Specify offence.*]
- (b)* a child prostitution offence has been, is being, or will be, committed on or with respect to the premises.

[* *Delete if inapplicable.*]

Challenging the issue of the warrant or the conduct of the search

If you are dissatisfied with the issue of the warrant or the conduct of the search, you should seek legal advice. This advice may assist you to decide whether your rights have been infringed and what action you can take. If your rights have been infringed you may be entitled to a legal remedy.

You should keep this notice as it will assist you if you seek advice.

Limitations on the powers conferred

The following limitations apply to the warrant:

- (a) the warrant must be executed before the date and time of the expiry given above,
- (b) any force used to enter the premises must be reasonably necessary,
- (c) the warrant must be executed between 6 am and 9 pm unless the warrant states that it may be executed by day or night,
- (d) the warrant must be shown to you if you ask to see it,
- (e) nothing other than the things mentioned in the warrant can be seized unless it was found by a police officer while executing the search and the officer believes on reasonable grounds that it is connected with any offence (not including a thing that may be moved to another place for examination in order to determine whether it is or contains a thing that may be seized).

Inspection

The application for the warrant, written reasons for the issue of the warrant and other associated documents are to be held at [*Insert the Local Court to which the issuing eligible issuing officer is attached or to which it is intended to forward the documentation.*] You may seek to inspect those documents by arrangement with that Court. You should produce this notice at the Court when seeking to inspect those documents.

Signed [*Insert signature.*] [*In the case of a notice relating to a telephone search warrant, in circumstances where the warrant is issued but the notice is not furnished to the applicant (for example, because facsimile facilities are not*

available), the applicant officer is to complete this Form of notice in the terms dictated by the eligible issuing officer.]

Date

Form 17A Occupier's notice for covert search warrant

(Clause 7 (a1))

(Law Enforcement (Powers and Responsibilities) Act 2002)

A covert search warrant has been issued by an eligible issuing officer. It gives the authority and power to an executing officer to enter and search the premises at [Address], being a [Description of premises (eg dwelling house)].

Expiry

The covert search warrant will expire at [Time] on [Date].

Warning

1. You must not hinder or obstruct the search, as to do so may be a criminal offence. Under section 52 of the *Law Enforcement (Powers and Responsibilities) Act 2002*, the maximum penalty for obstructing or hindering a search without reasonable excuse is a fine of \$11,000 or 2 years imprisonment (or both).
2. It is an offence under section 63 (1A) of the *Law Enforcement (Powers and Responsibilities) Act 2002* to give information in this notice knowing it is false or misleading in a material particular. The maximum penalty is a fine of \$11,000 or 2 years imprisonment (or both).

Powers given by the covert search warrant

In executing this covert search warrant an executing officer may exercise the powers provided by the *Law Enforcement (Powers and Responsibilities) Act 2002*. These include the following powers:

- (a) to enter the named premises with or without the knowledge of any occupier of the premises,
- (b) to search for the following things with or without the knowledge of any occupier of the premises: [If space is insufficient, continue overleaf or attach a separate sheet.],
- (c) to use any persons necessary to assist in the execution of the warrant,
- (d) to use such force as is reasonably necessary to enter the premises,
- (e) to break open any receptacle in or on the premises for the purposes of the search of the premises if it is reasonably necessary to do so,
- (f) to search any persons found in or on the premises who are reasonably suspected of having a thing mentioned in this warrant,
- (g) to arrest any persons found in or on the premises whom a police officer suspects on reasonable grounds of having committed an offence,

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- (h) to seize, detain, remove from the premises or guard anything mentioned in this warrant and any other thing found by a police officer in the course of executing this warrant that the police officer believes on reasonable grounds is connected with any offence,
- (i) if the warrant is issued in relation to a child prostitution offence—to make in the premises inquiries relating to any such offence,
- (j) to disable any alarm, camera or surveillance device at the premises,
- (k) to pacify any guard dog at the premises,
- (l) to do anything that it is reasonably necessary to do for the purpose of preventing the loss or destruction of, or damage to, any thing connected with an offence that an executing officer believes on reasonable grounds to be at those premises, including by blocking any drains at or used in connection with the premises,
- (m) to impersonate another person for the purposes of executing the warrant,
- (n) to do anything that is reasonably necessary to do to render safe any dangerous article found in or on the premises,
- (o) to do anything else that is reasonable for the purpose of concealing anything done in the execution of the warrant from the occupier of the premises, including the following [*Insert powers*],
- (p) to render safe any dangerous article found in or on the premises,
- (q) to operate electronic and other equipment brought to the premises or at the premises to examine a thing found at the premises,
- (r) to move a thing found at the premises to another place for examination in order to determine whether it is or contains a thing that may be seized,
- (s) to operate equipment at the premises to access data (including data held at premises other than the subject premises).

Issue details

The covert search warrant was granted by an eligible issuing officer under the *Law Enforcement (Powers and Responsibilities) Act 2002* on [*Date*] at [*Time*]. The warrant was issued on the application of [*Name and rank or position*] of [*Place of work*].

Basis for the issue of the warrant

The warrant was granted on the basis that the eligible issuing officer found that there were reasonable grounds for the issue of the warrant and, in particular:

- (a) that the applicant had reasonable grounds to suspect that there were on the premises the things listed above, which were things connected with the offence of: [*Specify offence.*]
- (b) that the applicant considered it necessary for the entry and search of the premises to be conducted without the knowledge of any occupier of the premises.

Challenging the issue of the warrant or the conduct of the search

If you are dissatisfied with the issue of the warrant or the conduct of the search, you should seek legal advice. This advice may assist you to decide whether your rights have been infringed and what action you can take. If your rights have been infringed you may be entitled to a legal remedy.

You should keep this notice as it will assist you if you seek advice.

Limitations on the powers conferred

The following limitations apply to the warrant:

- (a) the warrant must be executed before the date and time of the expiry given above,
- (b) any force used to enter the premises must be reasonably necessary,
- (c) nothing other than the things mentioned in the warrant can be seized unless it was found by a executing officer while executing the search and the officer believes on reasonable grounds that it is connected with any offence (not including a thing that may be moved to another place for examination in order to determine whether it is or contains a thing that may be seized).

Inspection

The application for the warrant, written reasons for the issue of the warrant and other associated documents are to be held at [*Insert the appropriate Supreme Court registry.*] You may seek to inspect those documents by arrangement with that Court. You should produce this notice at the Court when seeking to inspect those documents.

Note. Clause 11A of the *Law Enforcement (Powers and Responsibilities) Regulation 2005* provides that the eligible issuing officer may determine that certain documents are not to be made available for inspection.

Signed [*Insert signature.*] [*In the case of a notice relating to a telephone search warrant, in circumstances where the warrant is issued but the notice is not furnished to the applicant (for example, because facsimile facilities are not available), the applicant officer is to complete this Form of notice in the terms dictated by the eligible issuing officer.*]

Date

Form 17B Adjoining occupier's notice for covert search warrant

(Clause 7A)

(Law Enforcement (Powers and Responsibilities) Act 2002)

A covert search warrant has been issued by an eligible issuing officer. It gives the authority and power to an executing officer to enter and search the premises (the subject premises) at [*Address*], being a [*Description of premises (eg dwelling house)*].

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The warrant was granted by an eligible issuing officer under the *Law Enforcement (Powers and Responsibilities) Act 2002* on [Date] at [Time].

The warrant was issued on the application of [Name and rank or position] of [Place of work].

The warrant also gives the authority to an executing officer to enter the following premises that adjoins or provides access to the subject premises without the knowledge of the occupier of the adjoining premises: [Specify address or other description of adjoining premises.]

Signed [Insert signature of applicant.]

Date

[14] Schedule 1, Forms 20, 20A and 20B

Omit Form 20. Insert instead:

Form 20 Report to eligible issuing officer about execution of warrant (other than covert search warrant)

(Clause 9 (1))

(Law Enforcement (Powers and Responsibilities) Act 2002)

Note. This report must be made within 10 days after the execution of the warrant or the expiry of the warrant, whichever first occurs.

This report is made to the eligible issuing officer who issued the attached warrant. [Unless completed on the back of the warrant, attach the original warrant issued by the eligible issuing officer or telephone warrant completed by the applicant.]

- *1 The warrant was not executed for the following reasons:
- *2 The warrant was executed on [Date].
- *3 [To be completed unless 4 applies.] The warrant was executed at [Specify time at which execution of warrant was completed.]
- *4 [To be completed if the warrant authorised the use of a dog for general drug detection.] The warrant was executed during the period/periods* of [Specify period/periods.]
- *5 The result of the execution of the warrant (including a description of the things seized) is briefly as follows: [If a receipt is given for anything seized, attach a copy.]
- *6 The things seized are now in the custody of [Specify the person who has responsibility for the safekeeping of the things seized. Specify the place where the things are held unless specifying the place where they are held would adversely affect the security of the things seized.]
- *7 The occupier's notice was not served/served on* [Specify manner of service and on whom notice was served.]

[* Delete if inapplicable.]

Signed [*Print name and insert signature.*]

Date

Rank or designation

Place of work

Date of receipt of report by eligible issuing officer

Eligible issuing officer [*Print name and insert signature.*]

Note. On completion of the report, forward the report and attachments to the Local Court named in the Occupier's Notice.

Form 20A Report to eligible issuing officer about execution of covert search warrant

(Clause 9A (1))

(Law Enforcement (Powers and Responsibilities) Act 2002)

Note. This report must be made within 10 days after the execution of the covert search warrant or the expiry of the warrant, whichever first occurs.

This report is made to the eligible issuing officer who issued the attached warrant. [*Unless completed on the back of the warrant, attach the original warrant issued by the eligible issuing officer or telephone warrant completed by the applicant.*]

- *1 The warrant was not executed for the following reasons:
- *2 The warrant was executed at [*Specify the address or other description of the subject premises.*]
- *3 The warrant was executed on [*Date*].
- *4 The warrant was executed at [*Specify time at which execution of warrant was completed.*]
- *5 The person in charge when the warrant was executed was [*Specify name or code-name.*]
- *6 The persons who entered the subject premises to assist in the execution of the warrant were, and the nature of the assistance provided was as follows: [*Specify name(s) or code-name(s) and nature of assistance in relation to each person.*]
- *7 The following powers were exercised under the warrant: [*Specify powers.*]
- *8 The result of the execution of the warrant (including a description of the things seized, placed in substitution for a seized thing or examined and any data accessed under section 75B of the *Law Enforcement (Powers and Responsibilities) Act 2002*) is briefly as follows:
- *9 The things seized are now in the custody of [*Specify the person who has responsibility for the safekeeping of the things seized. Specify the place where the things are held unless specifying the place where they are held would adversely affect the security of the things seized.*]

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[* *Delete if inapplicable.*]

Signed [*Print name and insert signature.*]

Date

Rank or position

Place of work

Date of receipt of report by eligible issuing officer

Eligible issuing officer [*Print name and insert signature.*]

Note. On completion of the report, forward the report and attachments to the Supreme Court registry named in the Occupier's Notice.

Form 20B Report to eligible issuing officer about return or retrieval of thing following execution of covert search warrant

(Clause 9A (2))

(Law Enforcement (Powers and Responsibilities) Act 2002)

Note. This report must be made within 10 days after the entry to the premises the subject of a covert search warrant for the purposes of retrieving or returning a thing under section 49A of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

This report is made to the eligible issuing officer who issued the attached warrant. [*Unless completed on the back of the warrant, attach the original warrant issued by the eligible issuing officer or telephone warrant completed by the applicant.*]

*1 The warrant was executed at [*Specify the address or other description of the subject premises.*]

*2 The warrant was executed on [*Date*].

*3 The subject premises were re-entered on [*Date*].

*4 The thing was not returned or retrieved for the following reasons:

*5 The thing returned or retrieved was: [*Set out a brief description of thing.*]

*6 The persons who entered the premises for the purposes of the return or retrieval of the thing are [*Specify names or code-names.*]

*7 The persons who entered the premises to assist in the return or retrieval of the thing are, and the nature of the assistance provided was, as follows: [*Specify names or code-names and nature of assistance in relation to each person.*]

[* *Delete if inapplicable.*]

Signed [*Print name and insert signature.*]

Date

Rank or position

Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Regulation 2009

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Place of work

Date of receipt of report by eligible issuing officer

Eligible issuing officer [*Print name and insert signature.*]

Note. On completion of the report, forward the report and attachments to the Supreme Court registry named in the Occupier's Notice.

[15] Schedule 1, Form 21

Omit "authorised officer" wherever occurring.

Insert instead "eligible issuing officer".