

## Summary Proceedings Amendment Regulations 1998

PURSUANT to section 212 of the Summary Proceedings Act 1957, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

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**1 Title and commencement**

- (1) These regulations may be cited as the Summary Proceedings Amendment Regulations 1998, and are part of the Summary Proceedings Regulations 1958<sup>1</sup> (“the principal regulations”).
- (2) These regulations come into force on 1 May 1998.

**2 Interpretation**

- (1) Regulation 2 of the principal regulations is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**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—

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<sup>1</sup> SR 1958/38 (Reprinted with Amendments Nos 1 to 9: SR 1980/84)

Amendment No 10: *(Revoked by SR 1987/311)*

Amendment No 11: *(Revoked by SR 1987/311)*

Amendment No 12: *(Revoked by SR 1987/311)*

Amendment No 13: SR 1985/231)

Amendment No 14: *(Revoked by SR 1988/37)*

Amendment No 15: SR 1987/211

Amendment No 16: SR 1987/311

Amendment No 17: *(Revoked by SR 1991/189)*

Amendment No 18: SR 1989/12

Amendment No 19: SR 1991/189

Amendment No 20: SR 1992/70

Amendment No 21: SR 1993/81

Amendment No 22: SR 1993/150

Amendment No 23: SR 1993/252

Amendment No 24: SR 1993/314

Amendment No 25: SR 1996/26

Amendment No 26: SR 1996/154

Amendment 1997: SR 1997/322

- “(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:

“**Restraining order** has the same meaning as in section 2 of the Harassment Act 1997”.

- (2) Regulation 2 of the principal regulations is amended by revoking the definition of the term **relevant Court**, and substituting the following definition:

“**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 which 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 which 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.”.

### 3 New regulations substituted

The principal regulations are amended by revoking regulations 15Q to 15T, and substituting the following regulations:

#### “15Q Transmission of criminal record relating to breach of protection or restraining order

- “(1) Where 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 Criminal Records relating to that conviction to the Registrar of the relevant Court.

- “(2) Where 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 certified copy of the entry in the Criminal Records relating to that conviction to the Registrar of the relevant Court.
- “(3) On receiving the copy, the Registrar of the relevant Court must cause the copy to be placed on the file relating to the applicable proceedings.

**“15R Transmission of criminal record relating to other offences involving domestic violence or harassment**

- “(1) Where a defendant is convicted of a domestic violence offence or of an harassment offence, a District Court Judge or Justice 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 Criminal Records relating to that conviction to the Registrar of the relevant Court.
- “(2) Where—
- “(a) A defendant is convicted of an offence; and
  - “(b) 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 Criminal Records relating to that conviction to the Registrar of the relevant Court.
- “(3) On receiving a copy forwarded under subclause (1) or subclause (2) the Registrar of the relevant Court must cause the copy to be placed on the file relating to the applicable proceedings.

**“15S Result of appeal to be notified to Court receiving copy of criminal record**

- “(1) If,—
- “(a) Under regulation 15Q or regulation 15R, a copy of an entry in the Criminal Records relating to a conviction for an offence is forwarded to a relevant Court; and
  - “(b) On any appeal,—
- “(i) That conviction is quashed; or

- “(ii) The sentence imposed in relation to that offence is varied; and
- “(c) In accordance with section 135(2) of the Act, the Registrar makes, in the entry in the Criminal Records relating to that conviction, a note of the decision on appeal,— the Registrar must, without delay, forward a copy of that note to the Registrar of the relevant Court.
- “(2) If a copy of a note relating to a conviction is forwarded to the relevant Court under subclause (1), the Registrar of that Court must,—
  - “(a) Where the conviction has been quashed, remove from the file 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.

**“15T Information about criminal proceedings in domestic violence proceedings**

- “(1) In this regulation, the term **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 where 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 been convicted of—
  - “(a) A domestic violence offence; or
  - “(b) An offence against section 49 of the Domestic Violence Act 1995.
- “(3) Where 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) includes, where applicable and without limitation,—
- “(a) The conditions on which bail has been granted to the defendant;
  - “(b) A copy of the entry in the Criminal Records relating to the conviction.
- “(5) A Registrar to whom a request is made under subclause (3) must, without delay, provide to the requesting Registrar as much of the information requested as the requested Registrar has available to him or her.

“**15U Information about criminal proceedings in harassment proceedings**

- “(1) In this regulation, the term **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 where 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 been convicted of,—
- “(a) An harassment offence; or
  - “(b) An offence against section 25 of the Harassment Act 1997.
- “(3) Where 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) includes, where applicable and without limitation,—
- “(a) The conditions on which bail has been granted to the defendant;
  - “(b) A copy of the entry in the Criminal Records relating to the conviction.

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

#### **4 Revocation**

Regulation 3 of the Summary Proceedings Regulations 1958, Amendment No 26 is consequentially revoked.

MARIE SHROFF,

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 May 1998, amend the Summary Proceedings Regulations 1958. The regulations provide for the transfer of information about certain offences relevant to civil proceedings under the Harassment Act 1997 from courts exercising criminal jurisdiction to District Courts for the purposes of those civil proceedings. The regulations also re-enact, without substantive change, existing provisions of the principal regulations relating to the transfer of relevant criminal information to Family Courts and District Courts for the purposes of proceedings under the Domestic Violence Act 1995.

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