

# Crimes (Detention after Arrest) Regulation 1998

[1998-63]



New South Wales

## Status Information

### Currency of version

Repealed version for 30 June 2003 to 31 August 2006 (accessed 19 November 2024 at 17:39)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Regulation was repealed by sec 10 (2) of the [Subordinate Legislation Act 1989 No 146](#) with effect from 1.9.2006.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 September 2006

# Crimes (Detention after Arrest) Regulation 1998



New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	4
1 Name of Regulation .....	4
2 Commencement .....	4
3 Definitions .....	4
4 Support person .....	5
5 Vulnerable persons .....	5
6 Notes .....	6
<b>Part 2 Custody managers</b> .....	6
<b>Division 1 Custody managers appointed by Commissioner of Police</b> .....	6
7 Designation of police stations and other places to be used for detaining persons .....	6
8 Appointment of custody managers for designated police stations and designated places of detention .....	7
9 Custody managers at non-designated police stations .....	7
10 Where no custody manager is available .....	7
11 Order of preference in relation to custody managers .....	7
<b>Division 2 Custody managers for New South Wales Crime Commission or Australian Crime Commission investigations</b> .....	8
12 Custody managers for New South Wales Crime Commission or Australian Crime Commission investigations .....	8

<b>Division 3 General</b> .....	9
13 Custody managers not prevented from exercising other functions .....	9
14 Guidelines for custody managers and other police officers .....	9
<b>Part 3 Custody records</b> .....	9
15 Separate record for each detained person .....	9
16 Inspection of custody record .....	9
17 Additional matters to be recorded in custody record.....	10
18 Entry of officer’s name and rank .....	10
19 Right to inspect custody record .....	11
<b>Part 4 General provisions for vulnerable persons</b> .....	11
20 Custody manager to assist vulnerable person.....	11
21 Support person may be present .....	11
22 Rights to support person and to consult with other persons .....	12
23 Child cannot waive right to support person.....	12
24 Waiting time for support person to be disregarded in calculating investigation period.....	12
25 Additional information to be included in detention warrant application .....	13
26 Support persons and legal practitioners at interviews .....	13
<b>Part 5 Special provisions for vulnerable persons</b> .....	13
27 Person responsible for welfare of certain detained persons to be contacted .....	13
28 Legal representation and legal aid for Aboriginal persons or Torres Strait Islanders .....	14
29 Cautioning .....	14
<b>Part 6 General</b> .....	14
30 Forms for detention warrants .....	14
31 Record of detention warrant applications.....	14
<b>Schedule 1 Guidelines for custody managers and other police officers</b> ...	15
<b>Schedule 2 Forms</b> .....	17

# Crimes (Detention after Arrest) Regulation 1998



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Crimes (Detention after Arrest) Regulation 1998*.

### 2 Commencement

This Regulation commences on 9 February 1998.

### 3 Definitions

In this Regulation:

**aboriginal legal aid organisation** means an organisation the name of which is included in a list maintained by the Minister for Aboriginal Affairs, being a list of organisations that provide legal assistance to Aboriginal persons and Torres Strait Islanders.

**child** means a person who is under the age of 18 years.

**custody record** means the record required to be kept by section 356V of the Act.

**detained person** means a person who is detained under Part 10A of the Act.

**impaired intellectual functioning** means:

- (a) total or partial loss of a person's mental functions, or
- (b) a disorder or malfunction that results in a person learning differently from a person without the disorder or malfunction, or
- (c) a disorder, illness or disease that affects a person's thought processes, perceptions of reality, emotions or judgement, or that results in disturbed behaviour.

**impaired physical functioning** means:

- (a) total or partial loss of a person's bodily functions or of part of a person's body, or
- (b) the presence in the person's body of organisms causing or capable of causing disease or illness, or

(c) the malfunction, malformation or disfigurement of part of a person's body.

**support person** has the meaning given by clause 4.

**the Act** means the *Crimes Act 1900*.

**vulnerable person** has the meaning given by clause 5.

#### 4 Support person

(1) A person can be a support person for a detained person for the purposes of this Regulation only if the person is aged 18 years or over and is:

- (a) in the case of a detained person who is a child:
  - (i) a parent or guardian of the child or a person who has the lawful custody of the child, but not the father or mother of the child if the father or mother has neither guardianship nor custody of the child, or
  - (ii) a person who has the care of the child, or
  - (iii) an adult (other than a police officer) who has the consent of a person referred to in subparagraph (i) or (ii) to be the support person for the child, or
  - (iv) if the child is of or above the age of 16 years—an adult (other than a police officer) who has the consent of the child to be the support person for the child, or
  - (v) a legal practitioner of the child's own choosing, or
- (b) in the case of a detained person who is not a child:
  - (i) a guardian or any other person who is responsible for the care of the detained person, or
  - (ii) a relative, friend or any other person (other than a police officer) who has the consent of the detained person to be the support person for the detained person, or
  - (iii) if none of the persons mentioned in subparagraph (i) or (ii) is applicable or readily available—a person (other than a police officer) who has expertise in dealing with vulnerable persons of the category, or a category, to which the person belongs.

#### 5 Vulnerable persons

(1) A person who falls within any of the following categories (referred to in this Regulation as **categories of vulnerability**) is a **vulnerable person** for the purposes of this Regulation:

- (a) children,
  - (b) persons who have impaired intellectual functioning,
  - (c) persons who have impaired physical functioning,
  - (d) persons who are Aboriginal persons or Torres Strait Islanders,
  - (e) persons who are of non-English speaking background.
- (2) Pursuant to section 356A of the Act, the application of Part 10A of the Act to vulnerable persons is modified by the provisions of Parts 4 and 5 of this Regulation.
- (3) However, the requirements of this Regulation with respect to a detained person who is in a particular category of vulnerability do not apply if the custody manager believes on reasonable grounds that the person is not in that category of vulnerability.
- (4) Further, the requirements of this Regulation with respect to persons who have impaired physical functioning do not apply if the custody manager believes on reasonable grounds that the nature or extent of the impairment is so minor that the person will not be disadvantaged by it to any significant extent with respect to their participation in any investigative procedure (in comparison with members of the community generally).
- (5) If a detained person falls within more than one category of vulnerability, the requirements of this Regulation with respect to each of those categories must be satisfied in respect of the person.

## 6 Notes

The explanatory note and table of contents do not form part of this Regulation.

## Part 2 Custody managers

### Division 1 Custody managers appointed by Commissioner of Police

#### 7 Designation of police stations and other places to be used for detaining persons

- (1) The Commissioner of Police is to designate police stations and other places of detention in the State for the purposes of Part 10A of the Act.
- (2) A police station or other place of detention is not to be designated unless it appears to the Commissioner to provide, or have access to, sufficient facilities for the purpose of the detention of persons under that Part.
- (3) Police stations and other places of detention designated under this clause are referred to in this Division as ***designated police stations*** and ***designated places of detention***.

- (4) The Commissioner may delegate to another member of the Police Service the Commissioner's functions under this clause, other than this power of delegation.

## **8 Appointment of custody managers for designated police stations and designated places of detention**

- (1) The Commissioner of Police is to appoint one or more police officers (***appointed custody managers***) to act as custody managers at each designated police station and each designated place of detention.
- (2) At a designated police station or designated place of detention, only an appointed custody manager may act as custody manager unless an appointed custody manager is not available to act.
- (3) If an appointed custody manager is not available to act, any police officer of or above the rank of Sergeant or the officer for the time being in charge of the designated police station or designated place of detention may act as custody manager, but not if the officer is the arresting or investigating officer.
- (4) The Commissioner may delegate to another member of the Police Service the Commissioner's functions under this clause, other than this power of delegation.

## **9 Custody managers at non-designated police stations**

If a detained person is taken to a police station that is not a designated police station, any police officer of or above the rank of Sergeant or the officer for the time being in charge of the station may act as custody manager, but not if the officer is the arresting or investigating officer.

## **10 Where no custody manager is available**

- (1) In a situation where no police officer is available to act as custody manager at a police station or designated place of detention in accordance with clause 8 or 9, any other police officer may act as custody manager, but not if the officer is the arresting or investigating officer.
- (2) If no other police officer is available to act as custody manager in accordance with subclause (1), an arresting or investigating officer may act as custody manager, but only after obtaining written permission to do so from a police officer holding the position of duty officer at a designated police station. Written permission for the purposes of this subclause may be obtained by facsimile.

## **11 Order of preference in relation to custody managers**

- (1) A police station or place of detention to which a detained person is taken to be detained must be a designated police station, or designated place of detention, at which there is an appointed custody manager who is available to act.

- (2) If it is not reasonably practicable to comply with subclause (1), the detained person can instead be detained at a designated police station, or designated place of detention, at which there is a police officer who (while not an appointed custody manager) is available to act as custody manager.
- (3) If it is not reasonably practicable to comply with subclause (1) or (2), the detained person can instead be detained at any police station or place of detention at which there is a police officer who is available to act as custody manager.
- (4) If it is not reasonably practicable to comply with subclause (1), (2) or (3), the detained person can be detained at any place of detention.
- (5) This clause does not apply if the person detained is detained by a police officer in the officer's capacity as a member of the staff of the New South Wales Crime Commission or a member of the staff of the Australian Crime Commission, as referred to in clause 12.

## **Division 2 Custody managers for New South Wales Crime Commission or Australian Crime Commission investigations**

### **12 Custody managers for New South Wales Crime Commission or Australian Crime Commission investigations**

- (1) A police officer who is a member of the staff of the Commission or a member of the staff of the ACC may act as custody manager in respect of investigations conducted by the Commission or the ACC respectively, but not if the officer is the arresting or investigating officer.
- (2) If no other police officer who is a member of the staff of the Commission or a member of the staff of the ACC is available to act as custody manager in respect of the investigation concerned, an arresting or investigating officer may act as custody manager, but only after obtaining written permission to do so:
  - (a) in the case of Commission investigations—from a person holding the position of Commissioner, Director, Investigations, or Assistant Director, Investigations, of the Commission, or
  - (b) in the case of ACC investigations—from a person holding the position of Manager, Investigations, of the ACC.
- (3) Written permission for the purposes of this clause may be obtained by facsimile.
- (4) In this clause:

**ACC** means the Australian Crime Commission established under the [Australian Crime Commission Act 2002](#) of the Commonwealth.

**Commission** means the New South Wales Crime Commission established under the



*New South Wales Crime Commission Act 1985.*

**a member of the staff of the ACC** has the same meaning as it has in the *Australian Crime Commission Act 2002* of the Commonwealth.

**a member of the staff of the Commission** has the same meaning as in the *New South Wales Crime Commission Act 1985*.

## **Division 3 General**

### **13 Custody managers not prevented from exercising other functions**

The provisions of this Part are not to be construed so as to prevent a police officer who is acting as custody manager from also exercising:

- (a) any function in connection with the identification of a detained person, or
- (b) any function under the provisions of Part 2 of the *Road Transport (Safety and Traffic Management) Act 1999* (such as carrying out a breath analysis).

### **14 Guidelines for custody managers and other police officers**

Custody managers and all police officers must have regard to the guidelines set out in Schedule 1 in the exercise and performance of their powers, authorities, duties and functions under Part 10A of the Act and this Regulation.

## **Part 3 Custody records**

### **15 Separate record for each detained person**

- (1) A separate custody record must be opened as soon as practicable for each detained person who is detained at a police station or other place of detention.
- (2) A custody record must be in writing or in electronic form.
- (3) All entries in a custody record must include the time at which the entry is made.
- (4) The time of the event to which an entry in the custody record relates must also be included if the entry is not made within a reasonable time of the occurrence of the event.

### **16 Inspection of custody record**

- (1) The detained person must be permitted to inspect the custody record on request unless the request is unreasonable or cannot reasonably be complied with.
- (2) A legal practitioner, consular official or support person must be permitted to consult the custody record of a detained person as soon as practicable after the legal practitioner, consular official or support person arrives at the place of detention, but

only if the detained person authorises such inspection.

#### **17 Additional matters to be recorded in custody record**

- (1) In addition to the matters specified in section 356V of the Act, the custody manager must record the following particulars in the custody record for a detained person:
  - (a) in the case of a detained person who has been arrested during the previous 48 hours:
    - (i) the offence or offences for which the person was arrested during that previous 48 hours; and
    - (ii) the investigation period that remains after reduction by so much of any earlier investigation period or periods as occurred within that previous 48 hours,
  - (b) if an application is made for a detention warrant, and the detained person declines to make representations (either personally, or by his or her legal representative) to the authorised justice, the fact that the person so declined,
  - (c) if a detention warrant is issued, a copy of the warrant or form of detention warrant as the case may be,
  - (d) the time of any request to make a communication, and the time of any communication, under section 356N or 356O of the Act,
  - (e) the time of any request for information, or provision of information, pursuant to section 356Q or 356R of the Act, along with the nature of such information,
  - (f) any request by the person for an interpreter,
  - (g) any request by the person for medical treatment or medication,
  - (h) any request by the person for refreshments, toilet facilities, washing, showering or bathing facilities,
  - (i) if the person's clothing or personal effects are withheld, the reasons for withholding those items.
- (2) The custody manager must request the detained person to sign an acknowledgment as to the correctness of any entry made in the custody record pursuant to the matters referred to in section 356V (2) (d) of the Act and subclause (1) (b).

#### **18 Entry of officer's name and rank**

In the case of any action requiring the authority of an officer of a specified rank or the holder of a particular position, the officer's name and rank or the holder's name and position must be noted in the custody record.

## **19 Right to inspect custody record**

The detained person, the support person, and the person's legal representative are each to be permitted to inspect the original custody record after the detained person has been released from police custody so long as they give reasonable notice of their request to do so. A note of any such inspection is to be made in the custody record.

## **Part 4 General provisions for vulnerable persons**

### **20 Custody manager to assist vulnerable person**

The custody manager must, as far as is practicable, assist a vulnerable person in exercising the person's rights under Part 10A of the Act, including any right to make a telephone call to a legal practitioner, support person or other person.

### **21 Support person may be present**

- (1) A vulnerable person is entitled to have a support person present during any investigative procedure in which the person is to participate.
- (2) However, a person who is a vulnerable person solely as a result of being a person of non-English speaking background is entitled to have a support person present only if an interpreter would (in the absence of section 356S (3) of the Act) be required to be arranged for the person under section 356S (1) of the Act but is not required to be arranged because of section 356S (3) of the Act.
- (3) Before any such investigative procedure starts, the custody manager must inform the vulnerable person that he or she is entitled to the presence of a support person during any such investigative procedure.
- (4) If the detained person wishes to have a support person present, the custody manager must, as soon as practicable:
  - (a) give the detained person reasonable facilities to enable the person to arrange for a support person to be present, and
  - (b) allow the person to do so in circumstances in which, so far as is practicable, the communication will not be overheard.
- (5) The custody manager must defer for a reasonable period any such investigative procedure until a support person is present unless the vulnerable person has expressly waived his or her right to have a support person present.
- (6) An investigative procedure is not required to be deferred under subclause (4) for more than 2 hours to allow a support person to arrive at the place of detention.
- (7) A requirement imposed on a custody manager under this clause need not be complied with if the custody manager believes on reasonable grounds that doing so is likely to

result in:

- (a) an accomplice of the detained person avoiding arrest, or
  - (b) the concealment, fabrication, destruction or loss of evidence or the intimidation of a witness, or
  - (c) hindering the recovery of any person or property concerned in the offence under investigation, or
  - (d) bodily injury being caused to any other person.
- (8) Further, in the case of a requirement under this clause that relates to the deferral of an investigative procedure, the requirement need not be complied with if the custody manager believes on reasonable grounds that the investigation is so urgent, having regard to the safety of other persons, that the investigative procedure should not be deferred.

## **22 Rights to support person and to consult with other persons**

- (1) A vulnerable person is entitled to a support person under clause 21 or to consult with a friend, relative, guardian or independent person under section 356N (4) of the Act, but not both.
- (2) However, a friend, relative, guardian or independent person who attends the place of detention under section 356N (1) (a) (ii) of the Act at the request of the vulnerable person is not prevented by this clause from acting as a support person if the vulnerable person requests it.
- (3) A particular support person may be excluded from an investigative procedure if he or she unreasonably interferes with it. If this occurs, the detained person concerned is entitled to have another support person present.

## **23 Child cannot waive right to support person**

A vulnerable person who is a child cannot waive his or her right to have a support person present.

## **24 Waiting time for support person to be disregarded in calculating investigation period**

In addition to any time mentioned in section 356F of the Act that is not to be taken into account in determining how much of an investigation period has elapsed, the following times (to the extent that those times are times during which any investigative procedure in which the detained person is to participate is reasonably suspended or deferred) are not to be taken into account in respect of a detained person who is a vulnerable person:

- (a) any time that is required to allow the vulnerable person (or someone else on the person's behalf) to arrange for a support person to attend at the place of detention,

- (b) any time that is required to allow the support person to arrive at the place of detention.

## **25 Additional information to be included in detention warrant application**

If an application for a detention warrant is made in respect of a vulnerable person, the application for the warrant must include reference to the fact that the person is believed to be a vulnerable person, the nature of the person's vulnerability, the identity and relationship of any support person who is present, and any particular precautions that have been taken in respect of the vulnerable person.

## **26 Support persons and legal practitioners at interviews**

- (1) The custody manager is to inform a support person that a support person is not restricted to acting merely as an observer at an interview and may, among other things:
  - (a) assist and support the person being interviewed, and
  - (b) observe whether or not the interview is being conducted properly and fairly, and
  - (c) identify communication problems with the person being interviewed.
- (2) The custody manager is to give a copy of the summary of the provisions of Part 10A referred to in section 356M of the Act to:
  - (a) the support person, and
  - (b) any interpreter for the vulnerable person who attends in person at the place of detention.
- (3) If a support person or a person's legal representative is present during an interview involving a vulnerable person, the support person or legal representative is to be given an opportunity to read and sign the interview record.
- (4) Any refusal by the support person or legal practitioner to sign an interview record when given the opportunity to do so must itself be recorded.

## **Part 5 Special provisions for vulnerable persons**

### **27 Person responsible for welfare of certain detained persons to be contacted**

- (1) If a detained person is a child or a person with impaired intellectual or physical functioning, the custody manager must, as soon as practicable, attempt:
  - (a) to ascertain the identity of the person responsible for the welfare of the detained person, and
  - (b) to contact the person so responsible and advise the person of the detained

person's whereabouts and the grounds for the detention.

- (2) In the case of a detained person who has impaired physical functioning, the custody manager must, as soon as practicable, also attempt to determine any specific physical care needs of the detained person and, if reasonably practicable to do so, arrange for those needs to be provided for.

## **28 Legal representation and legal aid for Aboriginal persons or Torres Strait Islanders**

If a detained person is an Aboriginal person or Torres Strait Islander, then, unless the custody manager is aware that the person has arranged for a legal practitioner to be present during questioning of the person, the custody manager must:

- (a) immediately inform the person that a representative of an Aboriginal legal aid organisation will be notified that the person is being detained in respect of an offence, and
- (b) notify such a representative accordingly.

## **29 Cautioning**

- (1) If a detained person who is a vulnerable person is cautioned, the custody manager or other person applying the caution must take appropriate steps to ensure that the person understands the caution.
- (2) If a detained person who is a vulnerable person is cautioned in the absence of a support person, the caution must be repeated in the presence of a support person, if one attends.

## **Part 6 General**

### **30 Forms for detention warrants**

- (1) An application for a detention warrant is to be in Form 1 in Schedule 2.
- (2) A detention warrant is to be in Form 2 in Schedule 2.

### **31 Record of detention warrant applications**

- (1) When a detention warrant is issued, the application for the warrant and the record made under section 356L (1) of the Act in respect of the warrant are to be kept, for at least 6 years after the warrant was issued, at the Local Court at which it was issued or nearest to the place at which it was issued. The application and record may be destroyed after that period.
- (2) During the hours that the Local Court is open to the public, the application and record may be inspected by the detained person to whom they relate or by any other person on behalf of that person.

## **Schedule 1 Guidelines for custody managers and other police officers**

(Clause 14)

### **Part 1 General guidelines for custody managers**

#### **1 Questioning detained person**

The custody manager should not put specific questions to the detained person regarding the person's involvement in any offence.

#### **2 Consideration of whether a detained person has certain impaired intellectual functioning**

In considering whether a detained person has a total or partial loss of a person's mental functions or a disorder or malfunction that results in a person learning differently from a person without the disorder or malfunction, police officers should consider whether the detained person appears:

- (a) to have difficulty understanding questions and instructions, or
- (b) to respond inappropriately or inconsistently to questions, or
- (c) to have a short attention span, or
- (d) to receive a disability support pension, or
- (e) to reside at a group home or institution, or be employed at a sheltered workshop, or
- (f) to be undertaking education, or to have been educated at a special school or in special education classes at a mainstream school, or
- (g) to have an inability to understand the caution.

#### **3 Detained person's property**

The custody manager should ascertain what property a detained person has with him or her when the person comes to the police station or other place of detention, or had taken from him or her on arrest, and should arrange for safekeeping of the property if it remains at the police station or other place of detention.

### **Part 2 Placing of persons in cells**

#### **4 Aboriginal persons and Torres Strait Islanders (adults)**

If an Aboriginal person or Torres Strait Islander who is not a child is placed in a police cell:

- (a) wherever possible, that person should be accommodated with another Aboriginal person or Torres Strait Islander who is not a child, and

- (b) the person should not be placed alone in the cell unless there is no reasonably practicable alternative.

#### **5 Aboriginal persons and Torres Strait Islanders (children)**

- (1) An Aboriginal person or Torres Strait Islander who is a child should not be placed in a police cell except in exceptional circumstances that make it necessary for the well-being of the child.
- (2) If it is necessary to detain such a child overnight in a police cell, the custody manager should arrange for a support person to remain with the child unless it is not reasonably practicable to do so.

#### **6 Children other than Aboriginal or Torres Strait Islander children**

- (1) This clause applies to a child who is not an Aboriginal person or Torres Strait Islander.
- (2) A child to whom this clause applies should not be placed in a cell unless:
  - (a) no other secure accommodation is available and the custody manager considers that it is not practicable to supervise the child if the child is not placed in a cell, or
  - (b) the custody manager considers that a cell provides more comfortable accommodation than other secure accommodation in the police station.
- (3) Such a child should not be placed in a cell with a detained person who is not a child except in exceptional circumstances that make it necessary for the well-being of the child.

### **Part 3 Use of restraints in cells**

#### **7 Use of restraints in cells**

If a detained person is placed in a locked police cell, no additional restraint should be used within the cell unless absolutely necessary.

### **Part 4 Use of interpreters**

#### **8 Additional requirements**

- (1) A police officer should bear in mind that a person with some ability in conversational English may still require an interpreter in order to ensure that the person understands his or her legal rights.
- (2) A qualified interpreter should be preferred over a person who speaks the detained person's language but is not a qualified interpreter. A qualified interpreter is one who is accredited to professional level by the National Accreditation Authority of Translators and Interpreters in the language concerned.



(3) An interpreter should not be used as a support person.

## Schedule 2 Forms

### Form 1 Application for detention warrant

(Clause 30 (1))

(Crimes Act 1900, Part 10A)

On ....., 19.. I, .....

(name)

..... of .....

(rank)

(place of work)

apply for a warrant in respect of .....

(name of detained person)

of .....

(address)

who is aged ..... to extend the maximum investigation period for him/her\* by ..... hours and ..... minutes (excluding times that are not to be taken into account under section 356F of the *Crimes Act 1900*) from ..... am/pm\* on ..... 19..

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

1. The detained person was arrested (within the meaning of Part 10A of the *Crimes Act 1900*) at .....am/pm on .....

The nature of the offence/offences under investigation is as follows:

(specify nature of offence or offences)

2. Details of the times that under section 356F of the Act are not to be taken into account in determining how much of the investigation period has elapsed are as follows:

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

(specify the nature and duration of the times and the reasons why they are not to be taken into account)

3. The general nature of the evidence on which the detained person was arrested is as follows:

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

(specify nature of the evidence)

4. The following investigation has taken place to date:

.....  
.....

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

*(specify details)*

5. Further investigation of the offence/those offences\* is proposed as follows:

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

*(specify details)*

6. The reasons I believe that the continued detention of the detained person is reasonably necessary to complete the investigation are as follows:

*(specify reasons)*

7. The detained person has co-operated in the investigation to date as follows:

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

*(specify details)*

8. The detained person has/has not\* been informed of his or her right to make representations to the authorised justice.

9. The detained person has/has not\* requested to make representations to the authorised justice.

10. The detained person has/does not have\* legal representation.

11. *(To be completed if a previous application for the warrant has been made and refused.)+*

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

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

*(specify details)*

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

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

*(specify details)*

12. The detained person is a vulnerable person as he/she\* is a child/Aboriginal person/Torres Strait Islander/is of

non-English speaking background/has impaired intellectual/physical functioning\*.

13. (To be completed if a support person is present for the detained person.)

.....

(name of support person)

of .....

(address)

aged ..... years is present as a support person for the detained person and is

.....

(indicate relationship to the detained person)

14. The following precautions have been taken in respect of the detained person because of his/her vulnerability:

.....

.....

.....

.....

.....

(specify precautions)

Sworn/declared and affirmed\* before me on ..... 19..... at ..... in the State of New South Wales

.....(Applicant's signature)

Justice of the Peace # .....

\* Delete whichever is inapplicable

+ Attach copy of previous application to this form

# This may be sworn before the authorised justice to whom the application is made

*IT IS AN OFFENCE UNDER SECTION 356K OF THE CRIMES ACT 1900 TO GIVE INFORMATION IN THIS APPLICATION KNOWING IT IS FALSE OR MISLEADING IN A MATERIAL PARTICULAR. THE MAXIMUM PENALTY IS A \$11,000 FINE AND 2 YEARS IMPRISONMENT.*

**FOR OFFICE USE ONLY**

**(NOTE—**

In the case of an application by telephone (but not by facsimile), this form of application should be completed by the authorised justice for record purposes as if it were made in person by the applicant but not on oath.)

**Authorised justice's record of application for a detention warrant**

On ..... 19..... at ..... am/pm\*, I, the undersigned authorised justice, received this application for a detention warrant.

1. The application was made in person/by facsimile transmission/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. On considering the application I found/did not find\* that the grounds for issuing the warrant specified in section 356G (5) of the *Crimes Act 1900* were satisfied.

3. The representations (if any) made to me by or on behalf of the detained person are as follows:

.....

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

*(If warrant is issued—continue)*

4. The relevant particulars of the grounds on which I relied to justify the issue of the warrant are as follows:

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

*(specify particulars)*

5. The maximum investigation period for the detained person is extended by ..... hours and ..... minutes (excluding times that are not to be taken into account under section 356F of the *Crimes Act 1900*) from ..... am/pm\* on ..... 19..

6. The detention warrant was issued at ..... am/pm\* on ..... 19..

Signed .....(Authorised justice)

\* Delete whichever is inapplicable

**Form 2 Detention warrant**

(Clause 30 (2))

(Crimes Act 1900, Part 10A)

On ..... 19., .....

*(name of authorised justice)*

a justice authorised and empowered to issue detention warrants under Part 10A of the *Crimes Act 1900*, granted this warrant to extend the maximum investigation period in respect of

.....

*(name of detained person)*

by ..... hours and ..... minutes (excluding times that are not to be taken into account under section 356F of the *Crimes Act 1900*) from ..... am/pm\* on ..... 19..

Signed by me

.....  
*(Print name)*

.....*(Signature)*

Date ..... 19..

**(NOTE—**

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 authorised 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 authorised justice and then sign and date the warrant.)