

# Magistrates Courts

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## Practice Direction No. 5 of 2017

### Applications made under the Peace and Good Behaviour Act 1982

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1. This Practice Direction applies where an Application is made for a Public Safety Order; and/or a Restricted Premises Order and/or a Fortification Removal Orders under the *Peace and Good Behaviour Act 1982*.
2. Nothing in this Practice Direction is to be taken as removing or limiting the discretion of the Court.
3. The following definitions apply in this Practice Direction unless otherwise stated:
  - a. *The Applicant* means the person appearing before the Court on the application made by a Senior Police Officer.
  - b. *Fortification Removal Order* means an order under section 60 of the *Peace and Good Behaviour Act 1982*.
  - c. *Public Safety Order* means an order under section 27 of the *Peace and Good Behaviour Act 1982*.
  - d. *Respondent* means in relation to an application for:
    - i. A Public Safety Order – a person or group of persons. If the Respondent is a group of persons, the reference is to the members generally of the group.
    - ii. A Restricted Premises Order – an owner or occupier of premises.
    - iii. A Fortification Removal Order – an owner or occupier of premises.
  - e. *Restricted Premises Order* means an order under section 36 of the *Peace and Good Behaviour Act 1982*.
  - f. *Senior Police Officer* means a police officer of or above the rank of sergeant.
4. The Senior Police Officer is to file the Application and any Affidavit material to be relied on at the hearing of the Application.
5. A Police Officer is to serve the Respondent personally with a copy of the Application and the Affidavit material on which it is intended to rely within seven (7) business days after the filing. If personal service is not practicable or the Respondent is a group of persons, service is to be effected by public notice within 10 days after the filing. The Police Officer must also comply with the service requirements of section 83 of the *Peace and Good Behaviour Act 1982*.

6. A written Application is to be in the approved form.
7. A Police Officer is to provide an electronic copy of the Application and a draft order to the Registrar before the hearing.
  - a. If the hearing is to be heard in Brisbane, [BMC.CriminalListings@justice.qld.gov.au](mailto:BMC.CriminalListings@justice.qld.gov.au); or
  - b. If the hearing is to be heard in a place other than Brisbane, the email address for the court set out on the courthouses contacts webpage: <http://www.courts.qld.gov.au/contact-us/courthouses>.
8. The Applicant is to provide one copy of the draft order to the court at the hearing.

### **Response by Respondent**

9. The Respondent may file a Response to an Application and if there is more than one Application, a Response to each Application.
10. The Response must state:
  - a. The facts relied on by the respondent in response to the Application; and
  - b. The nature of the response in relation to each order sought by the applicant.
11. The Respondent must file the Response, and serve the Response on the Senior Police Officer, at least 5 business days before the return date.
12. The Response must be accompanied by any Affidavit the Respondent intends to rely on at the hearing of the application.
13. The Response is to be in the form annexed to this Practice Direction.

### **Order**

14. Following the determination of the Application by the Court the registry will ensure the signed and dated order is forwarded to Offender Management by emailing to [OMCourtResults@police.qld.gov.au](mailto:OMCourtResults@police.qld.gov.au).



Judge Orazio Rinaudo AM  
Chief Magistrate  
Date: 27 June 2017

SUPREME/DISTRICT/MAGISTRATES COURT OF QUEENSLAND

REGISTRY:  
NUMBER:

Applicant: *(Insert Name)*

AND

Respondent: *(Insert Name)*

**RESPONSE**

The Respondent relies on the following facts in response of the Application:

1. [The response must state the facts relied on by the respondent in response to the application.]
2. [The nature of the response in relation to each order sought by the senior police officer.]

Signed: *(respondent or solicitor to sign)*

Description: *(of signatory eg. solicitor)*

RESPONSE  
Filed on Behalf of the Respondent  
Peace and Good Behaviour Act 1982  
Section 26; 35; 59

Name:  
Address:  
Phone No:  
Fax No: