

MISSING PERSONS REGULATIONS

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to September 9, 2023. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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MISSING PERSONS REGULATIONS

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MISSING PERSONS ACT CHAPTER M-9.1

MISSING PERSONS REGULATIONS

Pursuant to section 15 of the *Missing Persons Act* R.S.P.E.I. 1988, Cap. M-9.1, Council made the following regulations:

1. Act, defined

(1) In these regulations, "Act" means the *Missing Persons Act R.S.P.E.I.* 1988, Cap. M-9.1.

"financial information"

(2) In the Act and these regulations, a reference to "**financial information**" in respect of a person includes information about any joint account the person holds with one or more other persons. (EC739/23)

2. Applications

(1) An application for a search order or a record access order under section 2 of the Act may be made by a member of a police service to a judicial justice of the peace in person or by telephone, e-mail or facsimile transmission.

Original application and supporting documents

(2) Where an application referred to in subsection (1) is made, the member of the police service making the application shall deliver the original copy of the application and supporting documents to a court office specified by the judicial justice of the peace.

Ex parte application

(3) An application for a search order or a record access order under this section may be made without notice. (EC739/23)

3. Form of application for search order

(1) An application for a search order shall be in Form 1 as set out in the Schedule.

Form of application for record access order

(2) An application for a record access order shall be in Form 3 as set out in the Schedule. (EC739/23)

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4. Form of search order

(1) A search order shall be in Form 2 as set out in the Schedule.

Form of record access order

(2) A record access order shall be in Form 4 as set out in the Schedule. (EC739/23)

5. Form of emergency demand

An emergency demand for records under section 5 of the Act shall be in Form 5 as set out in the Schedule. (EC739/23)

6. Application for order directing person to comply

(1) An application under subsection 6(1) of the Act for an order directing a person to comply with an emergency demand under section 5 of the Act shall be made on notice to the respondent.

Application for order - Form 6

(2) An application for an order to comply with an emergency demand shall be in Form 6 as set out in the Schedule.

Order to comply - Form 7

(3) An order to comply with an emergency demand shall be in Form 7 as set out in the Schedule. (EC739/23)

7. Service requirements

- (1) A search order, record access order, an emergency demand, or an application made under subsection 6(1) of the Act, as the case may be, shall be served as follows:
 - (a) in the case of an individual, by leaving a copy of it with the individual;
 - (b) in the case of a corporation,
 - (i) by leaving a copy of it with a director or officer of the corporation,
 - (ii) by leaving a copy of it with an individual who appears to have management or control of any place of business or premises operated by or on behalf of the corporation, or
 - (iii) by sending a copy of it by facsimile transmission or email to the corporation's last known facsimile number or email address, with the sender receiving confirmation that the transmission was successfully completed;
 - (c) in the case of a partnership,
 - (i) by leaving a copy of it with a partner,
 - (ii) by leaving a copy of it with an individual who appears to have management or control of any place of business or premises operated by or on behalf of the partnership, or
 - (iii) by sending a copy of it by facsimile transmission or email to the partnership's last known facsimile number or email address, with the sender receiving confirmation that the transmission was successfully completed;
 - (d) in the case of any other entity,

- (i) by leaving a copy of it with an individual who appears to have management or control of any place of business, facility or premises operated by or on behalf of the entity, or
- (ii) by sending a copy of it by facsimile transmission or email to the entity's last known facsimile number or email address, with the sender receiving confirmation that the transmission was successfully completed.

Judicial justice of the peace may authorize other method of service

(2) A judicial justice of the peace may, by order, authorize another method of service if satisfied that service cannot effectively be made in accordance with a method set out in subsection (1). (EC739/23)

8. Annual report requirements

The annual report of a police service referred to in section 14 of the Act respecting its use of emergency demands under section 5 of the Act shall

- (a) contain a summary of the type of records sought in each demand; and
- (b) be made available to the public
 - (i) by posting a copy of the report on the police services' website, or
 - (ii) by posting a copy of the report on the website of the municipality in question, in the case of a municipal police service. (EC739/23)

9. Retention and disposal of records

(1) Subject to subsection (2), records obtained by a police service under the authority of the Act shall be disposed of within 90 days after a missing person is located.

Retention of records by police service

- (2) Records obtained by a police service under the authority of the Act
 - (a) may be retained by the police service
 - (i) if the missing person is not found, or if the missing person is found dead, or
 - (ii) if any further investigations arise or are likely to arise regarding the disappearance of the missing person until any and all investigations are concluded; and
 - (b) shall be securely stored so that access to the records is limited to only those members of the police service who require access to perform their job function in accordance with the Act, as determined by the chief officer of the police service.

Disposal of records

(3) Records obtained by a police service under the authority of the Act shall be disposed of in accordance with the methods outlined in the police services' approved records retention and disposition schedule for disposition of confidential records. (EC739/23)

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SCHEDULE

FORM 1 APPLICATION FOR SEARCH ORDER

(Section 2 of the Missing Persons Act)

Applicant
I,
Identifying information about the Missing Person The Missing Person's name is
The Missing Person is (select one) a minor; or a vulnerable person as defined in clause 1(m) of the Missing Persons Act.
Affidavit
[Remove any portions of the proposed Affidavit that are not needed.]
In support of my application, I make oath (or affirm) and say that: (a) the Police Service is conducting a non-criminal investigation into the whereabouts of the Missing Person; (b) the investigative steps undertaken to date include the following
(c) I have the following reasonable grounds to believe that the Missing Person may be in a dwelling or other premises identified in clause (d) of my Affidavit:
(d) I believe that the Missing Person may be in a dwelling or other premises at the following location:
(e) I request that the following additional information be considered in support of my application
Sworn/affirmed before me at
(city or town) in the Province of Prince Edward Island,, 20
Signature Applicant Signature

FORM 2 SEARCH ORDER

(Section 3 of the *Missing Persons Act*)

[Remove any portions of the proposed Order that are not needed.] Re: (the "Missing Person") -and-......(the "Applicant") This Order was made by a Judicial Justice of the Peace pursuant to the Missing Persons Act of Prince Edward Island regarding the Missing Person, who is (select one) □ a minor; or □ a vulnerable person as defined in clause 1(m) of the *Missing Persons Act*. has applied for an Order authorizing entry to a dwelling or other premises located at Having considered the information provided in the Applicant's affidavit, I am satisfied that (a) is a Missing Person under the *Missing Persons Act* and that the Police Service is conducting a non-criminal investigation into the whereabouts of the Missing Person; and (b) the Applicant has reasonable grounds to believe that the Missing Person is located at the address specified above. I order that a member of a police service with the Police Service may enter a dwelling or other premises located at the address specified above, using force if necessary, in order to search for the Missing Person. This Order is subject to the following restrictions or limitations Signature of Judicial Justice of the Peace (EC739/23)

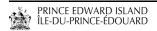


FORM 3 APPLICATION FOR RECORD ACCESS ORDER

App	(Section 2 of the Missing Persons Act)
Serv copi are a	member of
Idei	ntifying information about the Missing Person
The	Missing Person's name is
	mplete the following only if the Missing Person is a minor or is a vulnerable person as defined in Act.)
The	Missing Person is (select one)
	 □ a minor; or □ a vulnerable person as defined in clause 1(m) of the Missing Persons Act.
	mplete the next item if seeking access to or copies of records for a person who may be ompanying the Missing Person.)
Idei	ntifying information about person who may be accompanying the Missing Person
The	name of the person who may be accompanying the Missing Person is
Rec	ords required
	Police Service requires access to or copies of the records indicated in the following list: (select all apply and provide details of any particular information required)
	□ records containing contact or identification information, and in particular

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		containing					
□ rec R.S.P	ords co .E.I. 198	ntaining persona 38, Cap. H-1.41 a	l health inform nd in particular	ation as define	ed in the H	ealth Infor	rmation Act
inforr	nation,	om a school, un and in	particular				
□ rec	ords o	(date) to containing trave	el and acco		nformation,	and in	particular
□ rec	ords	containing	financial	information,	and (date) to	in	particular
□ any	y records	s not listed above	(specify):				
Affidavit							•••••
Remove a	any porti	ions of the propose	ed Affidavit that	are not needed.]			
where (b) th	eabouts of the contraction of th	(name of Mi of a person who n gative steps unde	nay be accompa rtaken to date in	nying clude the follow	(name	of Missing	g Person); ;
as def (d) ba reason	fined in a sed on nable gr	clause 1(f) of the the following fin ounds to believe t	Missing Persons Adings from the hat the Missing	Act; investigation, I Person may not	have determ	nined that to	there are no
(e) I(f) I h	have rea	ason to believe the contract of the contract o	hat the requested fissing Person, Missing Person, ssing Person); able grounds to	ed copies of or or the person will assist	access to reon who may the Police ords of the type	cords of one of the service pes that are	or related to companying in locating the subject
•••••							
		that records of the nation relevant to	e types that are	the subject of t			
Swor		ed before me at)			
•••••	(city or town))			
		e of Prince Edwa) , 20			
Signa				Applicant Sig	gnature (EC7.	 39/23)	



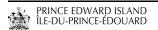
FORM 4 RECORD ACCESS ORDER

(Section 4 of the Missing Persons Act)

[Remove any portions of the proposed Order that are not needed.]

Re:
(the "Missing Person")
-and-
This Order was made by a Judicial Justice of the Peace pursuant to the <i>Missing Persons Act</i> of Prince Edward Island regarding the Missing Person.
The Applicant, a member of
Having considered the information provided in the Applicant's affidavit, I am satisfied that (a)
I order that access to or copies of the records indicated below that contain information about
(select either or both, as applicable) □ the Missing Person; □
shall be provided to the Folice Service by any person who has possession of control of the records.
Records or copies of records authorized to be accessed:
(select all that apply)
□ records containing contact or identification information, and in particular
telephone records, and in particular, from

device, cell phone records, inbound and outbound text messaging records, internet browsing history records, and in particular, from
□ global position system tracking records, and in particular, from
□ records containing employment information, and in particular
to
□ records containing financial information, and in particular
I further order that the person on whom this Order is served shall provide the Police Service with an accounting of the efforts taken by the person to locate any records that cannot be found.
This Order is effective immediately and remains in force until, 20
Dated at Prince Edward Island on, 20
Signature of Judicial Justice of the Peace
(EC739/23)



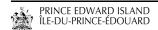
FORM 5 EMERGENCY DEMAND FOR RECORDS

(Section 5 of the Missing Persons Act)

TO:
(Name of Subject of Emergency Demand)
(Name of Missing Person)
to the (Police Service) which is conducting a non-criminal investigation into the Missing Person's whereabouts.
It is believed that the Missing Person is at risk of imminent serious bodily harm or death. Accordingly, immediate access to the records listed below may assist the Police Service in locating the Missing Person before the person suffers any harm and it is not practicable to obtain a record access order, given the urgency of the circumstances. You have been identified as a holder of records that may be of assistance in locating the Missing Person.
Therefore, under the authority of section 5 of <i>The Missing Persons Act</i> , you are required to give copies of, or access to, the records specified below as soon as possible but no later than
(time) (day) (month) (year)
toof
(Member of Police Service) (Police Service)
who may be contacted at
DECORDS TO BE BROWINED.
RECORDS TO BE PROVIDED:
[Remove any listed records or information that are not needed.]
□ Records containing contact or identification information about the Missing Person □ Telephone records (cell phone and landline) for the period
for the period to
 □ Records containing employment information indicating □ when the Missing Person was last seen or heard from □ when, from where and how the Missing Person is paid □ Records indicating whether the Missing Person has been admitted to a hospital, including which hospital and the date, time and reason for admission and the date and time of discharge □ School, university or other educational institutional attendance information □ Records containing travel and accommodation information □ Records containing financial information □ that show credit card usage for the period □ that show when, from where and for what purpose the credit card was used □ Recent access to bank accounts for the period □ that show when, from where and for what purpose the credit card was used □ Recent access to bank accounts for the period □ that show when, from where and for what purpose the bank accounts were accessed

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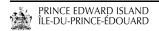
Date, Prince Edward Island (day) (month) (year)
(Name of Member of Police Service)
Signature of Member of Police Service
Subsection 5(3) of the <i>Missing Persons Act</i> requires you to locate all records specified in this emergency demand that are in your possession or under your control and give members of the Police Service in question access to, and copies of, these records as soon as possible.
AFFIDAVIT OF SERVICE
I,
(Name of Subject of Emergency Demand)
Sworn/Affirmed this
at, Prince Edward Island)
A Commissioner in and for the Province of Prince Edward Island
My Commission expires:(EC739/23)



FORM 6 APPLICATION FOR AN ORDER TO COMPLY WITH EMERGENCY DEMAND

(Section 6 of the Missing Persons Act)
Docket #
In the Provincial Court of Prince Edward Island
In the matter of an application under section 6 of the Missing Persons Act
Regarding the Missing Person
(Name of Missing Person)
Application [Remove any portions of the proposed application that are not needed.]
1 My name is
2 The named missing person has not been in contact with those persons who would likely be in contact with that person.
3 The named missing person's whereabouts are unknown despite reasonable efforts to locate the person.
4 The named missing person's safety and welfare are feared for given the person's physical or mental capabilities or the circumstances surrounding the person's absence.
5 I am applying for an order
 compelling
 for costs of this application.
Affidavit [Remove any portions of the proposed Affidavit that are not needed.]
6 In support of my application, I make oath (or affirm) and say that:
I believe the records demanded are in the possession or under the control of

• the investigative steps undertaken to date include the following:
• I request that the following additional information be considered in support of m application:
 I require the Order in aid of investigating the whereabouts of the missing person. the emergency demand under section 5 of the <i>Missing Persons Act</i> was effected by
SWORN/AFFIRMED BEFORE ME at (city or town)
n the Province of Prince Edward Island on(yyyy/mm/dd)
(Applicant's signature)
Judicial Justice of the Peace or Commissioner in and or the Province of Prince Edward Island)
(EC739/23)



FORM 7 ORDER TO COMPLY WITH EMERGENCY DEMAND

(Section 6 of the *Missing Persons Act*)

Docket #
In the Provincial Court of Prince Edward Island
In the matter of an application under subsection 6(1) of the Missing Persons Act
Regarding the Missing Person
(Name of Missing Person)
Order regarding records
Heard by
On being satisfied that
• is a missing person under the Missing Persons Act,
 the police service is conducting a non-criminal investigation into the whereabouts of the missing person,
• the applicant made an emergency demand under section 5 of the <i>Missing Persons Act</i> that was not fulfilled, and
 the applicant has a reasonable belief that the requested records will assist with the investigation,
IT IS ORDERED THAT:
[Remove any portions of the proposed Order that are not needed.]
Copies of the following records containing information related to
• the missing person,
• (name of individual) in whose company the missing person may be or may have been,

n whoever's possession the recor	ds may be, shall be produced to(police service):
	(ponce service).
	g contact information or identification, and in particular,
• information of	contained in your client or employee file, and in particular,
-	et and other electronic communication records, including
• wireless sign	als indicating the location of the device, and in particular,
<u> </u>	shone records from (date) to (date), and ar, (optional)
9	d outgoing text messaging or other instant messaging records (date) to (date), and in particular, (optional)
	story records from (date) to (date), and in (optional)
	int activity information from (date) to
• global position	on system tracking records, and in particular,
	(date) to (date), and in particular, (optional)
	g employment information indicating
	ssing person was last seen or heard from, and in particular,
(optional)	and how the missing person was paid, and in particular,
	g health information indicating
-	ission or interaction with health services from (date) (date), and in particular, (optional)

 date, time and reason for hospital admission or interaction with health services during the stated period, and in particular, (optional)
•records containing school attendance information from(date) to
 records containing financial information indicating
• credit card usage from (date) to (date),
(where, when and for what purpose used),
and in particular, (optional)
• recent access to bank accounts
(where, when and for what purpose the account was accessed),
and in particular, (optional)
•(records prescribed by regulation)
• (address costs)
Compliance with this Order is required within 48 hours of service, or before
This Order expires on
Dated thisday of, 20
Signed
Printed Name of Police Officer
Rank
Name of Police Service
Address

Pursuant to the *Missing Persons Act*, any information or records collected under the Act by a police service are confidential and may not be disclosed except in accordance with section 8 of the Act and the regulations.

Pursuant to the Missing Persons Regulations, where this Order requires a person to provide records or copies of records, the records or copies of the records shall either

- (a) be provided to the police service; or
- (b) if it is not possible for all requested records to be provided, the available records shall be provided together with a time estimate for the provision of the remaining records.

Pursuant to the Missing Persons Regulations, information or records collected under the authority of the Act

- (a) are, when the missing person has been safely located, to be disposed of within 90 days after the missing person is located;
- (b) may be retained if the missing person is not found or if the missing person is found dead; or
- (c) may be retained if any further investigations arise or are likely to arise regarding the disappearance of the missing person until any and all investigations are concluded.

(EC739/23)