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Statutory Rules 1997 No. 1

3/

## Mutual Assistance in Criminal Matters Regulations<sup>2</sup> (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 4 of the *Acts Interpretation Act 1901*, make the following Regulations under the *Mutual Assistance in Criminal Matters Act 1987*.

Dated 1 1997.

5 February/

1 WILLIAM DEANE/  
Governor-General

By His Excellency's Command,

1 DARYL WILLIAMS/  
Attorney-General and Minister for Justice

### 1. Commencement

1.1 These Regulations commence on the day on which the items in Schedules 1, 2 and 3 of the *Mutual Assistance in Criminal Matters Legislation Amendment Act 1996* commence.

**2. Amendment**

2.1 The Mutual Assistance in Criminal Matters Regulations are amended as set out in these Regulations.

**3. Regulation 3 (Power of Magistrate to send for witnesses and documents)**

3.1 Subregulation 3 (1):

Omit the subregulation, substitute:

“(1) A Magistrate acting under the Act may issue a summons in accordance with Form 1:

- (a) requiring a named person to attend as a witness before the Magistrate to do any of the following:
  - (i) to give evidence as required under the summons;
  - (ii) to answer questions as required under the summons;
  - (iii) to produce documents and other articles in the person’s custody or control as required under the summons; or
- (b) requiring a named person who is only to produce documents, other articles, or both:
  - (i) to attend before the Magistrate; and
  - (ii) produce the documents (if any) in the person’s custody or control; and
  - (iii) produce the other articles (if any) in the person’s custody or control.”.

3.2 Subregulation 3 (2):

After “personally” insert “or to a duly authorised person (authorised by the person to be served)”.

3.3 Add at the end of the regulation:

“(3) If service on a person cannot be effected under subregulation (2) for any reason, the Magistrate may, on application, order that, instead of service, the steps specified in the order are to be taken to bring the document to the notice of a person named in the summons.

“(4) If a Magistrate makes an order under subregulation (3), the Magistrate may order that the document be taken to have been served on the happening of a specified event, or on the expiry of any specified time.”.

**4. Regulation 4 (Duty of person to continue in attendance)**

4.1 Omit “as a witness shall”, substitute “must”.

[NOTE: The heading to regulation 5 is taken to read “**Arrest of person failing to attend**”.]

**5. Regulation 6 (Fees for person attending)**

5.1 Subregulation 6 (1):

Omit “as a witness”.

5.2 Subregulation 6 (2):

Omit “witness” (twice occurring), substitute “person”.

5.3 Subregulation 6 (3):

Omit “witness”, substitute “person named in the summons”.

**6. Regulation 8 (Offences by persons)**

6.1 Omit “as a witness shall”, substitute “must”.

**7. Regulation 9 (Offences in relation to Magistrates)**

7.1 Subparagraph 9 (d) (i):

Omit the subparagraph, substitute:

“(i) to influence improperly the Magistrate, a witness or any other person appearing before the Magistrate; or”.

**8. Regulation 10 (Protection in relation to functions under the Act)**

8.1 Subregulation 10 (4):

Omit “witness summoned”, substitute “person summoned as a witness”.

**9. Regulation 13 (Application for search warrant)**

9.1 Omit the regulation.

**10. Regulation 14 (Issue of search warrant—person or premises)**

10.1 Omit the regulation.

**11. Regulation 18 (Service of documents and proof of service)**

11.1 Omit the regulation.

**12. Schedule**

12.1 Form 1:

Omit:

“To: (*name and address of witness*).”;

substitute:

“To: (*name and address*).”.

12.2 Form 2:

Paragraph (a):

Omit:

“(*name and address of witness*)”;

substitute:

“(*name and address of person*)”.

12.3 Form 2:

Paragraph (a):

Omit “as a witness”.

12.4 Form 2:

Paragraph (b):

Omit “the witness” substitute “(*name of person*)”.

12.5 Form 2:

Paragraph (c):

Omit “the witness” (twice occurring), substitute “(*name of person*)”.

12.6 Form 2:

Omit the words after paragraph (c), substitute:

“NOW THEREFORE I, pursuant to regulation 5 of the Mutual Assistance in Criminal Matters Regulations, authorise and request you to find (*name of person*) in any State or Territory of the Commonwealth and to bring him or her before me to \* give evidence/\* answer questions/\* and/\* produce/\* documents/\* and/\* other/\* articles/ as required by the summons, and to detain him or her in custody for that purpose.

(Date)

(Signature)  
(Description)

\* Omit if inapplicable”.

12.7 Form 3:

Paragraph (b):

Omit “a thing”, substitute “evidential material”.

12.8 Form 3:

Paragraph (c):

Omit “under section 15 of of the *Mutual Assistance in Criminal Matters Act 1987*”.

12.9 Form 3:

After “hereby authorise you” insert “and any police officer acting on your behalf in this \*proceeding/\*investigation”.

12.10 Form 3:

Third footnote:

Omit “*thing*”, substitute “*evidential material*”.

12.11 Forms 4, 5 and 6:

Omit the forms.

12.12 Form 7:

Paragraph (c):

Omit “under the *Proceeds of Crime Act 1987*”.

12.13 Form 7:

Omit:

“for the search warrant requested by †.”;

substitute:

“for a search warrant under the *Proceeds of Crime Act 1987* in relation to that tainted property.”.

12.14 Form 8:

Paragraph (c):

Omit the paragraph, substitute:

“(c) † has requested me to obtain the issue of \*an order requiring that the document be produced or made available for inspection in accordance with Australian law/ \*a search warrant in respect of the offence;”.

12.15 Form 8;

Omit:

“for the order so requested by †.”;

substitute:

“\*for a production order under the *Proceeds of Crime Act 1987* in respect of the offence for the purpose of obtaining possession of the property-tracking document/\*a search warrant under the *Proceeds of Crime Act 1987* in relation to the property-tracking document.”.

12.16 Form 9:

Paragraph (a):

Omit:

“\*a serious narcotics offence, being ‡;”;

substitute:

“\*a serious narcotics offence, being ‡;  
\*a foreign organised fraud offence, being ‡;”.

12.17 Form 9:

Paragraph (a):

After:

“\*a money laundering offence in respect of proceeds of a serious narcotics offence”;

insert:

“or a foreign organised fraud offence”.

12.18 Form 9:

Paragraph (c):

Omit the paragraph, substitute:

“(c) † has requested me to obtain the issue of an order directing the financial institution to give information about transactions conducted through the account;”.

12.19 Form 9:

Omit “for the order requested by †.” substitute “for a monitoring order under the *Proceeds of Crime Act 1987* in respect of the offence for the purposes of obtaining the information requested by †.”.

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#### NOTES

1. Notified in the *Commonwealth of Australia Gazette* on
2. Statutory Rules 1988 No. ~~as amended by~~ 126.

1997. 12 February /

07.