

## 6.2 Granting extensions of detention periods

### What is a detention period?

A police officer may hold a person for questioning for a set period if they have been arrested for an indictable offence. This period of time is referred to as a detention period.

- Under the *Police Powers and Responsibilities Act 2000*, the initial period of detainment is eight hours. The maximum amount of questioning time in this period is not more than four hours.
- The rest of the detention period, when the accused 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.

### Why am I, as a JP, concerned with detention periods?

Under section 405 of the *Police Powers and Responsibilities Act 2000*, a police officer may, if a magistrate or a JP (Mag Ct) is not available, apply to a JP (Qual) to extend a detention period.

The application has a prescribed form, listing the:

- details of the police officer making the application
- details of the person being detained
- details of the offence with which the person has been charged
- reasons for extending the period of detention
- desired length of the extension
- amount of questioning time that will be needed
- date.

There is also a section on the application that you complete and sign to grant the extension.

## How do I deal with an application for an extension of a detention period?

Before extending the detention period, you must consider and be satisfied of the following matters.

- The nature and seriousness of the offence require the extension.
- Further detention of the person is necessary for any of these reasons:
  - 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.
- The person or the person's lawyer has been given the opportunity to make submissions about the application for extension. Before an application to extend the detention period can be made by a police officer, they must:
  - inform the relevant person, or the person's lawyer, of the application
  - give the person a copy of the application
  - ask the person or the person's lawyer if he or she agrees to the application or wants to oppose it, and wants to make submissions or say anything to the justice hearing the application.

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

1. Ask the applicant for some form of identification.
2. Check the police officer has tried to find a magistrate or JP (Mag Ct) to grant the extension. You must only consider an application if there is no magistrate or JP (Mag Ct) available to approve the application.
3. Check the accused 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.
4. Ask the police officer for a copy of the section of the *Police Powers and Responsibilities Act 2000* that deals with detention periods. Check you are clear about your powers and responsibilities.
5. 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.
6. Ask the accused or the accused's legal representative if they have any submissions to make. You are required to listen to any submissions from the person or their legal representative about the application when they are determining whether or not to extend the period.
7. Decide whether or not the extension is justified. If you decide it is not, then refuse to grant the extension and write 'refused' across the application, with a brief summation of your reasons. If you decide it is justified, complete the section granting the extension. Ensure you include:
  - a. how much time is to be allowed as time out
  - b. the length of time when the accused may be questioned (with a maximum of eight hours)
  - c. the proviso the suspect may continue to be detained for the total of the time allowed for time out and question time.

Under section 406(2) of the Act, you may extend the detention period for a reasonable time, with a maximum of eight hours of further questioning time included in the extended detention period.

Enter the details in your logbook. Include the:

- date and time the document was witnessed
- type of application
- details of the person requesting the order
- type of identification sighted
- location of signing
- questions you asked and the answers given.

*Note:* You do not have any authority to request, make or retain a copy of the application issued under this Act.

## Frequently asked questions

### Can I extend the detention period for a second time?

**No.** You only have authority to extend a detention period once. The matter must be referred to a magistrate for any further extensions.

### Where can I get more information?

Queensland Police Service  
[www.police.qld.gov.au](http://www.police.qld.gov.au)

Queensland legislation  
[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)

## Quick guide

### Follow this procedure to grant extensions to detention periods under the *Police Powers and Responsibilities Act 2000*

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- ① Ask the police officer for identification.
  - ② Check a magistrate or JP (Mag Ct) is not available to extend the detention period.
  - ③ Check the accused has been arrested for or is suspected of an indictable offence. (It does not need to be the offence for which they are arrested.)
  - ④ Ask the officer for a copy of the Act that deals with detention periods and check you understand your responsibilities.
  - ⑤ Carefully read through the application, checking the information is complete and justifies an extension.
  - ⑥ Ask the accused (or their representative) if they have any submissions about the detention period.  
  
Decide if the extension is justified.
    - a. If you decide it is not, write 'refused' across the application with a brief summary of your reasons.
    - b. If you decide it is justified, complete the section to grant the extension, including length of 'time out' and questioning.

*Note:* You may only allow one extension and include a maximum of eight hours of questioning time.
  - ⑦
  - ⑧ Update your logbook with the relevant information.
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