

South Australia

Supreme Court Special Applications Rules 2014

The Supreme Court Special Applications Rules 2014, dated 25th August 2014, that came into operation on 1st October 2014 (Government Gazette on 11th September 2014, p. 5115) have been varied by Supreme Court rules dated:

		<i>Gazette</i>	<i>Date of operation</i>
# 1	29 February 2016	14 April 2016, p. 1228	1 May 2016
#2	30 October 2017	28 November 2017, p 4798	18 December 2017
#3	5 May 2020	14 May 2020, p. 1182	18 May 2020

By virtue and in pursuance of section 72 of the *Supreme Court Act 1935* and all other enabling powers, we, judges of the Supreme Court of South Australia, make the following Supreme Court Special Applications Rules 2014.

Contents

Chapter 1—Preliminary

Part 1—Formal provisions

1—Citation

2—Commencement

Part 2—Interpretation

3—Interpretation

Part 3—Application of rules

4—Application of rules

5—Application of Uniform Civil Rules

Part 4—Repeal and transitional provision

6—Repeal

7—Transitional provision

Chapter 2—General procedural rules

8—*****

9—*****

10—Filing and retention of documents

11—Confidential material

12—Provision of search warrants

Chapter 3—Private applications

Part 1—Introduction

13—Application of Chapter

Part 2—Application

14—Originating application

15—Email or facsimile application

16—Telephone application

Part 3—Documents in support of application

17—Documents in support of application

Part 4—Hearing and determination

18—Hearing and determination of application

Chapter 4—*****
Chapter 5—*****
Chapter 6—*****
Chapter 7—*****
Schedule 1 – Forms (separate document)
History of Amendment

Chapter 1—Preliminary

Part 1—Formal provisions

1—Citation

These Rules may be cited as the *Supreme Court Special Applications Rules 2014*.

2—Commencement

These Rules commence on 1 October 2014.

Part 2—Interpretation

3—Interpretation

[subrule (3)(1) amended by Supreme Court Special Applications Rules 2014 (Amendment. No. 3)]

(1) In these Rules, unless the contrary intention appears, terms defined by the *Uniform Civil Rules 2020* have the meaning defined by those Rules.

(2) In these Rules, unless the contrary intention appears—

Court means the Supreme Court of South Australia;

Director means the Director of Public Prosecutions within the meaning of section 24 of the *Witness Protection Act 1996*;

[interpretation *General Civil Rules* deleted by Supreme Court Special Applications Rules 2014 (Amend. No. 3)]

Police Commissioner means the Commissioner of Police within the meaning of section 2(1) of the *Terrorism (Police Powers) Act 2005*, section 3(1) of the *Witness Protection Act 1996* or section 3 of the *Serious and Organised Crime (Control) Act 2008* or of the *Police Act 1998* as the requires;

prospective witness means a prospective witness within the meaning of section 24(1) of the *Witness Protection Act 1996*;

relevant authority means the Police Commissioner or such other person as is referred to in section 3(3) of the *Terrorism (Police Powers) Act 2005*;

Registrar means the Registrar of the Court or any other officer or employee of the Court to whom the Registrar delegates functions to be performed by the Registrar under these Rules;

search warrant means a warrant under section 31 of the *Independent Commissioner Against Corruption Act 2012*, section 16 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*; section 29 of the *Australian Crime Commission (South Australia) Act 2004* or section 22 of the *Australian Crime Commission Act 2002 (Cth)*;

[interpretation *Supplementary Rules* deleted by Supreme Court Special Applications Rules 2014 (Amend No 3)]

[interpretation inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

surveillance authority confirmation means a confirmation of a surveillance device (emergency) authority under sections 22 and 23 of the *Surveillance Devices Act 2016*;

[interpretation substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]
surveillance warrant means a surveillance device (general) warrant under sections 17 to 19 of the *Surveillance Devices Act 2016*;

[interpretation inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]
Uniform Civil Rules means the *Uniform Civil Rules 2020*;
warrant means a search warrant or surveillance warrant;
without notice means without serving or advising another party or other person of an application to be made to the Court.

Part 3—Application of rules

4—Application of rules

[rule 4 amended by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

These Rules apply to certain proceedings under the following Acts—

- (a) the *Australian Crime Commission (South Australia) Act 2004*;
- (b) the *Australian Crime Commission Act 2002 (Cth)*;
- (c) the *Criminal Investigation (Covert Operations) Act 2009*;
- (d) the *Independent Commissioner Against Corruption Act 2012*;

[paragraph 4(e) amended by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

[paragraph 4(e) deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

(e) *****

[paragraph 4(f) amended by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

[paragraph 4(f) deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

(f) *****

[paragraph 4(g) amended by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

(g) the *Surveillance Devices Act 2016*;

(h) the *Terrorism (Police Powers) Act 2005*;

[paragraph 4(i) deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

(i) *****

(j) the *Witness Protection Act 1996*.

5—Application of Uniform Civil Rules

[rule 5 amended by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

[subrule 5(1) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

(1) Unless the Court otherwise directs and subject to subrule (2), Chapters 1 to 4 of the Uniform Civil Rules apply to proceedings in the Court under these Rules.

[subrule 5(2) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

(2) To the extent of any inconsistency between these Rules and the Uniform Civil Rules, these Rules prevail.

[subrule 5(3) deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

(3) *****

[subrule 5(4) deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

(4) *****

[subrule 5(5) deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

(5) *****

Part 4—Repeal and transitional provision

6—Repeal

The following rules are repealed—

- (a) the *Listening and Surveillance Devices Rules 2005*;
- (b) the *Supreme Court Independent Commissioner Against Corruption Act Rules 2013*;
- (c) the *Supreme Court Witness Protection Act Rules 2009*;
- (d) the *Terrorism (Police Powers) (Supreme Court) Rules 2006*;
- (e) the *Terrorism (Preventative Detention) (Supreme Court) Rules 2006*.

7—Transitional provision

- (1) Unless the Court otherwise directs, these Rules apply to—
 - (a) proceedings commenced on or after the commencement date; and
 - (b) steps taken or required to be taken or matters occurring on or after the commencement date in proceedings commenced before the commencement date.
- (2) The Court may, if it thinks fit, direct that these Rules, or the Rules in force before these Rules were made, apply to a transitional proceeding or a particular step or matter in a transitional proceeding.
- (3) The repeal of the Rules referred to in rule 6 does not affect—
 - (a) the validity of any order made, or step taken under a repealed rule or step under an order made under it; or
 - (b) the admissibility of evidence obtained as a result of a step taken under a repealed rule or an order made under it.

Chapter 2—General procedural rules

[rule 8 deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

8—*****

[rule 9 deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

9—*****

10—Filing and retention of documents

[subrule 10(1) amended by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (1) Unless the Court otherwise orders, documents provided to or created by the Court in proceedings governed by Chapter 3 of these Rules are not to be filed or kept as records of the Court in the manner of court records kept under Chapter 2 Part 3 and Chapter 4 of the Uniform Civil Rules.
- (2) All envelopes required by these Rules to be sealed—
 - (a) are to be kept in a secure repository by the Registrar for the period written on the face of the envelope by the Judge who heard the relevant application and, if no period is written, for five years from the date on which the Registrar receives the envelope;
 - (b) are not to be opened except in accordance with an order of a Judge; and
 - (c) upon expiry of the period specified in paragraph (a), or at any time if directed by a Judge, the Registrar may return the envelope and its contents to the applicant or other person who lodged them with the Court or destroy them.

11—Confidential material

- (1) In any proceeding under these Rules, if a party intends to seek orders to preserve confidentiality of any material, the party is to file an affidavit in a sealed envelope, marked with a notation that it is not to be opened except by direction of a Judge, setting out—
 - (a) the orders with respect to confidentiality sought; and
 - (b) the circumstances relied upon for seeking the order.
- (2) In any proceeding under these Rules, the Court may if it thinks fit—
 - (a) give directions to maintain the confidentiality of any material;
 - (b) receive evidence and hear argument about any material in private in the absence of the other parties to the proceeding and their representatives.

12—Provision of search warrants

A person executing a search warrant issued under these Rules must, unless it is not reasonably practical to do so—

[paragraph 12(a) amended by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

- (a) show the warrant to the occupier of a place or to the owner or driver of a vehicle, as the case may be, to which the warrant applies; and

[paragraph 12(b) amended by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

- (b) offer to provide a copy of the warrant to that person and on request, provide a copy of the warrant to that person.

Chapter 3—Private applications

Part 1—Introduction

13—Application of Chapter

This Chapter applies to—

- (a) applications for a search warrant under section 22 of the *Australian Crime Commission Act 2002* (Cth), section 29 of the *Australian Crime Commission (South Australia) Act 2004*, section 31 of the *Independent Commissioner Against Corruption Act 2012* or section 16 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*;

[paragraph 13(b) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

- (b) applications for a surveillance warrant under section 17 and applications for confirmation of surveillance device (emergency) authorities under section 22 of the *Surveillance Devices Act 2016*;

[paragraph 13(ba) inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

- (ba) applications to authorise use, communication or publication of information or material under sections 9, 10 and 11 of the *Surveillance Devices Act 2016*
- (c) applications for a monitoring order under section 14 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*;
- (d) applications to confirm a special powers authorisation or special area declaration under section 3 or 13 of the *Terrorism (Police Powers) Act 2005*;
- (e) applications to authorise the establishment of a new identity or restoration of the former identity of a witness under a witness protection program under section 17 of the *Witness Protection Act 1996*;
- (f) applications to authorise the making or cancellation of an entry in the Register of Births, Deaths and Marriages under section 12 or 13 of the *Criminal Investigation (Covert Operations) Act 2009*;
- (g) applications relating to disclosure of information concerning a witness under a witness protection program under section 21(3) or (4) of the *Witness Protection Act 1996*; and
- (h) disclosure and review of information under section 24 of the *Witness Protection Act 1996*.

[paragraph 13(i) inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 1)]

- (i) applications by the Independent Commissioner Against Corruption or an examiner within the meaning of the *Independent Commissioner Against Corruption Act 2012* for leave to serve a summons or notice outside the State pursuant to section 76 of the *Service and Execution of Process Act 1992* (Cth).

Part 2—Application

14—Originating application

- (1) Subject to rules 15 and 16, an application or disclosure to which this Chapter applies is to be made in person to a Judge in private and initiated by originating application.

[subrule 14(2) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

[subrule 14(2) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (2) An application under section 17 or 22 of the *Surveillance Devices Act 2016* to issue, renew or vary a surveillance device (general) warrant or confirm a surveillance device (emergency) authority and the exercise of powers thereunder is to be—

- (a) in accordance with section 17(4) of the *Surveillance Devices Act 2016*; and
(b) in the prescribed form.

Prescribed form—

Form 7H Originating Application Ex Parte Surveillance Warrant

[subrule 14(2A) inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

[subrule 14(2A) deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (2A) *****

[subrule 14(3) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (3) Any other application to which this Chapter applies is to be in accordance with the relevant statutory provision.

[subrule 14(3A) inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (3A) An application under section 22 of the *Australian Crime Commission Act 2002* (Cth), section 29 of the *Australian Crime Commission (South Australia) Act 2004*, section 31 of the *Independent Commissioner Against Corruption Act 2012* or section 16 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* for a search warrant is to be in the prescribed form.

Prescribed form—

Form 7G Originating Application Ex Parte Search Warrant

[subrule 14(3B) inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (3B) An application under section 14 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* for a monitoring order is to be in the prescribed form.

Prescribed form—

Form 7I Originating Application Ex Parte Monitoring Order

[subrule 14(3C) inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (3C) An application under section 3 or 13 of the *Terrorism (Police Powers) Act 2005* to confirm a special powers authorisation or special area declaration is to be in the prescribed form.

Prescribed form—

Form 7J Originating Application Ex Parte Special Powers Authorisation or Special Area Declaration

[subrule 14(3D) inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (3D) An application under section 17, 21 or 24 of the *Witness Protection Act 1996* or section 12 or 13 of the *Criminal Investigation (Covert Operations) Act 2009* to authorise a new identity or restore a former identity, relating to disclosure of information concerning a witness under a witness protection program or to authorise the making or cancellation of an entry in the Register of Births, Deaths and Marriages is to be in the prescribed form.

Prescribed form—

Form 7K Originating Application Ex Parte Protected Witness

[subrule 14(3E) inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (3E) An application under section 28 or 29A of or clause 4 or 5 of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012* for leave to serve a summons or notice outside the State is to be in the prescribed form.

Prescribed form—

Form 7L Originating Application Ex Parte Leave to Serve out of State

- (4) A disclosure by the Director under section 24(5) to (9) of the *Witness Protection Act 1996* relating to a prospective witness who is, was, or may be under a witness protection program is to be made immediately after the later of—
- (a) the first directions or other hearing before a judicial officer of the Court; or
 - (b) the Director becoming aware that a prospective witness is, was, or may be under a witness protection program.
- (5) The applicant is to notify the Registrar orally that an application is to be made and of the general nature of the application.
- (6) The Registrar will appoint a time for hearing the application by a Judge.
- (7) The Registrar will make arrangements with the applicant for delivery to the Registrar in advance of the hearing of the originating application and documents in support of the application in an envelope marked “Strictly Confidential. Application under the [name] Act. Not to be opened other than by Justiceor pursuant to the order of the Chief Justice”.
- (8) The Registrar will deliver the sealed envelope personally to the Judge. The documents are not to be filed or lodged in the Registry and the proceeding is not to be entered in the records of the Court.

15—Email or facsimile application

- (1) This rule applies to—
- (a) an email application under section 31(4) of the *Independent Commissioner Against Corruption Act 2012* for issue of a search warrant;

[paragraph 15(1)(b) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

- (b) a facsimile, email or other electronic written application under section 18 of the *Surveillance Devices Act 2016* for issue of a surveillance device (general) warrant;

- (c) a facsimile application under section 3(5) or (6) of the *Terrorism (Police Powers) Act 2005* for confirmation that the relevant authority has or had proper grounds for issuing a special powers authorisation.
- (2) The applicant is to notify the Registrar orally that an application is to be made and of the general nature of the application and to ascertain an email address or facsimile number, as the case may be, to which the documents may be sent.
- (3) The applicant is to send to the Registrar at the designated email address or facsimile number an originating application using the appropriate form prescribed by rule 14(2) or (3) together with the supporting documents required by rule 17. The documents are not to be filed or lodged in the Registry and the proceeding is not to be entered in the records of the Court.

[subrule 15(4) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

- (4) An application for a surveillance warrant is to be made in accordance with section 18(3) of the *Surveillance Devices Act 2016*.
- (5) The Registrar will appoint a time for a Judge to hear the application as soon as practicable.
- (6) The Registrar will place the application and documents in support of the application in an envelope marked “Strictly Confidential. Application under the [name] Act. Not to be opened other than by Justice or pursuant to the order of the Chief Justice”.
- (7) The Registrar will deliver the sealed envelope personally to the Judge. The documents are not to be filed or lodged in the Registry and the proceeding is not to be entered in the records of the Court.
- (8) The applicant is to be available to speak to the Judge by telephone and is to provide such further information as is required by the Judge.
- (9) The Judge may require the applicant to provide a further affidavit deposing to the additional information but may issue the warrant on the applicant’s undertaking to provide that affidavit.
- (10) If the applicant has undertaken to provide a further affidavit, the applicant is, as soon as practicable after issue of the warrant, to deliver to the Judge an affidavit verifying the additional information.

16—Telephone application

- (1) This rule applies to a telephone application under—

[paragraph 16(1)(a) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

- (a) section 23 of the *Australian Crime Commission Act 2002* (Cth), section 30 of the *Australian Crime Commission (South Australia) Act 2004*, section 31(4) of the *Independent Commissioner Against Corruption Act 2012*, section 18 of the *Surveillance Devices Act 2016* or section 16(1) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* for the issue of a warrant; or
- (b) section 3(5) or (6) of the *Terrorism (Police Powers) Act 2005* for confirmation that the relevant authority has or had proper grounds to issue a special powers authorisation.

- (2) Before making the application, the applicant is to prepare the form of the proposed warrant or special powers authorisation.

Note—

Section 30(2) of the *Australian Crime Commission (South Australia) Act 2004* and section 23 of the *Australian Crime Commission Act 2002* (Cth) require the applicant to prepare an affidavit setting out the grounds on which the warrant is sought before making the application.

- (3) The applicant is to notify the Registrar orally that an application is to be made and of the general nature of the application.
- (4) The Registrar will appoint a time for hearing the application by a Judge as soon as practicable.
- (5) At the hearing, the applicant is to inform the Judge of—
 - (a) the matters required by rule 17 to be addressed by a supporting affidavit;
 - (a) the circumstances giving rise to the urgency of the application; and
 - (b) the proposed terms of the warrant or the special powers authorisation as the case may be.
- (6) The applicant is to undertake to provide an affidavit verifying the facts referred to in subrule (5) and the documents that would have accompanied the application had it been a written application.
- (7) The applicant is to provide such further information as may be required by the Judge.
- (8) The Judge may require the applicant to provide an affidavit deposing to the additional information or to undertake to provide such an affidavit.
- (9) The applicant is as soon as practicable after issue of the warrant to deliver to the Judge an affidavit verifying the facts referred to in subrule (5), exhibiting the documents that would have accompanied the application had it been a written application and, if required, deposing to the additional information referred to in subrule (8). The affidavit is not to be filed or lodged in the Registry and the proceeding is not to be entered in the records of the Court.

Part 3—Documents in support of application

17—Documents in support of application

[subrule 17(1) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (1) An application under rule 14 or 15 is to be accompanied by an affidavit verifying—
 - (a) the grounds of the application;
 - (b) any relevant matters required by the relevant legislation or any applicable regulations to be verified by affidavit or to be established to the satisfaction of or taken into account by the Judge;
 - (c) in the case of a search warrant, the hours during which it is proposed the warrant can be executed;

- (d) in the case of a surveillance warrant, the period for which it is proposed the warrant be in force;
 - (e) in the case of an email or facsimile application when permitted by the relevant legislation, the circumstances giving rise to the urgency of the application; and
 - (f) the period the applicant proposes that the Court retain documents associated with the application before destruction or return.
- (2) When it is not practicable to obtain an affidavit from a witness who is able to speak of his or her own knowledge, an affidavit may contain statements that the witness reasonably believes to be true if the witness also states the grounds of the belief.
- (3) There is to be exhibited to the supporting affidavit—

[paragraph 17(3)(a) deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

- (a) *****

[paragraph 17(3)(b) renumbered to (a) by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

- (a) in the case of an application under section 3(5) or (6) of the *Terrorism (Police Powers) Act 2005* for confirmation that the relevant authority had or has proper grounds to issue a special powers authorisation, a copy of the issued or proposed special powers authorisation referred to in regulation 4(2)(c)(i) of the *Terrorism (Police Powers) Regulations 2006*;

[paragraph 17(3)(c) renumbered to (b) by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

- (b) in the case of an application under section 13(3) of the *Terrorism (Police Powers) Act 2005* for confirmation that issuing a special area declaration by the Police Commissioner is appropriate in the circumstances, a copy of the proposed special area declaration referred to in regulation 5(1)(b) of the *Terrorism (Police Powers) Regulations 2006*;

[paragraph 17(3)(d) renumbered to (c) by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

- (c) in the case of an application under section 17 of the *Witness Protection Act 1996* to authorise the establishment of a new identity or restoration of the former identity of a witness under a witness protection program, a copy of the relevant memorandum of understanding referred to in section 17(5)(b) of the *Witness Protection Act 1996*.

- (4) An application under rule 14 or 15 is to be accompanied by—
- (a) in the case of an application for a warrant—two copies, together with the number of copies needed for service, of the proposed warrant; or

[paragraph 17(4)(b) amended by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (b) in the case of any other application—a draft order.

Part 4—Hearing and determination

18—Hearing and determination of application

- (1) The hearing of an application under this Chapter will be conducted in private. The Judge may give directions concerning any other persons being present or taking a transcript or record of the proceeding.

- (2) The applicant is to provide such further information as may be required by the Judge.
- (3) Upon hearing an application for a warrant, the Judge will—
 - (a) inform the applicant of the Judge’s decision; and
 - (b) if satisfied of the matters required by the relevant legislation, any applicable regulations and these Rules and that it is appropriate to issue the warrant—
 - (i) inform the applicant of the grounds on which the Judge relies for the issue of the warrant and of the terms of the warrant;
 - (ii) sign the warrant and indicate on the warrant the date and time when the warrant is issued;
 - (iii) arrange for the Court seal to be affixed to the warrant; and
 - (c) if so satisfied, arrange for a copy of the warrant to be provided to the applicant—
 - (i) when the application is made in person—in person;
 - (ii) when the application is made by facsimile—by facsimile or, if an email address is available, by email;
 - (iii) when the application is made by telephone or email—by email.

[subrule 18(3a) inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (3a) A search warrant issued under this Chapter is to be in the prescribed form.

Prescribed form—

Form 138 Search Warrant

[subrule 18(4) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 2)]

[subrule 18(4) substituted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

- (4) A surveillance warrant issued under this Chapter is to be in the prescribed form with such variations as are appropriate when a remote application is made under section 18 of the *Surveillance Devices Act 2016*.

Prescribed form—

Form 139 Surveillance Warrant

- (5) Upon hearing an application for confirmation that the relevant authority had or has proper grounds to issue a special powers authorisation or that the issue of a special area declaration by the Police Commissioner is appropriate in the circumstance, the Judge will—
 - (a) inform the applicant of the Judge’s decision; and
 - (b) if satisfied of the matters required by the relevant legislation, any applicable regulations and these Rules, confirm that the relevant authority had or has proper grounds to issue a special powers authorisation or that the issue of a special area declaration by the Police Commissioner is appropriate in the circumstances.
- (6) Upon hearing any other application under this Chapter, the Judge will—
 - (a) inform the applicant of the Judge’s decision; and

- (b) if satisfied of the matters required by the relevant legislation, any applicable regulations and these Rules and that it is appropriate to make the order sought—
 - (i) inform the applicant of the grounds on which the Judge relies for making the order and the terms of the order;
 - (ii) draw up the order if necessary and arrange for the Court seal to be affixed to the order; and
 - (iii) arrange for a copy of the order to be provided to the applicant in person.
- (7) A copy of any order made under section 24 of the *Witness Protection Act 1996* when the substantive proceeding is in another court is to be provided to that court in a sealed envelope only to be opened by the Judge or Magistrate presiding at the trial of the proceeding.
- (8) The Judge may give any consequential directions to give effect to any decision or order and to ensure the confidentiality of the proceeding as the Judge thinks fit.
- (9) After the hearing and determination of an application under this rule, the application, affidavit, warrant issued or order made and any other documents relating to the application will be placed in an envelope that will be sealed and marked by the Judge “Not to be opened without the permission of a Judge”. The documents are otherwise to be dealt with in accordance with such directions as are given by the Court to ensure that they remain confidential.

[Chapter 4 deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

Chapter 4—*****

[Chapter 5 deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

Chapter 5—*****

[Chapter 6 deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

Chapter 6—*****

[Chapter 7 deleted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

Chapter 7—*****

[Schedule 1 – Forms inserted by Supreme Court Special Applications Rules 2014 (Amendment No. 3)]

Schedule 1 – Forms (separate document)

History of Amendment

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
3(1)	am am03	18 May 2020
3(2) definitions	ins am02 del am03 ins am03	18 December 2017 18 May 2020 18 May 2020
4	am am03	18 May 2020
4(e)	am am02 del am03	18 December 2017 18 May 2020
4(f)	am am02 del am03	18 December 2017 18 May 2020
4(g)	am am02	18 December 2017
4(i)	del am03	18 May 2020
5	am am03	18 May 2020
5(1)	sub am03	18 May 2020
5(2)	sub am03	18 May 2020
5(3)	del am03	18 May 2020
5(4)	del am03	18 May 2020
5(5)	del am03	18 May 2020
8	del am03	18 May 2020
9	del am03	18 May 2020
10(1)	am am03	18 May 2020
12(a)	am am02	18 December 2017
12(b)	am am02	18 December 2017
13(b)	sub am02	18 December 2017
13(ba)	ins am02	18 December 2017
13(i)	ins am01	1 May 2016
14(2)	sub am02 sub am03	18 December 2017 18 May 2020
14(2A)	ins am02 del am03	18 December 2017 18 May 2020
14(3)	sub am03	18 May 2020
14(3A)	ins am03	18 May 2020
14(3B)	ins am03	18 May 2020
14(3C)	ins am03	18 May 2020
14(3D)	ins am03	18 May 2020
14(3E)	ins am03	18 May 2020
15(1)(b)	sub am02	18 December 2017
15(4)	sub am02	18 December 2017
16(1)(a)	sub am02	18 December 2017
17(1)	sub am03	18 May 2020
17(3)(a)	del am02	18 December 2017
17(3 (b) to (a))	ren am02	18 December 2017

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
17(3 (c) to (b)	ren am02	18 December 2017
17(3 (d) to (c)	ren am02	18 December 2017
17(4)(b)	am am03	18 May 2020
18(3)(a)	ins am03	18 May 2020
18(4)	sub am03	18 May 2020
Chapter 4	del am03	18 May 2020
Chapter 5	del am03	18 May 2020
Chapter 6	del am03	18 May 2020
Chapter 7	del am03	18 May 2020
Schedule 1 - Forms	Separate Document ins am03	18 May 2020