

6.2 Issuing extensions of detention periods

What is a detention period?

Under the *Police Powers and Responsibilities Act 2000* (the Act), a detention period refers to a period of time during which a person can be lawfully detained for the purposes of conducting an investigation into a suspected indictable offence.

The initial period of detainment is eight hours. The maximum amount of questioning time during this period is not more than four hours.

The rest of the detention period, when the person is not being questioned, is referred to as 'time out'. Time out may be for more than four hours in the initial detention period if the questioning time is correspondingly less. Time out includes travel time, time waiting for a legal representative, rest periods and time to conduct other necessary administrative functions.

The offence being investigated must be a serious offence with a maximum penalty of a term of imprisonment exceeding 12 months.

Under the Act, if a Magistrate or a JP (Mag Ct) is not available, a police officer can apply to you to extend a detention period.

The application is an approved form and consists of two parts:

1. Application – information required to substantiate the issuing of the extension such as the type of offence which questioning or the investigation relates to and information and evidence about the nature and seriousness of the offence.
2. Order – provides details of the extension such as the reason the detention of the person is necessary, the period of time authorised for time out and the period of time authorised for questioning.

Why would an extension to a detention period be requested?

Under the Act an extension to a detention period may be requested in certain circumstances. For example, when the police require additional time to conduct their investigation and gather evidence related to the offence the person has been detained for.

How do I issue an order for the extension of a detention period?

Before extending the detention period, you must consider and be satisfied the police officer has reasonable grounds to believe the extension is necessary to complete their investigation, for example:

- the nature and seriousness of the offence requires the extension
- to preserve or obtain evidence of the offence or another indictable offence
- to complete the investigation into the offence or another indictable offence
- to continue questioning the person about the offence or another indictable offence
- the investigation is being conducted properly and without unreasonable delay.

There are three people principally involved:

- Applicant – the person applying for the extension
- JP – the person issuing the extension to the detention period
- Suspect – the person being detained.

Part 1 – Application

Follow the general procedure for witnessing signatures as outlined in chapter 4.1 then:

1. Check if the applicant has tried to find a Magistrate or JP (Mag Ct) to issue the order.
 - You can only consider an application if there is no Magistrate or JP (Mag Ct) available to approve the application.
2. Warn the applicant at the outset, and check they understand that if they knowingly provide information in the application to extend the detention period and they know the information is false they commit an offence.


Ensure the applicant understands that making an oath or affirmation is a solemn matter.
3. Immediately place the applicant on oath or affirmation as outlined in chapter 4.6.
4. Check the person has either been arrested for an indictable offence or is suspected of having committed an indictable offence, whether or not it is the offence for which they have been arrested.
5. If required, ask the applicant for a copy of the section of the Act that deals with detention periods. Check you are clear about your powers and responsibilities.
6. Read through the application carefully, ensuring all the necessary information has been provided and asking any questions that may be needed to clarify particular points. Check the information in the application is sufficient to consider the extension necessary and includes:
 - the applicant's name, rank, registered number and station
 - details of the person being detained:
 - whether the person is in custody under another Act
 - if the person is Aboriginal, Torres Strait Islander, a child or a person with an impaired capacity
 - if the person is a child, whether a parent of the child has been contacted
 - details of a relative, friend, support person or lawyer and if they have asked to speak to them
 - information or evidence supporting a reasonable suspicion the person has committed the offence mentioned in the application
 - what investigations have taken place and why further detention of the person is necessary
 - details of the offence the questioning relates to
 - when the detention period started and how long the person has already been questioned
 - amount of questioning time and time out needed.
7. If the person or their lawyer wants to make a submission you are required to listen to any submissions about the application when you are determining whether or not to extend the period.
8. If you are satisfied the extension is justified, have the applicant sign the application, reminding them they are under oath or affirmation.

If you are not satisfied the application is justified, and you refuse to issue the extension order you should:

 - cross out the application and note your reasons on the form
 - note your reasons in your logbook
 - inform the officer in charge of the police station where the applicant officer is stationed.
9. Witness the applicant's signature. Affix your seal of office and enter your registration number. This is a requirement of the *Justices of the Peace and Commissioner for Declarations Act 1991*. If required, insert your full name, location and/or date.
10. Ensure you retain the original of the application and keep it in a secure place. This is one of the few occasions where you are required to retain a document.

Part 2 – Order for extension of detention period

1. Check the order to ensure it gives:
 - the details of the person being detained
 - the period of time authorised for time out
 - the period of time authorised for questioning
 - the total of the time allowed for time out and question time
 - the full name, rank, registered number and station of the applicant.

 **Note:** You may extend the detention period for a reasonable time, with no more than eight hours of further questioning time included in the extended detention period.
2. Sign the order. Affix your seal of office, enter your registration number and the date and time the order ends. This is a requirement under the *Justices of the Peace and Commissioners for Declarations Act 1991*. If required, insert your full name, location and/or date.
3. Return the order to the applicant. There is no requirement for you to retain a copy of it.
4. Record all relevant information in your logbook as outlined in chapter 2.4.

Frequently asked questions

Can I extend the detention period for a second time?

No. Any further orders to extend a detention period must be made to a Magistrate.

Where can I get more information?

Queensland Police Service
www.police.qld.gov.au

Queensland legislation
www.legislation.qld.gov.au

6.2 Quick guide

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Application

Follow the general procedure for witnessing signatures as outlined in chapter 4.1 then:

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- ① Ask the applicant if they have tried to find a Magistrate or a JP (Mag Ct).

 - ② Warn the signatory that if they knowingly make a false application, they commit an offence.

 - ③ Immediately place the applicant on oath or affirmation as outlined in chapter 4.6. Ensure the applicant understands that swearing an oath or making an affirmation is a solemn matter.

 - ④ Check the person has been arrested for an indictable, or suspected indictable offence.

 - ⑤ If required, ask the applicant for a copy of the section of the Act which authorises you to issue the order.

Carefully read the entire application. Check it gives:
 - the applicant's name, rank, registered number and station
 - details of the person being detained and whether they have spoken to anyone who can support them

 - ⑥
 - details about when questioning commenced
 - a brief description of the offence the application relates to and information supporting a reasonable suspicion the person has committed an offence
 - what investigations have taken place and the amount of questioning time and time out needed.

 - ⑦ If the person or their lawyer wants to make a submission you are required to listen to any submissions about the application when you are determining whether or not to extend the period.

If you are satisfied the application is justified, have the applicant sign the application, reminding them they are under oath or affirmation.

 - ⑧ If you are not satisfied the application is justified, and you refuse to issue the order:
 - cross out the application and note your reasons on the form
 - note your reasons in your logbook
 - inform the officer in charge of the police station where the applicant officer is stationed.

 - ⑨ Witness the applicant's signature. Affix your seal of office and enter your registration number. This is a requirement of the *Justices of the Peace and Commissioner for Declarations Act 1991*.

If required, insert your full name, location and/or date.

 - ⑩ Retain the original application and keep it in a secure place.
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Order

Check the order includes:

- the details of the person being detained
- length of time for questioning and time out
- the details of the applicant.

①

You may extend the detention period for a reasonable time, with no more than eight hours of further questioning time included in the extended detention period.

② Sign the order. Affix your seal of office, enter your registration number and the date and time the order ends. This is a requirement under the *Justices of the Peace and Commissioners for Declarations Act 1991*. If required, insert your full name, location and/or date.

③ Return the order to the applicant. There is no requirement for you to retain a copy of it.

④ Record all relevant information in your logbook as outlined in chapter 2.4.
