

SERVICE AND EXECUTION OF PROCESS.

No. 35 of 1963.

An Act to amend the *Service and Execution of Process Act 1901-1958*.

[Assented to 21st August, 1963.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title. 1.—(1) This Act may be cited as the *Service and Execution of Process Act 1963*.

(2.) The *Service and Execution of Process Act 1901-1958** is in this Act referred to as the Principal Act.

Commence-
ment. 2.—(1) Sections one to ten (inclusive) of this Act shall come into force on the day on which this Act receives the Royal Assent.

(2.) Sections eleven and twelve of this Act shall come into operation on a date to be fixed by Proclamation.

3. Sections one, two and three of the Principal Act are repealed and the following sections inserted in their stead:—

Short title. “ 1. This Act may be cited as the *Service and Execution of Process Act 1901-1963*.

Parts. “ 1A. This Act is divided into Parts, as follows:—
Part I.—Preliminary (Sections 1-3).

* Act No. 11, 1901, as amended by No. 18, 1912; No. 29, 1918; No. 27, 1922; No. 26, 1924; No. 14, 1928; No. 45, 1931; No. 45, 1934; No. 22, 1945; No. 80, 1950; No. 48, 1953; and No. 6, 1958.

Part II.—Service of Process.

Division 1.—Service of Writs of Summons
(Sections 4–13).

Division 2.—Service of other Process (Sections
14–16A).

Division 3.—Proof of Service (Section 17).

Part III.—Execution of Warrants and Writs of Attachment
(Sections 18–19C).

Part IV.—Enforcement of Civil Judgments (Sections 20–26).

Part IVA.—Enforcement of Fines Imposed by Courts of
Summary Jurisdiction (Sections 26A–26R).

Part V.—Rules and Regulations (Sections 27–28).

“ 2.—(1.) This Act extends to Norfolk Island, the Territory of Papua and the Territory of New Guinea. Extension to Territories.

“ (2.) For the purposes of this Act—

(a) the Territory of Papua and the Territory of New Guinea shall be deemed to be one Territory of the Commonwealth;

(b) the Territory accepted by the Commonwealth by the *Jervis Bay Territory Acceptance Act 1915* shall be deemed to be part of the Australian Capital Territory; and

(c) a reference to a part of the Commonwealth shall be read as including a reference to a Territory of the Commonwealth to which this Act extends or is for the time being applied by the regulations.

“ 3. In this Act, unless the contrary intention appears— Definitions.

‘ Court ’ includes any judge or justice of the peace acting judicially;

‘ Court of Record ’ includes any court that is required to keep a record of its proceedings;

‘ defendant ’ includes any party against whom relief is sought in a suit or who is required to attend the proceedings in an action as a party thereto;

‘ judgment ’ includes any judgment, decree, rule or order given or made by a Court in any suit whereby any sum of money is made payable or any person is required to do or not to do any act or thing other than the payment of money;

‘ party ’ includes the Commonwealth or a State or any person suing or being sued on behalf of the Commonwealth or a State;

‘ plaintiff ’ includes—

- (a) the Crown;
- (b) any person suing on behalf of the Crown; and
- (c) any party seeking relief in a suit against any other party;

‘ suit ’ means any suit, action or original proceeding between parties or *in rem*, but does not include—

- (a) a suit, action or proceeding in which a person is charged with an offence, whether the offence is punishable summarily or on indictment; or
- (b) except in Part IV., a suit, action or proceeding under a law of a State or part of the Commonwealth that makes provision with respect to the maintenance of wives, children or other persons or with respect to affiliation;

‘ writ of summons ’ means any writ or process by which a suit is commenced or of which the object is to require the appearance of any person against whom relief is sought in a suit or who is interested in resisting relief sought in a suit.”.

Heading.

4. The heading appearing before section four of the Principal Act is repealed and the following heading inserted in its stead:—

“ *Division 1.—Service of Writs of Summons.*”.

Heading.

5. The heading appearing before section fourteen of the Principal Act is repealed and the following heading inserted in its stead:—

“ *Division 2.—Service of other Process.*”.

Service of
summons, &c.,
issued on
information,
&c.

6. Section fifteen of the Principal Act is amended by inserting in sub-section (1.), after the words “ made on ”, the words “ , or supported by ”.

Subpoena or
summons to
witness may
be served in
another State
by leave of a
Judge, &c.

7. Section sixteen of the Principal Act is amended by adding at the end thereof the following sub-section:—

“ (3.) The powers of a Supreme Court of a State or other part of the Commonwealth, or of a Judge of such a Court, to grant leave under sub-section (1.) of this section may be exercised by an officer of the Court authorized in that behalf by rules of court made by virtue of sub-section (1.) of section twenty-seven of this Act.”.

8. Section sixteen A of the Principal Act is amended by inserting after sub-section (1.) the following sub-section:—

Orders for the production of prisoners.

“(1A.) A Court or a Judge may, before issuing an order under the last preceding sub-section, require the applicant for the order to give such security as the Court or Judge thinks fit for ensuring compliance with any order that may be made under sub-section (3.) of this section for payment by the applicant or any other person of the whole or any part of the costs of compliance with that first-mentioned order.”.

9. The heading appearing before section seventeen of the Principal Act is repealed and the following heading inserted in its stead:—

Heading.

“ *Division 3.—Proof of Service.*”.

10. The heading to Part IV. of the Principal Act is repealed and the following heading inserted in its stead:—

Heading.

“ PART IV.—ENFORCEMENT OF CIVIL JUDGMENTS.”.

11. After Part IV. of the Principal Act the following Part is inserted:—

“ PART IVA.—ENFORCEMENT OF FINES IMPOSED BY COURTS OF SUMMARY JURISDICTION.

“ 26A.—(1.) In this Part, unless the contrary intention appears—

Interpretation.

‘ constable ’ means a Commonwealth Police Officer or a member of the police force of a State or Territory;

‘ Court ’ means a Court of a State or of a Territory having jurisdiction in relation to the summary trial of all or any offences under the law of the State or Territory, as the case may be;

‘ discharged ’, in relation to a fine or part of a fine, means discharged by reason of a payment, remission or pardon, or otherwise;

‘ fine ’ means a pecuniary penalty imposed by a Court for an offence against a law of the Commonwealth (other than a revenue law) or of a State or Territory, together with any amount (including an amount of costs, compensation or revenue charges) the payment of which by the person on whom the fine was imposed was ordered by the Court in the proceedings in which the fine was imposed;

‘ gaol ’ includes a prison, lock-up or other place of detention;

- ‘ proclaimed Territory ’ means the Australian Capital Territory, the Northern Territory of Australia or a Territory declared by Proclamation to be a proclaimed Territory for the purposes of this Part;
- ‘ revenue law ’ means a law of the Commonwealth relating to taxation (including duties) that contains special provisions with respect to imprisonment for non-payment of penalties;
- ‘ Territory ’ means the Australian Capital Territory, the Northern Territory of Australia or a Territory of the Commonwealth to which this Act extends or has been applied by the regulations;
- ‘ the Clerk ’, in relation to a Court, means the Clerk or other proper officer of or for the Court;
- ‘ warrant of apprehension ’ means a warrant issued under section twenty-six D of this Act for the apprehension of a person;
- ‘ warrant of commitment ’ means a warrant issued under section twenty-six H of this Act for the commitment of a person to gaol.

“(2.) References in this Part to a fine shall, in relation to a fine in respect of part only of which a warrant of apprehension has been issued, be read as references to that part only of the fine.

Proclaimed
Territories.

“ 26B.—(1.) The Governor-General may, by Proclamation, declare a Territory to be a proclaimed Territory for the purposes of this Part.

“(2.) The Governor-General may, by Proclamation, revoke the declaration under this section of a Territory as a proclaimed Territory for the purposes of this Part, but such a Proclamation shall not have effect until a date specified in the Proclamation, being a date not less than six months after the publication of that Proclamation in the *Gazette*.

Constitution
of Courts.

“ 26C. The jurisdiction of a Court for the purposes of this Part may be exercised by the Court constituted by any person (other than a single Justice of the Peace sitting as such) or persons competent to exercise the jurisdiction of the Court in any other matter.

Issue of
warrants of
apprehension.

“ 26D.—(1.) Where—

- (a) a Court of a State or of a Territory that is a proclaimed Territory has, whether before or after the commencement of this Part, imposed a fine on a person;
- (b) the liability of the person to pay the fine has not been fully discharged;

- (c) the amount owing in respect of the fine is or includes an amount by reason of the non-payment of which a warrant for the commitment to gaol of the person on whom the fine was imposed—
- (i) has been issued and is subsisting; or
 - (ii) could be issued without further order of a Court; and
- (d) the Clerk of the Court by which the fine was imposed or a Justice of the Peace for the State or Territory in which the fine was imposed has reason to believe that the person on whom the fine was imposed may be in a State or proclaimed Territory other than the State or Territory in which the fine was imposed,

the Clerk or Justice may issue a warrant for the apprehension of the person on whom the fine was imposed by reason of the non-payment of the amount referred to in paragraph (c) of this subsection.

“(2.) A warrant of apprehension shall be substantially in accordance with Form 1 in the Fourth Schedule to this Act and shall be addressed to all constables in the State or Territory in which it is believed the person concerned may be.

“(3.) Where, after a warrant of apprehension has been issued in respect of a person and before the warrant is executed, the liability of the person to pay the fine is fully discharged, the Clerk of the Court by which the fine was imposed may take such steps as he considers necessary to withdraw the warrant.

“26E.—(1.) A warrant of apprehension is sufficient authority to any constable to whom it is addressed to execute the warrant in accordance with this section.

Execution of
warrant of
apprehension.

“(2.) Where a constable who is authorized to execute a warrant of apprehension in a State or Territory finds in that State or Territory the person for whose apprehension the warrant is issued, he shall give the person an opportunity of forthwith paying to the constable the whole of the unpaid amount in respect of the fine as specified in the warrant.

“(3.) If the person so pays the whole amount forthwith, the constable shall not apprehend the person but shall cause the warrant to be returned to the Clerk of the Court by which the fine was imposed, together with the amount paid to him.

“(4.) If the person does not so pay the whole amount forthwith, the constable may apprehend the person, in which event the constable shall bring the person, as soon as practicable, before a nearby Court in the State or Territory in which the apprehension takes place and deliver the warrant to the Clerk of that Court.

“(5.) A constable apprehending a person under this section shall produce the warrant of apprehension to that person at the time of, or as soon as practicable after, the apprehension and, if the warrant has not been produced at the expiration of forty-eight hours after the apprehension or of such longer time as may, before the expiration of that time, be fixed by a Justice of the Peace and the person has not been released from custody by virtue of another provision of this Part, he shall forthwith be released from custody, but any such release does not prevent the further apprehension of the person under the warrant by any constable to whom it is addressed who is in possession of the warrant and produces it at the time of the apprehension.

“(6.) The laws of a State or Territory relating to the custody of persons charged with summary offences, including laws relating to remanding in custody, granting of bail and entering into and forfeiture of recognizances, shall apply and be applied as far as they are applicable to and in relation to a person apprehended in that State or Territory in pursuance of this section as if he had been apprehended for a summary offence against the laws of that State or Territory.

“(7.) Where, during the detention in custody of a person in pursuance of the last preceding sub-section, the liability of the person to pay the fine to which the warrant of apprehension relates is fully discharged, the person shall forthwith be released.

Proceedings
before Court.

“26F.—(1.) Where a person is brought, or appears, before a Court in accordance with the last preceding section—

(a) if the Court is satisfied that the person before the Court is the person on whom the fine was imposed and is not satisfied that the liability of the person to pay the fine has been fully discharged, the Court shall, subject to sub-section (4.) of this section, order that, by reason of non-payment of the fine or of the part of the fine that remains unpaid, the person be committed to gaol to serve such period of imprisonment as is specified in the order, being a period ascertained in accordance with sub-section (3.) of this section, unless he is sooner released in accordance with law; or

(b) in any other case, the Court shall, subject to sub-section (6.) of the last preceding section, order the discharge of the person.

“(2.) For the purposes of this section, the Court may presume that the person before the Court is the person on whom the fine was imposed if the person before the Court does not adduce evidence that he is not the person on whom the fine was imposed.

“(3.) The period of imprisonment to be specified in an order under this section is—

(a) the period of imprisonment specified in the warrant of apprehension or the period of six months, whichever is the shorter; or

(b) if an amount has been paid or remitted in respect of the fine after the issue of the warrant of apprehension and before the making of the order of committal under this section—the period that bears to the period that would have been specified but for the payment or remission the same proportion as the amount that is payable in respect of the fine at the time of the making of the order of committal under this section bears to the amount specified as unpaid in the warrant of apprehension, any fraction of a day being disregarded.

“(4.) A Court of a State or Territory having powers in relation to a person under this section may—

(a) suspend the execution of an order of committal for the purpose of allowing the person time for payment of the amount payable in respect of the fine or of allowing him to pay the amount by specified instalments or for any other reason; and

(b) exercise such other powers in relation to the person as the Court has in the case of a person charged with an offence against the law of that State or Territory.

“(5.) In proceedings under this section, the Court shall not make any order as to the costs of the proceedings.

“(6.) In proceedings under this section—

(a) a warrant of apprehension is evidence of the facts stated in the warrant; and

(b) a document purporting to be a warrant of apprehension shall, unless the contrary is proved, be deemed to be such a warrant and to have been duly issued.

Review of
orders of
committal.

“ 26G.—(1.) Where any person is aggrieved by any order or by the exercise of any power under the last preceding section, such person may apply to a Judge of the Supreme Court of the State or Territory in which the person was apprehended, sitting in chambers, for a review of the order, and the Judge may review the order.

“(2.) A Judge to whom an application is made for the review of an order may—

(a) order the release on bail of the apprehended person on such terms and conditions as the Judge thinks fit; or

(b) direct that the apprehended person be kept in such custody as the Judge directs in the State or Territory of the Commonwealth in which the person was apprehended until the order has been reviewed.

“(3.) The review of the order shall be by way of rehearing, and evidence in addition to, or in substitution for, the evidence given on the making of the order may be given on or in connexion with the review.

“(4.) For the purposes of a review under this section, a copy of a public document or of a document filed in a Department or office of the Commonwealth or of a State or Territory of the Commonwealth, certified to be a true copy of the document by the person purporting by the certificate to have charge of the document, shall be received as evidence of the facts stated in the copy.

“(5.) Upon the review of an order, the Judge may confirm or vary the order, or quash the order and order the discharge of the person, and may make such other order (including an order as to the costs of the review) as the Judge thinks proper.

“(6.) An order as confirmed or varied shall have effect according to its tenor as an order of the Court before which the person apprehended was brought or appeared in accordance with section twenty-six E of this Act.

“(7.) A warrant of commitment issued in pursuance of an order as confirmed or varied under this section shall make appropriate reference to the review under this section and to the confirmation or variation, as the case may be.

Issue of
warrant of
commitment.

“ 26H.—(1.) Where, under this Part, a Court of a State or Territory orders the committal of a person to gaol, the Clerk of the Court or a Justice of the Peace of the State or Territory may issue a warrant accordingly, substantially in accordance with Form 2 in the Fourth Schedule to this Act, for the commitment of the person to a gaol in which offenders against the laws of that State or Territory may be confined.

“(2.) Where, after the making of an order of committal under this Part by reason of non-payment of an amount in respect of a fine and before the issue of a warrant of commitment in pursuance of the order, a pardon is granted in respect of the relevant offence or any payment is made, or any remission is granted, in respect of the fine—

- (a) in a case where a pardon is granted or the whole of the amount in respect of which the order was made is paid or remitted—the order shall be deemed to be discharged; and
- (b) in a case where part only of the amount in respect of which the order was made is paid or remitted—the order shall operate as if it directed imprisonment for a period equal to the period that would, in accordance with paragraph (b) of sub-section (3.) of section twenty-six F of this Act, have been the period of imprisonment ordered if the payment had been made, or the remission had been granted, before the making of the order of committal, and the warrant of commitment issued in pursuance of the order shall be expressed accordingly.

“26J.—(1.) Subject to the next succeeding sub-section, payment of an amount in respect of a fine may be made to, and received by, the constable executing a warrant of apprehension issued in relation to the fine, a person having the custody of the person liable to pay the fine, the Clerk of the Court before which the person liable to pay the fine has been taken in pursuance of such a warrant of apprehension or has appeared in pursuance of this Part or the keeper of the gaol in which the person liable to pay the fine is imprisoned in pursuance of this Part.

Payment of
fine after
issue of
warrant of
apprehension.

“(2.) Payment of part only of the unpaid amount referred to in a warrant of apprehension shall not be received by the constable executing that warrant.

“(3.) Where, at the time when a payment is received in accordance with this section, no order of committal has been made under this Part in respect of the fine, the amount of the payment shall be forwarded to the Clerk of the Court that imposed the fine.

“(4.) Where a payment is made in accordance with this section after the making of an order of committal under this Part—

- (a) if the person receiving the payment is a person other than the Clerk of the Court that made the order of committal, he shall forward the amount of the payment to that Clerk; and

- (b) that Clerk shall forward the amount of the payment, when it is received by him, whether directly or by virtue of the last preceding paragraph, to the Clerk of the Court by which the fine was imposed.

“(5.) Where, after a warrant of apprehension has been issued in respect of a person and before his liability to pay the fine to which the warrant relates has been discharged or the warrant has been withdrawn, the whole or any part of the fine is paid to a person in the State or Territory in which the fine was imposed, other than the Clerk of the Court by which the fine was imposed, the person to whom the payment is made shall forthwith inform the Clerk of that Court of the payment.

“(6.) Where, after a person is brought, or appears, before a Court by virtue of a warrant of apprehension issued in respect of the person and before his liability to pay the fine to which the warrant relates has been discharged or the warrant has been withdrawn—

- (a) a pardon is granted to the person in respect of the relevant offence;
- (b) the whole or any part of the fine is remitted;
- (c) the whole or any part of the fine is paid to the Clerk of the Court by which the fine was imposed; or
- (d) the Clerk of the Court by which the fine was imposed is informed in accordance with the last preceding subsection that the whole or a part of the fine has been paid to another person,

the Clerk of the Court by which the fine was imposed shall forthwith inform the Clerk of that first-mentioned Court of the pardon, remission or payment, as the case requires.

“(7.) Where—

- (a) by virtue of the issue of a warrant of apprehension, a person has been brought, or has appeared, before a Court in accordance with section twenty-six E of this Act; and
- (b) after the issue of the warrant of apprehension and before the issue of a warrant of commitment in respect of the person, a pardon has been granted to the person in respect of the relevant offence or any remission has been granted, or any payment has been made, in respect of the fine to the Clerk of the Court by which the fine was imposed or to any other person in the State or Territory in which the fine was imposed,

then, for the purposes of this Part, the pardon or remission shall be deemed to have been granted, or the payment shall be deemed

to have been made, as the case may be, at the time when the Clerk of the Court before which the person was brought or appeared is informed of the pardon, remission or payment by the Clerk of the Court by which the fine was imposed.

“ 26K. Where the keeper of a gaol is in possession of a warrant of commitment authorizing the imprisonment by him of a person under this Part and is also in possession of another warrant or other warrants (whether under this Part, under any other law of the Commonwealth or under a law of a State or Territory of the Commonwealth) authorizing the imprisonment by him of the same person, any imprisonment of that person by that keeper shall be taken to be imprisonment under the warrant under this Part, or under each of the warrants under this Part, as the case may require, until that warrant or those warrants have been fully executed, whether or not the imprisonment is also taken into account as imprisonment under any other warrant.

Person liable
to pay two or
more fines, &c.

“ 26L.—(1.) Where a person is in gaol under the authority of a warrant of commitment and—

- (a) the Clerk of the Court by which the order of committal was made informs the keeper of the gaol that a pardon has been granted to the person in respect of the relevant offence or that the whole of the unpaid amount specified in the warrant has been remitted; or
- (b) the whole of that unpaid amount is paid,

Release of
person from
prison on
payment of
fine, &c.

the keeper of the gaol shall release the person unless he is in custody for some other cause.

“ (2.) Where a person is in gaol under the authority of a warrant of commitment and—

- (a) the Clerk of the Court by which the order of committal was made informs the keeper of the gaol that a part of the unpaid amount specified in the warrant has been remitted; or
- (b) a part of that unpaid amount is paid,

the period of imprisonment specified in the warrant shall be deemed to be reduced so that it will be equal to the period of imprisonment that would have been specified in the warrant if the payment or remission had been taken into account at the time of the issue of the warrant as a payment or remission made before the issue of the warrant, and the keeper of the gaol shall release the person on the expiration of the period as so reduced, or, if the period as so reduced has expired, forthwith, unless he is in custody for some other cause.

“(3.) An amount paid to a person other than the keeper of the gaol shall not be taken into account for the purposes of this section until the Clerk of the Court by which the order of committal was made informs the keeper of the gaol of the payment.

“(4.) Where—

(a) a person is in gaol under the authority of a warrant of commitment; and

(b) the whole or a part of the fine to which the warrant relates is paid to the Clerk of the Court by which the order of committal was made or the Clerk of that Court is satisfied that—

(i) the whole or a part of the fine has been paid to another person (other than the keeper of the gaol) or has been remitted; or

(ii) a pardon has been granted in respect of the relevant offence,

the Clerk of that Court shall forthwith inform the keeper of the gaol of the payment, remission or pardon, as the case may be.

Effect of
imprisonment.

“26M. Where a person has been imprisoned under this Part by reason of failure to pay an amount in respect of a fine, he is, upon the termination of that imprisonment, discharged, by force of this section, from any liability to pay that amount or any part of that amount remaining unpaid, and from any liability to be imprisoned (whether under the law of a State or Territory, under this Part or under any other law of the Commonwealth), by reason of non-payment of that amount or of any part of that amount remaining unpaid.

Juveniles not to
be imprisoned.

“26N.—(1.) A Clerk or Justice of the Peace shall not issue a warrant of apprehension under this Part in respect of a person whom he has reason to believe may be under the age of eighteen years.

“(2.) A constable shall not, under a warrant of apprehension under this Part, apprehend a person whom he has reason to believe may be under the age of eighteen years.

“(3.) A Court shall not, under this Part, order the committal to gaol of a person where the Court is satisfied that the person is under the age of eighteen years.

Conditions of
imprisonment.

“26P. The laws of a State or Territory with respect to—

(a) the conditions of imprisonment of persons imprisoned in that State or Territory by reason of default in the payment of fines imposed under the laws of that State or Territory;

- (b) the treatment of such persons during imprisonment; and
- (c) the transfer of such persons from gaol to gaol,

apply, so far as they are applicable, in relation to persons imprisoned in that State or Territory in pursuance of this Part.

“ 26Q. The *Removal of Prisoners (Territories) Act* 1923–1962 applies, with such modifications and adaptations as are prescribed, to and in relation to a person for whose imprisonment an order has been made under this Part by a Court in a Territory in like manner as it applies to and in relation to a person who has been sentenced to imprisonment in that Territory. Application of
Removal of
Prisoners
(Territories)
Act.

“ 26R. Nothing in this Part affects the operation of any other Part of this Act.” Saving.

12. The Principal Act is amended by adding at the end thereof the following Schedule:— Fourth
Schedule.

FOURTH SCHEDULE.

FORM 1.

Section 26D.

COMMONWEALTH OF AUSTRALIA.

Service and Execution of Process Act 1901–1963.

WARRANT OF APPREHENSION.

To all members of the Police Force of the State (*or* Territory) of and all Commonwealth Police Officers in that State (*or* Territory).

Whereas _____ then of _____, (hereinafter referred to as “the said convicted person”) was on the day of _____, 19____, convicted by [name of Court], at _____, in the State (*or* Territory) of _____, of the offence of [short description of nature of offence] and it was adjudged by the Court that he pay for his offence a fine of _____ together with [set out particulars of other amounts (including costs) in respect of non-payment of which the warrant is issued]:

And whereas the amount of _____ still remains unpaid in respect of the said fine and other amounts so adjudged to be paid:

And whereas, by reason of non-payment of the said unpaid amount, the said convicted person is liable to be committed to gaol for a period of _____:

And whereas it appears to me that the said convicted person may be in the State (*or* Territory) of _____ and may be found at _____:

These are therefore to authorize and command you to find the said convicted person of the last-mentioned State (*or* Territory) and having so found him—

- (a) to produce this warrant to him;

- (b) to give him an opportunity of forthwith paying to you the whole of the said unpaid amount; and
- (c) if he does not forthwith pay the whole of the said amount to you, to apprehend him and bring him before a nearby Court of Summary Jurisdiction, to be dealt with according to law:

These are also to command you, if the said convicted person pays the whole of the said unpaid amount to you, to send the amount so paid to the Clerk of the abovementioned Court.

Given under my hand at
this _____ day of _____, 19 ____ .
Clerk of the [name of court] or Justice of the Peace.

FORM 2.

Section 26H.

COMMONWEALTH OF AUSTRALIA.

Service and Execution of Process Act 1901-1963.

WARRANT OF COMMITMENT.

To all members of the Police Force of the State (or Territory) of _____ and all Commonwealth Police Officers in that State (or Territory) and to the Keeper of the Gaol at _____ in that State (or Territory).

Whereas _____ of _____ (hereinafter referred to as "the said convicted person") was on the day of _____, 19____, convicted by [name of Court] at _____ in the State (or Territory) of _____, of the offence of [short description of nature of offence] and it was adjudged by the said Court that he pay for his offence a fine of _____ together with (set out particulars of other amounts (including costs) specified in the Warrant of Apprehension):

And whereas the said convicted person on the day of _____, 19____, was brought (or appeared) before the [name of Court] in accordance with Part IVA. of the *Service and Execution of Process Act 1901-1963* of the Commonwealth of Australia:

And whereas, it appearing to the last-mentioned Court that an amount of _____ still remained unpaid in respect of the said fine and other amounts so adjudged to be paid, it was ordered by that Court that, by reason of non-payment of the said amount, the said convicted person be committed to gaol to serve a period of imprisonment of _____ days unless sooner released in accordance with law:

* Strike out this paragraph if inapplicable.

* And whereas, by reason of a payment or payments made, or a remission granted, in respect of the said fine and other amounts, the unpaid amount is now _____ and the period for which the said convicted person is now liable to be imprisoned in pursuance of the said order has been reduced to _____ days:

These are therefore to authorize and command—

- (a) you, the said police officers, to convey the said convicted person to the gaol at _____ in the State (or Territory) of _____ and deliver him to the Keeper of the said gaol together with this warrant; and
- (b) you, the said Keeper, to receive the said convicted person into your custody in the said gaol and there to imprison him for the period of _____ days unless in the meantime you are required to release him in accordance with section twenty-six L of the *Service and Execution of Process Act 1901-1963*.

Given under my hand at
this _____ day of _____, 19 ____ .
Clerk of the [name of court] or Justice of the Peace.