



Criminal Procedure (Transfer of Information) Amendment Regulations 2015

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 29th day of June 2015

Present:

His Excellency the Governor-General in Council

Pursuant to section 387(1)(h) 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 (Transfer of Information) Amendment Regulations 2015.

2 Commencement

These regulations come into force on 1 September 2015.

3 Principal regulations

These regulations amend the Criminal Procedure (Transfer of Information) Regulations 2013 (the **principal regulations**).

4 Regulation 3 amended (Interpretation)

In regulation 3(1), insert in their appropriate alphabetical order:

associated respondent, in relation to a domestic violence proceeding, has the meaning given to it by section 2 of the Domestic Violence Act 1995

court file means a collection of documents that relate to a criminal proceeding and are in the custody or control of a court

database, in relation to a criminal proceeding, means any electronic system in or on which information about the criminal proceeding is recorded

domestic violence proceeding means a proceeding in a Family Court or District Court under the Domestic Violence Act 1995 in which an application for a protection order—

(a) is pending; or

(b) has been granted

respondent, in relation to a domestic violence proceeding, means a person against whom a protection order is sought or has been made, and includes an associated respondent.

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

Replace the heading to regulation 5 with “**Transmission of entry in permanent court record relating to domestic violence offences or harassment offences**”.

6 Regulation 7 replaced (Information about criminal proceedings in domestic violence proceedings)

Replace regulation 7 with:

7 Information about respondent's offending available to court dealing with domestic violence proceeding

- (1) In this regulation,—
- domestic relationship** has the meaning given to it by section 2 of the Domestic Violence Act 1995
- violence** has the meaning given to it by section 3(2) of the Domestic Violence Act 1995.
- (2) This regulation applies if a respondent to a domestic violence proceeding—
- (a) is a defendant in a criminal proceeding in which he or she is charged with—
- (i) an offence against section 49 of the Domestic Violence Act 1995; or
- (ii) an offence that—
- (A) involves the use of violence; and
- (B) is committed against a person with whom the respondent is, or has been, in a domestic relationship; or
- (b) has been a defendant in a criminal proceeding in which he or she was convicted of—
- (i) an offence against section 49 of the Domestic Violence Act 1995; or
- (ii) an offence that—
- (A) involved the use of violence; and
- (B) was committed against a person with whom the respondent was, or had been, in a domestic relationship.
- (3) A Registrar of a court that is dealing with a domestic violence proceeding may obtain information about the criminal proceeding referred to in subclause (2) from—
- (a) the court file relating to that proceeding;
- (b) any database relating to that proceeding;
- (c) the permanent court record relating to that proceeding.
- (4) A Registrar of a court that is dealing with a domestic violence proceeding and who has obtained information under subclause (3) must make that information available to the court.

7 New regulations 7A and 7B inserted

After regulation 7, insert:

7A Criminal record available to court dealing with domestic violence proceeding

- (1) A Registrar of a court that is dealing with a domestic violence proceeding may obtain details of a respondent's criminal record (if any) from—
 - (a) a court file relating to any criminal proceeding;
 - (b) a database relating to any criminal proceeding;
 - (c) the permanent court record relating to any criminal proceeding.
- (2) A Registrar of a court that is dealing with a domestic violence proceeding and who has obtained information under subclause (1) must make that information available to the court.
- (3) In this regulation, **criminal record**, in relation to a respondent, means a record of any of the following:
 - (a) charges laid against the respondent that have resulted in a conviction;
 - (b) convictions entered against the respondent;
 - (c) sentences imposed on the respondent;
 - (d) orders imposed on the respondent as a result of a conviction.

7B Address information available to court for purpose of serving document in domestic violence proceeding

- (1) This regulation applies if, in a domestic violence proceeding, a document that has been issued for service is not able to be served on a respondent because the respondent's current address is not known.
- (2) A Registrar of the court that is dealing with the domestic violence proceeding may obtain from any court file details of the respondent's current address.
- (3) If a Registrar obtains, under subclause (2), details of the respondent's current address, that information may be used only for the purpose of arranging for the respondent to be served with the document.

Michael Webster,
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 September 2015, amend the Criminal Procedure (Transfer of Information) Regulations 2013 (the **principal regulations**).

Regulation 7 of the principal regulations is replaced with a new provision that will allow a Family Court or District Court dealing with a domestic violence proceeding to obtain more information about a respondent's criminal offending. In particular, the Family Court or District Court will be able to obtain—

- information about any offence a respondent has been charged with, or convicted of, involving domestic violence that is committed against any person with whom the respondent is, or has been, in a domestic relationship (the offence does not have to have been committed against a person seeking the protection of, or protected by, a protection order);
- information about that offending held electronically and on the permanent court record, as well as on the court file.

New regulations 7A and 7B are inserted in the principal regulations to enable a court dealing with domestic violence proceedings to obtain details of—

- a respondent's criminal record (*new regulation 7A*); and
- a respondent's current address for the purpose of serving a document issued for service in the proceeding (*new regulation 7B*).

The amendments to regulations 3 and 5 of the principal regulations are consequential on regulation 7 (as replaced) and *new regulations 7A and 7B*.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 2 July 2015.

These regulations are administered by the Ministry of Justice.