

Criminal Investigation (Identifying People) Amendment Regulations 2014

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Criminal Investigation (Identifying People) Amendment Regulations 2014*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette* (***gazettal day***);
- (b) regulation 4 — when the *Criminal Investigation (Identifying People) Amendment Act 2013* section 28 comes into operation;
- (c) the rest of the regulations — on the day after gazettal day.

3. Regulations amended

These regulations amend the *Criminal Investigation (Identifying People) Regulations 2002*.

4. Regulation 5B inserted

After regulation 5A insert:

5B. DNA database indexes (s. 76)

- (1) In this regulation —

commencement day means the day on which the *Criminal Investigation (Identifying People) Amendment Act 2013* section 28 comes into operation;

crime scene index means an index of DNA profiles derived from material obtained from —

- (a) a place (whether within or outside Australia) where an offence was, or is reasonably suspected to have been, committed; or
- (b) a place (whether within or outside Australia) where evidence associated with, relevant to, or of assistance in investigating, an offence was situated; or

- (c) on or in the body of a person who was involved when an offence was committed, whether as a suspect for, or as a victim of, or as a witness to, the offence; or
- (d) on or in anything worn or carried by a person referred to in paragraph (c) at the time of the offence; or
- (e) anything in respect of which an offence was committed or that was used in committing, or in connection with committing, an offence,

together with information about when and where the material was obtained, but does not include the DNA profile of a person reasonably suspected to have committed the offence, if the profile was obtained from that person;

former section 76 means section 76 of the Act as in effect immediately before commencement day;

missing persons index means an index of DNA profiles derived from material that relates to, or that may relate to, a missing person, together with information about when and where the material was obtained;

offence means —

- (a) an offence under the law of this State, another State, a Territory or the Commonwealth; or
- (b) an offence under the law of a jurisdiction outside Australia the elements of which, if they had occurred in Australia, would have constituted an offence referred to in paragraph (a);

offenders index means an index of the DNA profiles obtained —

- (a) under Part 6 or 7 of the Act from suspects, if the profiles were, immediately before commencement day, lawfully in the offenders index (as defined in former section 76); or
- (b) under Part 8A of the Act, or the former Schedule 1 clause 6 (as defined in section 68A(1) of the Act), from serious offenders; or
- (c) under the corresponding law of a participating jurisdiction from people who have been convicted of an offence under the law of that jurisdiction,

together with the personal details of the people whose profiles they are;

suspects index means an index of the DNA profiles obtained —

- (a) under Part 6 or 7 of the Act from suspects; or
- (b) under the former Schedule 1 clause 6 (as defined in section 68A(1) of the Act) from remand prisoners; or
- (c) under the corresponding law of a participating jurisdiction from people who are suspected of having committed an offence under the law of that jurisdiction,

together with the personal details of the people whose profiles they are;

unknown deceased persons index means an index of the DNA profiles derived —

- (a) from material obtained from deceased people whose personal details are unknown; or
- (b) from material that relates, or may relate, to deceased people whose personal details are unknown,

together with information about when and where the material was obtained;

volunteers (limited purposes) index means an index of the DNA profiles obtained —

- (a) under Part 4 Division 2 of the Act from volunteers; or
- (b) under Part 5 of the Act from victims and witnesses; or
- (c) under the corresponding law of a participating jurisdiction from people similar to those referred to in paragraphs (a) and (b); or
- (d) under Part 4 Division 3 of the Act, or under the corresponding law of a participating jurisdiction, from deceased people,

in respect of which there are limits as to the forensic purposes for which they may be used, together with the personal details of the people whose DNA profiles they are;

volunteers (unlimited purposes) index means an index of the DNA profiles obtained —

- (a) under Part 4 Division 2 of the Act from volunteers; or
- (b) under Part 5 of the Act from victims and witnesses; or
- (c) under the corresponding law of a participating jurisdiction from people similar to those referred to in paragraphs (a) and (b); or
- (d) under Part 4 Division 3 of the Act, or under the corresponding law of a participating jurisdiction, from deceased people,

in respect of which there are no limits as to the forensic purposes for which they may be used, together with the personal details of the people whose DNA profiles they are.

(2) For the purposes of paragraph (c) of the definition of ***DNA database*** in section 76 of the Act, the following indexes are prescribed —

- (a) a crime scene index;
- (b) a missing persons index;
- (c) an offenders index;
- (d) a suspects index;
- (e) an unknown deceased persons index;
- (f) a volunteers (limited purposes) index;
- (g) a volunteers (unlimited purposes) index.

5. Schedule 3 amended

In Schedule 3 delete:

Identifying particular to be obtained	Print	Photograph	Impression	Sample of hair	D.N.A. profile
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and insert:

Identifying particular to be obtained	<input type="checkbox"/> Print <input type="checkbox"/> Photograph <input type="checkbox"/> Impression <input type="checkbox"/> Sample of hair <input type="checkbox"/> DNA profile <input type="checkbox"/> Other (describe)
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6. Schedule 4 amended

In Schedule 4 delete:

Identifying particular to be obtained	Print	Photograph	Impression	Sample of hair	D.N.A. profile
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and insert:

Identifying particular to be obtained	<input type="checkbox"/>	Print
	<input type="checkbox"/>	Measurement
	<input type="checkbox"/>	Photograph
	<input type="checkbox"/>	Impression
	<input type="checkbox"/>	Sample of hair
	<input type="checkbox"/>	DNA profile
	<input type="checkbox"/>	Other (describe)

N. HAGLEY, Clerk of the Executive Council.
