



Criminal Procedure (Domestic Violence and Harassment Information) Regulations 2013

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 20th day of May 2013

Present:

His Excellency the Governor-General in Council

Pursuant to section 387 of the Criminal Procedure Act 2011, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Criminal Procedure (Domestic Violence and Harassment Information) Regulations 2013.

2 Commencement

These regulations come into force on 1 July 2013.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Criminal Procedure Act 2011

domestic violence has the same meaning as in section 3 of the Domestic Violence Act 1995

domestic violence offence means an offence against any enactment (other than the Domestic Violence Act 1995) in any case where—

- (a) the offence is committed—
 - (i) by a person against whom a protection order is in force, or in respect of whom proceedings on an application for a protection order are pending, at the time the offence is committed; and
 - (ii) against any person who is a protected person (within the meaning of that Act) under that protection order, or whom that application seeks to make a protected person, as the case may be; and
- (b) the offence consists of or includes conduct that is domestic violence

harassment offence means an offence against—

- (a) section 8 of the Harassment Act 1997; or
- (b) any other enactment in any case where the offence—
 - (i) is committed by a person against whom a restraining order is in force, or in respect of whom proceedings on an application for a restraining

order are pending, at the time the offence is committed; and

- (ii) is committed against a person for whose protection the restraining order was made or has been applied for, as the case may be; and
- (iii) consists of or includes a specified act within the meaning of section 4 of the Harassment Act 1997

protection order has the same meaning as in section 2 of the Domestic Violence Act 1995, and includes any order that is deemed, by section 133(3) of that Act, to be a protection order

relevant court,—

- (a) in relation to an offence against section 49 of the Domestic Violence Act 1995 or a domestic violence offence, means the court that made a protection order against the person convicted of the offence, and includes a court in which an application for a protection order against the offender is pending:
- (b) in relation to an offence against section 25 of the Harassment Act 1997 or an harassment offence, means the court that made a restraining order against the person convicted of the offence, and includes a court in which an application for a restraining order against the offender is pending

restraining order has the same meaning as in section 2 of the Harassment Act 1997.

- (2) Any term that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

4 Transmission of entry in permanent court record relating to breach of protection order or restraining order

- (1) If a defendant is convicted of an offence against section 49 of the Domestic Violence Act 1995, the Registrar of the court in which that conviction is entered must, without delay, forward a certified copy of the entry in the permanent court record relating to that conviction to the Registrar of the relevant court.
- (2) If a defendant is convicted of an offence against section 25 of the Harassment Act 1997, the Registrar of the court in which that conviction is entered must, without delay, forward a cer-

tified copy of the entry in the permanent court record relating to that conviction to the Registrar of the relevant court.

- (3) On receiving a copy forwarded under subclause (1) or (2), the Registrar of the relevant court must cause the copy to be placed on the file relating to the applicable proceedings.

Compare: SR 1958/38 r 15Q

5 Transmission of entry in permanent court record relating to other offences involving domestic violence or harassment

- (1) If a defendant is convicted of a domestic violence offence or of an harassment offence, a judicial officer may direct the Registrar of the court in which that conviction is entered to forward, without delay, a certified copy of the entry in the permanent court record relating to that conviction to the Registrar of the relevant court.
- (2) If a defendant is convicted of an offence and the Registrar of the court in which that conviction is entered has reason to believe that the offence is a domestic violence offence or an harassment offence, the Registrar must, without delay, forward a certified copy of the entry in the permanent court record relating to that conviction to the Registrar of the relevant court.
- (3) On receiving a copy forwarded under subclause (1) or (2), the Registrar of the relevant court must cause the copy to be placed on the file relating to the applicable proceedings.

Compare: SR 1958/38 r 15R

6 Result of appeal to be notified to relevant court

- (1) Subclause (2) applies if,—
- (a) under regulation 4 or 5, a certified copy of an entry in the permanent court record relating to a conviction for an offence is forwarded to a relevant court; and
 - (b) on any appeal,—
 - (i) that conviction is set aside; or
 - (ii) the sentence imposed in relation to that offence is varied; and
 - (c) in accordance with section 184 of the Act, the Registrar makes, in the entry in the permanent court record relating to that conviction, a note of the decision on appeal.

- (2) The Registrar must, without delay, forward a copy of the note of the decision on appeal to the Registrar of the relevant court.
- (3) If a copy of a note relating to a conviction is forwarded to the relevant court under subclause (2), the Registrar of that court must,—
 - (a) if the conviction has been set aside, remove from the file relating to the applicable proceedings the copy of the entry relating to that conviction; or
 - (b) in any other case, cause the copy of the note to be placed on the file relating to the applicable proceedings.

Compare: SR 1958/38 r 15S

7 Information about criminal proceedings in domestic violence proceedings

- (1) In this regulation, **domestic violence proceedings** means an application for a protection order that is pending before a District Court or a Family Court or that a District Court or a Family Court has determined by making a protection order.
- (2) This regulation applies if the court in which domestic violence proceedings have been filed or the Registrar of that court has reason to believe that the respondent or associated respondent to the domestic violence proceedings is charged with, or has at any time been convicted of,—
 - (a) a domestic violence offence; or
 - (b) an offence against section 49 of the Domestic Violence Act 1995.
- (3) If this regulation applies, the Registrar of the court may—
 - (a) consult the Registrar of the court in which the respondent or associated respondent to the domestic violence proceedings is believed to have been charged with or convicted of an offence specified in subclause (2); and
 - (b) request that Registrar to supply available information relating to the charge or conviction.
- (4) The information that a Registrar may request under subclause (3)(b) includes, where applicable and without limitation,—
 - (a) the conditions on which bail has been granted to the respondent or associated respondent;
 - (b) a copy of the entry in the permanent court record relating to the conviction.

- (5) A Registrar to whom a request is made under subclause (3)(b) must, without delay, provide to the requesting Registrar as much of the information requested as the requested Registrar has available to him or her.

Compare: SR 1958/38 r 15T

8 Information about criminal proceedings in harassment proceedings

- (1) In this regulation, **harassment proceedings** means an application for a restraining order that is pending before a District Court or that a District Court has determined by making a restraining order.
- (2) This regulation applies if the court in which harassment proceedings have been filed, or the Registrar of that court, has reason to believe that the respondent or associated respondent to the harassment proceedings is charged with, or has at any time been convicted of,—
- (a) an harassment offence; or
 - (b) an offence against section 25 of the Harassment Act 1997.
- (3) If this regulation applies, the Registrar of the court may—
- (a) consult the Registrar of the court in which the respondent or associated respondent to the harassment proceedings is believed to have been charged with or convicted of an offence specified in subclause (2); and
 - (b) request that Registrar to supply available information relating to the charge or conviction.
- (4) The information that a Registrar may request under subclause (3)(b) includes, where applicable and without limitation,—
- (a) the conditions on which bail has been granted to the respondent or associated respondent;
 - (b) a copy of the entry in the permanent court record relating to the conviction.
- (5) A Registrar to whom a request is made under subclause (3)(b) must, without delay, provide to the requesting Registrar as much of the information requested as the requested Registrar has available to him or her.

Compare: SR 1958/38 r 15U

9 Amendments to Summary Proceedings Regulations 1958

- (1) This clause amends the Summary Proceedings Regulations 1958.
- (2) In regulation 2, revoke the definitions of **domestic violence**, **domestic violence offence**, **harassment offence**, **protection order**, **relevant court**, and **restraining order**.
- (3) Revoke regulations 15Q to 15U.

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 July 2013, prescribe certain matters for the purposes of the Criminal Procedure Act 2011 (the **principal Act**).

Regulations 4 to 8 re-enact, without substantive change, existing regulations in the Summary Proceedings Regulations 1958. The regulations provide for the transfer of information about certain offences from courts exercising criminal jurisdiction to Family Courts and District Courts for the purposes of proceedings under the Domestic Violence Act 1995 and the Harassment Act 1997. *Regulation 9* revokes those existing regulations (and the associated definitions) that are being re-enacted in these regulations.

**Criminal Procedure (Domestic Violence and
Harassment Information) Regulations 2013**

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These regulations are administered by the Ministry of Justice.
