



**THE SERIOUS FRAUD OFFICE (PRESCRIBED FORMS)
REGULATIONS 1990**

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PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 9th day of July 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 53 of the Serious Fraud Office Act 1990, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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ANALYSIS

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| <p>1. Title and commencement</p> <p>2. Interpretation</p> <p>3. Notice to require production of documents</p> <p>4. Search warrant under Part I</p> | | <p>5. Notice to require attendance before Director, production of documents, etc.</p> <p>6. Search warrant under Part II Schedule</p> |
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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Serious Fraud Office (Prescribed Forms) Regulations 1990.

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

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

“Act” means the Serious Fraud Office Act 1990.

Expressions defined in the Act have the same meaning in these regulations.

(2) In these regulations, a reference to a numbered form is a reference to the form so numbered in the Schedule to these regulations.

3. Notice to require production of documents—Every notice under section 5 of the Act shall be in form 1.

4. Search warrant under Part I—Every warrant issued under section 6 of the Act shall be in form 2.

5. Notice to require attendance before Director, production of documents, etc.—Every notice under section 9 of the Act shall be in form 3.

6. Search warrant under Part II—Every warrant issued under section 10 of the Act shall be in form 4.

SCHEDULE
FORMS

Rule 3

Form 1

NOTICE TO REQUIRE PRODUCTION OF DOCUMENTS

(Given Pursuant to Section 5 of the Serious Fraud Office Act 1990)

ENQUIRY INTO THE AFFAIRS OF [Specify the person whose affairs are being enquired into]

(or ENQUIRY RELATING TO [Specify suspected offence])

To: [Full name]
of [Address]

TAKE notice that you are required, at a.m. (p.m.) on day, the day of 19.... (or forthwith) at [State place],—

*(a) To produce for inspection the following documents [Specify documents], which the Director has reason to believe may be relevant to a suspected case of serious or complex fraud:

*(b) To answer, to the best of your knowledge and belief, questions with respect to the whereabouts or existence of any further documents that may be relevant to the investigation.

If paragraph (b) applies, you may, if you wish, be accompanied by a barrister or a solicitor.

Dated at this day of 19....

.....
Director/Designated member*
Serious Fraud Office

*Delete if inapplicable.

SCHEDULE—*continued*FORMS—*continued*Form 1—*continued***INFORMATION***Search Warrants*

The Director may apply for a search warrant in accordance with section 6 of the Act if—

- (a) There are reasonable grounds for believing—
 - (i) That you have failed to produce all of the documents specified in this notice; or
 - (ii) That you have failed to answer any question asked pursuant to this notice or that any answer given to any such question is false or misleading in a material particular or is incomplete; and
- (b) There are reasonable grounds for believing that there may be, at the place specified in the application for the warrant, any documents or other thing that may be relevant to an investigation or may be evidence of any offence involving serious or complex fraud.

*Offences**Offence to obstruct investigation, etc.*

You will commit an offence, and be liable on conviction on indictment,—

- (a) If you are an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$15,000;
 - (b) If you are a corporation, to a fine not exceeding \$40,000,—
- if you, in the course of complying with any requirement imposed pursuant to this notice, give an answer to any question or produce any document knowing that it is false or misleading in a material particular or being reckless as to whether it is so false or misleading.

Offence to destroy, alter, or conceal records, etc.

You will commit an offence, and be liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$50,000 if you, with intent to defeat any investigation being carried out or likely to be carried out by the Serious Fraud Office, or with intent to prevent the Serious Fraud Office exercising any power under the Act,—

- (a) Destroy, alter, or conceal any book, document, or record; or
 - (b) Send any book, document, or record out of New Zealand.
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SCHEDULE—*continued*
FORMS—*continued*

Rule 4

Form 2

SEARCH WARRANT

(Issued Pursuant to Section 6 of the Serious Fraud Office Act 1990)

ENQUIRY INTO THE AFFAIRS OF [*Specify the person whose affairs are being enquired into*]

(or ENQUIRY RELATING TO [*Specify suspected offence*])

To: [*Name of constable*] or every constable or [*Name of designated member of Serious Fraud Office*] or every designated member of the Serious Fraud Office.

1. This warrant is issued following an application in writing made on oath by [*Name of applicant*] in respect of [*Specify place*].

2. I, [*Name of Judge*], am satisfied—

(a) That there are reasonable grounds for believing—

*(i) That [*Name*] has failed to produce all of the documents specified in the notice given on day the day of..... 19.... pursuant to section 5 (1) of the Act; or

*(ii) That [*Name*] has failed to answer a question asked pursuant to section 5 (1) of the Act or has given an answer to any such question that is false or misleading in a material particular or is incomplete; or

*(iii) That it is not practicable to serve a notice under section 5 of the Act by reason of the fact that [*Name*] cannot be located or is absent from New Zealand or other good cause; and

(b) That there are reasonable grounds for believing that there may be, at [*Specify place*], any documents or other thing that may be relevant to an investigation or may be evidence of any offence involving serious or complex fraud.

3. This warrant authorises you—

(a) To enter and search [*Specify place*] on one occasion within 14 days of the date of issue of this warrant at any time which is reasonable in the circumstances:

(b) To use such assistance as is reasonable in the circumstances:

(c) To use such force both for gaining entry and for breaking open anything in or on the place searched as is reasonable in the circumstances:

(d) To search for and remove any documents or other thing that you believe on reasonable grounds may be relevant to the investigation or may be evidence of any offence involving serious or complex fraud:

(e) Where necessary, to take copies of any documents, or extracts from documents, that you believe on reasonable grounds may be relevant to the investigation:

(f) Where necessary, to require any person to reproduce, or to assist you to reproduce, in usable form, any information recorded or stored in any such documents.

SCHEDULE—continued
FORMS—continued

Form 2—continued

4. This warrant is subject to the following conditions: [*Specify any conditions imposed*].

Dated at this day of 19....

.....
Judge

**Delete if inapplicable*

Form 3

Rule 5

NOTICE TO REQUIRE ATTENDANCE BEFORE DIRECTOR,
PRODUCTION OF DOCUMENTS, ETC.

(Given Pursuant to Section 9 of the Serious Fraud Office Act 1990)

INVESTIGATION INTO THE AFFAIRS OF [*Specify the person whose affairs are being investigated*]

(or INVESTIGATION RELATING TO [*Specify suspected offence*])

To: [*Full name*]
of [*Address*]

TAKE notice that you are required, at a.m. (p.m.) on day, the day of 19....(or forthwith) at [*State place*],—

- *(a) To attend before the Director:
- *(b) To answer questions with respect to any matter that the Director has reason to believe may be relevant to the investigation:
- *(c) To supply the following information [*Specify information*], which the Director has reason to believe may be relevant to the investigation:
- *(d) To produce for inspection the following documents [*Specify documents*], which the Director has reason to believe may be relevant to the investigation:

You may, if you wish, be accompanied by a barrister or solicitor.

Dated at this day of 19....

.....
Director/Designated member*
Serious Fraud Office

**Delete if inapplicable.*

SCHEDULE—*continued*

FORMS—*continued*

Form 3—*continued*

INFORMATION

Search Warrants

The Director may apply for a search warrant in accordance with section 10 of the Act if—

- (a) There are reasonable grounds for believing—
 - (i) That any information supplied pursuant to section 9 of the Act is false or misleading in a material particular; or
 - (ii) That you have failed to comply with any obligation imposed pursuant to that section; and
- (b) There are reasonable grounds for believing that there may be, at the place specified in the application for the warrant, any documents or other thing that may be relevant to an investigation or may be evidence of any offence involving serious or complex fraud.

Offences

Offence to obstruct investigation, etc.

You will commit an offence, and be liable on conviction on indictment,—

- (a) If you are an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$15,000;
- (b) If you are a corporation, to a fine not exceeding \$40,000,—
if you,—
- (c) Without lawful justification or excuse, resist, obstruct, or delay any member of the Serious Fraud Office in the exercise of any power conferred by section 9 of the Act; or
- (d) Without lawful justification or excuse, refuse or fail to—
 - (i) Attend before the Director; or
 - (ii) Answer any question; or
 - (iii) Supply any information; or
 - (iv) Produce any document; or
 - (v) Provide any explanation; or
 - (vi) Comply with any other requirement,—
 as required pursuant to the exercise of any power conferred by section 9 of the Act; or
- (e) In the course of complying with any requirement imposed pursuant to section 9 of the Act, give an answer to any question, or supply any information, or produce any document, or provide any explanation, knowing that it is false or misleading in a material particular or being reckless as to whether it is so false or misleading.

Offence to destroy, alter, or conceal records, etc.

You will commit an offence, and be liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$50,000 if you, with intent to defeat any investigation being carried out or likely to be carried out by the Serious Fraud Office, or with intent to prevent the Serious Fraud Office exercising any power under the Act,—

- (a) Destroy, alter, or conceal any book, document, or record; or
 - (b) Send any book, document, or record out of New Zealand.
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SCHEDULE—continued
FORMS—continued

Form 4

Rule 6

SEARCH WARRANT

*(Issued Pursuant to Section 10 of the Serious Fraud Office Act 1990)*INVESTIGATION INTO THE AFFAIRS OF [*Specify the person whose affairs are being investigated*]*(or INVESTIGATION RELATING TO [*Specify suspected offence*])*To: [*Name of constable*] or every constable or [*Name of designated member of Serious Fraud Office*] or every designated member of the Serious Fraud Office.1. This warrant is issued following an application in writing made on oath by [*Name of applicant*] in respect of [*Specify place*].2. I, [*Name of Judge*], am satisfied—

(a) That there are reasonable grounds for believing—

(i)* That information supplied pursuant to section 9 of the Act is false or misleading in a material particular; or(ii)* That [*Name*] has failed to comply with an obligation imposed pursuant to section 9 of the Act; or**(iii)* That it is not practicable to serve a notice under section 9 of the Act by reason of the fact that [*Name*] cannot be located or is absent from New Zealand or other good cause; or**(iv)* That the service of a notice under section 9 of the Act might seriously prejudice the investigation; and(b) That there are reasonable grounds for believing that there may be, at [*Specify place*], any documents or other thing that may be relevant to an investigation or may be evidence of any offence involving serious or complex fraud.

3. This warrant authorises you—

(a) To enter and search [*Specify place*] on one occasion within 14 days of the date of issue of this warrant at any time which is reasonable in the circumstances:

(b) To use such assistance as is reasonable in the circumstances:

(c) To use such force both for gaining entry and for breaking open anything in or on the place searched as is reasonable in the circumstances:

(d) To search for and remove any documents or other thing that you believe on reasonable grounds may be relevant to the investigation or may be evidence of any offence involving serious or complex fraud:

(e) Where necessary, to take copies of any documents, or extracts from documents, that you believe on reasonable grounds may be relevant to the investigation:

(f) Where necessary, to require any person to reproduce, or to assist you to reproduce, in usable form, any information recorded or stored in any such documents.

SCHEDULE—continued
FORMS—continued

Form 4—continued

4. This warrant is subject to the following conditions: [*Specify any conditions imposed*].

Dated at this day of 19....

.....
Judge

**Delete if inapplicable*

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 prescribe the following forms that are required by the Serious Fraud Office Act 1990:

- (a) A form to require the production of documents pursuant to section 5 of the Act:
- (b) A form to require attendance before the Director of the Serious Fraud Office, production of documents, etc., pursuant to section 9 of the Act:
- (c) Forms of search warrants required pursuant to section 6 and section 10 of the Act.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 12 July 1990.
These regulations are administered in the Department of Justice.