

ATTACHMENT G.

COMMONWEALTH OF AUSTRALIA

MIGRATION ACT 1958: Section 487ZC

WARRANT TO SEARCH PREMISES  
ISSUED UNDER SUBDIVISION F OF DIVISION 3 OF PART 8E OF THE *MIGRATION ACT 1958*.

To: Stuart MCCALLUM

an authorised officer for the purpose of Division 3 of Part 8E of the *Migration Act 1958*, who is the authorised officer in relation to this warrant;

WHEREAS, I, Andrea McCleary an issuing officer within the meaning of section 487A of the *Migration Act 1958*, am satisfied by information on oath that there are reasonable grounds for suspecting that there is (or that there may be within the next 72 hours) on premises located at:

A: PREMISES:

Branyan, Queensland, 4670 properly described as L61  
RP835506, LA Bundaberg Regional.

evidential material as defined in section 487A of the *Migration Act 1958* which satisfies ALL of the following THREE conditions namely:

**FIRST CONDITION:**

Things which are originals or copies of any one or more of the following, including any of them stored in electronic equipment or in a storage device and any manual, instruction, password or other thing which is needed to gain access to or interpret or decode any of the following things:

- Address and telephone number lists and books
- Advertising or promotional literature
- Banking documents
- Bank Transfer Documents
- Brochures and other illustrated descriptive material
- Catalogues
- Cheque books
- Cheque stubs
- Computer disks
- Contracting, sub-contracting and bailment records
- Correspondence and draft correspondence
- Credit Card statements
- Credit Card vouchers
- Diaries
- Documents
- Documents relating to costings
- Electronic mail messages
- E-mail address lists and books
- Facsimiles
- Instructions
- Internet and e-mail copies or downloads or similar electronic communication
- Invoices
- Journals
- Labour supply records



- Letters
- Money Orders
- Money transfers
- Notebooks
- Notes
- Orders
- Other monetary instruments
- Pamphlets and brochures
- Payment Receipts
- Personal organisers
- Photographs
- Receipts
- Recorded telephone numbers
- Recorded email addresses
- Recruitment records
- Salary payment records, wage books and payslips
- Shift rosters, time sheets and work sheets
- Telephone accounts
- Telephone and Mobile Phone Records
- Travel Documentation
- Videos, similar audio-visual recordings
- Work sheets

**SECOND CONDITION:**

Things which relate to any one or more of the following:

- **Persons:**
  - Geoffrey Leonard SMITH
  - Armanell Jane SMITH aka DUNROBIN aka EGGMOLESSE
  - Flora Lisa REUBEN
  - Pakileata MATAKAIONGO
  - Fred REUBEN
  - Georgette KOLOMULE
  - Samson Vilvil FARE
- **Businesses / Companies / Agencies:**
  - East Bundaberg Backpackers
  - Cherri Backpackers
  - Farmgate Backpackers
  - Eden Farms
  - Seasonal Worker Programme (SWP)
  - Pacific Labour Mobility Scheme (PLS)
- **Addresses:**
  - Branyan, Queensland, 4670
- **Communications:**
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**THIRD CONDITION:**

And as to which there are reasonable grounds for suspecting that they will afford evidence as to the commission of a work-related offence or offences, and/or contravention of a work-related provision or provisions in the Migration Act 1958:

Between 7 November 2020 and this day at Bundaberg in the State of QUEENSLAND, Geoffrey Leonard SMITH and/or other unknown persons, contrary to section 245AE of the Migration Act 1958, referred, or continues to refer unlawful non-citizens for work. Penalty: 2 years imprisonment or 90 penalty units

Between 7 November 2020 and this day at Bundaberg in the State of QUEENSLAND, Geoffrey Leonard SMITH and/or other unknown persons, contrary to section 245AEA of the Migration Act 1958, referred, or continues to refer, lawful non-citizens to work in breach of a work related condition. Penalty: 2 years imprisonment or 90 penalty units

- **I HEREBY issue this warrant which authorises you to enter and search the premises described above.**

**AND by virtue of Division 3 of Part 8E of the *Migration Act 1958* this warrant authorises the authorised officer to do the following:**

- **enter the premises specified above;**
- **search the premises specified above, and any thing on the premises, for the kind of evidential material described above;**
- **seize any such evidential material described above, and any other evidential material, as may be found on the premises specified above;**
- **inspect, examine, take measurements of, conduct tests on or take samples of evidential material;**
- **make any still or moving image or any recording of the premises or evidential material;**
- **take onto the premises such equipment and materials as the authorised officer requires for the purposes of exercising powers in relation to the premises;**
- **seize any other thing found at the premises in the course of searching for the kind of evidential material specified in the warrant, if the authorised officer reasonably believes that a related provision has been contravened with respect to the thing, or the thing is evidence of the contravention of a related provision, or the thing is intended to be used for the purpose of contravening a related provision, and the authorised officer reasonably believes that it is necessary to seize the thing in order to prevent its concealment, loss or destruction;**
- **to exercise any of the other powers set out in Division 3 of Part 8E of the *Migration Act 1958* in relation to the premises specified above;**
- **operate electronic equipment on the premises if the authorised officer reasonably suspects that that the equipment (or any disk, tape or other storage device on the premises that can be used with the equipment or is associated with it) contains evidential material; and**
- **Either:**

- seize the electronic equipment and the disk, tape or other storage device;  
or
- operate the electronic equipment on the premises to put the evidential material in documentary form and remove the documents so produced from the premises; or
- operate the electronic equipment on the premises to transfer the evidential material to a disk, tape or other storage device that is brought to the premises (or is on the premises and the use of which has been agreed to in writing by the occupier of the premises) and remove the disk, tape or other storage device from the premises.

Note, by virtue of section 487F of the *Migration Act 1958*, an authorised officer may operate electronic equipment as mentioned above only if the authorised officer reasonably believes that the operation of the equipment can be carried out without damage to the equipment and an authorised officer may seize equipment or a disk, tape or other storage device only if:

- (a) it is not practicable to put the evidential material in documentary form or to transfer the evidential material; or
- (b) possession of the equipment or the disk, tape or other storage device by the occupier could constitute an offence against a law of the Commonwealth.

AND, by virtue of sections 487H and 487J of the *Migration Act 1958*, in executing this warrant:

- The authorised officer may be assisted by other persons in exercising powers or performing functions and duties under this Division, if that assistance is necessary and reasonable; and
- The authorised officer, or a person who is a person assisting, may use such force against things as is necessary and reasonable in the circumstances;

AND the authorised officer and a person assisting may exercise such other of the powers available under the *Migration Act 1958* as are appropriate in the circumstances of the case.

**NOTE:** This warrant is issued in recognition that a claim for legal professional privilege may be made in respect of documents covered by this warrant and on the understanding that, if that occurs, the authorised officer will, as far as is reasonably practicable, follow the course of action set out in the document entitled "Claims for Legal Professional Privilege: Premises other than those of a Lawyer, Law Society or Like Institution" a copy of which is attached to this warrant.

**Public interest immunity**

**NOTE:** This warrant is issued in recognition that a claim for public interest immunity may be made in respect of documents covered by this warrant and on the understanding that, if that occurs, the authorised officer will, as far as is reasonably practicable, follow the course of action set out in the document entitled "Claims for Public Interest Immunity" a copy of which is attached to this warrant.

Note the following:

**“Evidential material” is defined in section 487A of the *Migration Act 1958* to mean:**

- (a) in relation to a sponsorship-related offence or a work-related offence:**
  - (i) a thing with respect to which the offence has been committed or is reasonably suspected of having been committed; or**
  - (ii) a thing that it is reasonably suspected will afford evidence as to the commission of the offence; or**
  - (iii) a thing that is reasonably suspected of being intended to be used for the purpose of committing the offence; or**
  
- (b) in relation to a contravention of a sponsorship-related provision or a work-related provision:**
  - (i) a thing with respect to which the provision has been contravened or is reasonably suspected of having been contravened; or**
  - (ii) a thing that it is reasonably suspected will afford evidence as to the contravention of the provision; or**
  - (iii) a thing that is reasonably suspected of being intended to be used for the purpose of contravening the provision.**

**Statement of rights of the occupier**

**A statement of the rights of the occupier of premises is attached to this warrant.**

The offences/contraventions to which this warrant relates are those specified under the third condition above.

This warrant is issued under Subdivision F of Division 3 of Part 8E of the *Migration Act 1958*.

**Claims for Legal Professional Privilege: Premises other than those of a Lawyer, Law Society or Like Institution.**

These guidelines should be followed by the executing officer or a person assisting in any case where a search warrant is being executed on premises other than those of a Lawyer, Law Society or Like Institution and there is a claim for Legal Professional Privilege (or Client Legal Privilege) in respect of documents that are on the premises.

1. The officer may look at each document briefly, and without closely reading the contents, to determine the general nature of the document and to assess whether the document appears to be relevant to the matters under investigation and whether it appears likely that the document contains privileged material (in JMA Accounting Pty Ltd v Commissioner of Taxation (2004) 139 FCR 537 the Full Federal Court ruled that it is not a breach of LPP for an investigator to look at a privileged document for these purposes).
2. If the officer decides that the document is not relevant to the matters under investigation they should not inspect it further. They should proceed with the remainder of the search.
3. Similarly if the officer is satisfied, on the basis of a brief examination, that the document is clearly covered by Legal Professional Privilege they should not inspect it further. They should proceed with the remainder of the search.
4. If the officer decides that the document appears to be relevant to the matters under investigation and forms the view, on the basis of a brief examination, that the document is clearly not covered by Legal Professional Privilege they are entitled to seize the document under the authority of the search warrant.
5. If the officer decides that the document appears to be relevant to the matters under investigation, but cannot form a view on whether or not the document is covered by Legal Professional Privilege, the officer can ask the occupier if they are prepared to agree to follow the procedure set out in this document so that the claim for privilege can be resolved.
6. The relevant procedure for hard copy documents is as follows:
  - The executing officer or a person assisting will prepare a list of all relevant documents in cooperation with the occupier. The list should show the general nature of each document, the ground on which privilege is claimed, and the name of the person claiming privilege;
  - The documents will be placed in an envelope or other container which will be sealed;
  - The list and the container will be signed by the executing officer or person assisting and the occupier;
  - The sealed container and a copy of the list will be stored by the ABF or delivered to a third party agreed between the executing officer or person assisting and the occupier;
  - The ABF or the third party shall hold the container and the copy of the list pending resolution of the claim for privilege;
  - Subject to any agreement to the contrary, the person claiming privilege will have four working days after delivery to the ABF or third party in which to commence proceedings to establish the privilege claimed. If proceedings are commenced within that time the sealed container and the copy of the list will be delivered to the registrar of the court in which the proceedings

### **Claims for Public Interest Immunity**

If a claim is made for public interest immunity in respect of any document covered by the search warrant, the executing officer will ask the person making the claim whether they are willing to agree to comply with the procedure set out in this document. If so, the executing officer will comply with the following procedure, to the extent to which it is possible to do so:

1. The executing officer or a person assisting will prepare a list of the relevant documents in cooperation with the person claiming immunity. The list will show the general nature of each document, the ground on which immunity is claimed, and the name of the person claiming immunity;
2. The documents will be placed in an envelope or other container which will be sealed;
3. The list and the container will be endorsed with a note to the effect that, having regard to the claim for immunity, the warrant has not been executed in respect of the documents set out in the list and that those documents have been sealed in the container pending resolution of the claim;
4. The list and the container will be signed by the executing officer or person assisting and the person claiming immunity;
5. The sealed container and a copy of the list will be delivered to a third party agreed between the executing officer or person assisting and the person claiming immunity;
6. The third party shall hold the container and the copy of the list pending resolution of the claim for immunity;
7. Subject to any agreement to the contrary, the person claiming immunity will have four working days after delivery to the third party in which to commence proceedings to establish the immunity claimed. If proceedings are commenced within that time the sealed container and the copy of the list will be delivered to the registrar of the court in which the proceedings have been brought. The documents will then be held by the registrar pending the order of the court;
8. Subject to paragraph 9, if proceedings are not commenced within four working days, or such other period as may be agreed, the third party will deliver the documents, or such of them as the executing officer still wishes to examine, to the executing officer;
9. Nothing in this document prevents the executing officer from discussing a claim for immunity with the person raising the claim. If agreement can be reached on which documents are covered by immunity, and which are not, the third party will be asked to act in accordance with that agreement. Similarly, if agreement can be reached on an independent arbiter to rule on the claim for immunity, the third party will be asked to act in accordance with that agreement.

If the person claiming public interest immunity is not prepared to cooperate with the executing officer, it will normally be necessary for the executing officer to execute the search warrant in accordance with normal procedures. That may result in the executing officer, or a constable assisting, examining documents to determine whether there is a proper basis for seizure.

have been brought. The documents will then be held by the registrar pending the order of the court;

- If proceedings are not commenced within four working days, or such other period as may be agreed, the ABF or the third party will deliver the documents, or such of them as the executing officer still wishes to examine, to the executing officer and the executing officer will then deal with the documents as if they had been seized under the search warrant at the time of search;
8. Nothing in the previous paragraphs prevents the executing officer from discussing a claim for privilege with the person raising the claim. If agreement can be reached on which documents are covered by legal professional privilege, and which are not, the third party will be asked to act in accordance with that agreement.
  9. If the occupier agrees to comply with the above procedures, and to be bound by them, the officer should proceed to implement those procedures.
  10. If the occupier does not agree to comply with those procedures, the executing officer or person assisting may proceed to execute the search warrant doing the best they can to ensure that they do not read or seize privileged material. There can be no guarantee that they will not inadvertently read or seize privileged material.



THIS WARRANT MAY BE EXECUTED BETWEEN THE HOURS OF 06:00 AM AND 10:00 PM.

THE TIME AT WHICH THIS WARRANT EXPIRES IS MIDNIGHT AT THE END OF THE SEVENTH DAY (or less than seven days) AFTER THE DAY ON WHICH THE WARRANT IS ISSUED

GIVEN under my hand at.....*Brisbane*.....

in the said State of QUEENSLAND

this: *21<sup>st</sup>* day of *July* 20*21*.

.....  
A Magistrate  
in and for the State/Territory of QUEENSLAND