



**THE DOMESTIC VIOLENCE (PUBLIC REGISTERS)
REGULATIONS 1996**

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 10th day of June 1996

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to sections 121 and 127 of the Domestic Violence Act 1995, 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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REGULATIONS

PART I

PRELIMINARY PROVISIONS

1. Title and commencement—(1) These regulations may be cited as the Domestic Violence (Public Registers) Regulations 1996.

(2) These regulations shall come into force on the 1st day of July 1996.

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

“The Act” means the Domestic Violence Act 1995:

“Agency”, in relation to a public register, means the agency responsible for administering the public register:

“Direction” means a direction made under section 109 of the Act:

“Office”, in relation to an agency, includes—

(a) A district office; and

(b) An office of any person authorised by the agency to perform any of the agency’s functions in respect of a public register administered by the agency:

“Protection order” has the same meaning as in section 2 of the Act, and includes any order that is deemed by section 133 (3) of the Act to be a protection order:

“Registrar-General” means the Registrar-General appointed under the Births, Deaths, and Marriages Registration Act 1995:

“Working day”, in relation to an agency, means any day of the week on which an office of the agency is open for business.

(2) Unless the context otherwise requires, words or expressions used in these regulations have the same meaning as in the Act.

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

3. Application—These regulations apply to public registers maintained under any of the following provisions:

(a) Sections 5, 7 (2), 8, 24, 25, 34, 36, 48 (3), 50, 53, 56, and 58 of the Births, Deaths, and Marriages Registration Act 1995:

(b) Sections 7, 105, 111, 118, 119, 128, and 200 of the Companies Act 1955:

(c) Section 34 of the Dog Control Act 1996:

(d) Sections 100, 101, 103, 104, 105, 106, 107, 108, 109, 211, and 212 of the Electoral Act 1993:

(e) Sections 5, 40, and 130 of the Friendly Societies and Credit Unions Act 1982:

(f) Section 33 of the Incorporated Societies Act 1908:

(g) Section 3D of the Industrial and Provident Societies Act 1908:

(h) Sections 20 and 26 of the Industrial and Provident Societies Amendment Act 1952:

(i) Section 118 of the Insolvency Act 1967:

- (j) Sections 7B, 7BA, 7BB, 7BC, and 7BD of the Local Elections and Polls Act 1976;
- (k) Section 7 of the Marriage Act 1955;
- (l) Section 5 of the Motor Vehicle Securities Act 1989;
- (m) Section 18 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986.

PART II

PROCEDURAL PROVISIONS

4. Application forms may be approved for certain public registers—(1) This regulation applies to the following agencies:

- (a) The Registrar of Companies;
- (b) The Registrar-General;
- (c) The Registrar of Incorporated Societies;
- (d) The Registrar of Industrial and Provident Societies.

(2) An agency to which this regulation applies may approve a form for use by persons who wish to apply for a direction in relation to relevant information on any public register administered by that agency.

(3) An approved form must include information to assist the applicant to specify with due particularity the relevant information in respect of which a direction is sought, so that the agency may locate that relevant information.

(4) Copies of approved forms must be available, on request, at every office of an agency to which this regulation applies, while the office is open to the public.

5. Application for direction—(1) A protected person who wishes to apply for a direction in respect of relevant information on a public register must make the application to the agency responsible for administering that public register.

(2) The application must be in writing.

(3) An application to an agency to which regulation 4 of these regulations applies must be in the form (if any) approved by that agency.

(4) Where no form is approved, an agency must give such reasonable assistance as is necessary in the circumstances to enable the applicant to specify with due particularity the relevant information in respect of which a direction is sought.

(5) An application may be made in any of the following ways:

- (a) By posting the application to the agency;
- (b) By sending the application to the agency by facsimile transmission;
- (c) By leaving the application at any office of the agency when it is open to the public;
- (d) In any other way approved by the agency.

6. When separate applications required—(1) Subject to subclause (2) of this regulation, a protected person who wishes to apply for a direction in relation to more than one public register must make a separate application in respect of each such register.

(2) A protected person who wishes to apply for a direction in relation to more than one public register may, where those public registers are administered by the same agency, make a single application to that agency in relation to those public registers.

7. Decision to be made without delay—An agency to which an application is made under section 108 (1) of the Act must, without delay, and in no case after the expiry of 10 working days after the date on which the agency receives the application,—

- (a) Decide, in accordance with section 109 of the Act, whether the application is to be granted or declined; and
- (b) Notify the applicant of its decision in accordance with section 110 of the Act.

8. Notice of result of application—(1) When an agency notifies an applicant that it has made the direction sought by the applicant, the agency must also inform the applicant about the effect of the direction.

(2) It is sufficient compliance with subclause (1) of this regulation if the applicant is given a notice in form 1 or a notice to similar effect.

(3) When an agency notifies an applicant that his or her application for a direction has been declined, the agency must, in addition to the matters specified in section 110 (2) of the Act, inform the applicant about the steps that he or she may take to make a complaint to the Privacy Commissioner.

(4) It is sufficient compliance with subclause (3) of this regulation if the applicant is given a notice in form 2 or a notice to similar effect.

9. Period during which information not to be disclosed—Subject to section 111 of the Act, where an application is made pursuant to section 108 (1) of the Act, then unless the application is sooner withdrawn, section 112 of the Act applies, as if the direction sought had been made, from the expiry of 3 working days after the date on which the application is received by the agency until the expiry of 5 working days after notice of the agency's decision on the application is communicated to the applicant.

10. Period after which direction ceases to be in force—(1) Subject to subclause (2) of this regulation, where, in accordance with section 114 (3) of the Act,—

- (a) The person on whose application a direction was made; or
- (b) A Registrar—

notifies an agency that the protection order to which the direction relates has been discharged, the direction ceases to be in force on the expiry of 5 working days after the date on which the agency receives that notification.

(2) Where a direction relates to any public register maintained under the Births, Deaths, and Marriages Registration Act 1995 or the Marriage Act 1955, the direction ceases to be in force on the expiry of 10 working days after the date on which the agency responsible for administering that public register receives notification in accordance with section 114 (3) of the Act.

11. Complaints to Privacy Commissioner—A complaint made to the Privacy Commissioner pursuant to section 118 (1) of the Act must be made within 5 working days after notice of the decision is communicated to the applicant or within such further period as the Privacy Commissioner may allow on application made either before or after the expiration of that period of 5 working days.

12. Notices—(1) Any notice required by Part VI of the Act to be given to any applicant for a direction may be given by—

- (a) Delivering it to that person; or

(b) Leaving it at that person's usual or last known place of residence in New Zealand; or

(c) Posting it in a letter addressed to that person at the person's usual or last known place of residence in New Zealand.

(2) If any such notice is sent to any applicant by post then, in the absence of proof to the contrary, the notice is deemed to have been delivered to that person when the letter would have been delivered in the ordinary course of post, and in proving the delivery it is sufficient to prove that the letter was properly addressed and posted.

PART III

DISCLOSURE OF INFORMATION UNDER BIRTHS, DEATHS, AND MARRIAGES REGISTRATION ACT 1995

13. Effect of direction on indexes maintained under Births, Deaths, and Marriages Registration Act 1995—(1) Even though a direction is in force in respect of relevant information included, or about to be included, on a public register maintained under the Births, Deaths, and Marriages Registration Act 1995, nothing in section 112 of the Act prevents the inclusion of that information in an index maintained pursuant to section 74 of the Births, Deaths, and Marriages Registration Act 1995.

(2) A notice given by the Registrar-General pursuant to regulation 7 (1) of these regulations must include information about any index kept under section 74 of the Births, Deaths, and Marriages Registration Act 1995 that includes relevant information, including the type of relevant information the index contains and the availability of access to the register by the public.

14. Disclosure of information under Births, Deaths, and Marriages Registration Act 1995 for administration of estates—

(1) Where a direction is made, nothing in Part VI of the Act or in these regulations prevents the Registrar-General from permitting a person to inspect any document containing information to which section 76 (1) or section 77 (4) of the Births, Deaths, and Marriages Registration Act 1995 applies, or from providing any person with a print-out or copy of any such document or a print-out of any such information, if the Registrar-General is satisfied that—

(a) The person wishes to inspect the document or have the print-out or copy for a purpose in connection with the administration of an estate or trust; and

(b) The person is executor, administrator, or trustee of the estate or trust; and

(c) The information is material for the purpose.

(2) Before relevant information in respect of which a direction is in force is disclosed pursuant to subclause (1) of this regulation, the Registrar-General must notify the person to whom that direction relates, in writing, of the proposed disclosure.

(3) Notwithstanding subclause (2) of this regulation, if it is not practicable to give notice under that subclause before disclosure of the relevant information, then the Registrar-General must give that notice as soon as practicable after disclosure of that information.

SCHEDULE

FORMS

Reg. 8 (2)

Form 1

INFORMATION FOR APPLICANT ABOUT EFFECT OF DIRECTION RELATING TO
INFORMATION ON [NAME OF REGISTER(S)]
Section 110, Domestic Violence Act 1995

The direction that has been made in your favour under Part VI of the Domestic Violence Act 1995 applies only to information on [Specify which register(s) the notice relates to] that discloses, or is likely to disclose, the whereabouts, of [Specify either the applicant or the child of the applicant's family or both, as the case may require].

- If you think that this kind of information is also held on another public register and you do not want that information disclosed, you will need to apply to the agency responsible for administering that register for a direction.
- This direction does not apply to information entered in the register(s) after this direction is given.

Effect of direction

This direction has the following effect:

- Information that is included, or is about to be included, in the register and that discloses, or is likely to disclose, the whereabouts of [Specify either the applicant or the child of the applicant's family or both, as the case may require] must not be included in—
 - (a) Any copy (including a print-out) of all or any part of the register;
 - (b) Any index to the register;
 - (c) Any extract from, or certificate as to information that is recorded on, the register that is made available to the public after the direction is made.
- This information must not be made available for inspection by members of the public (other than yourself).
- Where, before the date on which the direction was made, an application was made for the inclusion of information on the register, that application may not be made available for public inspection to the extent that it contains information about the whereabouts of [Specify either the applicant or the child of the applicant's family or both, as the case may require].

There are 3 important qualifications to these general rules:

- The information is still included in the register for all other purposes.
- The direction applies only to information that the agency is reasonably able to identify, having regard to the information you provided in your application.
- The information can be disclosed to the public, even though a direction is in force, if you consent (*and in the following circumstances: [Include examples of when disclosure permitted]).

You can apply for another direction in respect of:

- (a) Information that is located on parts of the register not covered by the first direction:
- (b) Information that goes on to the register after the first direction is made:

SCHEDULE—*continued*

(c) New information (e.g. if you change your address).

In these cases you will have to make an application in the same way as you applied for the original direction.

Duration of direction

*This direction is made in respect of a temporary protection order and lasts for 4 months. If the temporary order is discharged before the 4 month period expires, the direction expires.

If the temporary protection order becomes final, or a final order is substituted for it, and you wish this direction to continue, you need to tell the agency responsible for administering the register yourself or ensure that the agency has received a notice from the Court. Where the temporary protection order becomes final, or a final order is substituted for it, the direction lasts for 5 years unless the order is discharged in the meantime. At the end of the 5 year period you may ask for another direction to be made.

*This direction is made in respect of a final protection order and lasts for 5 years, unless the protection order is discharged in the meantime. At the end of the 5 year period you may ask for another direction to be made. You may ask at any time for the direction to be revoked.

If a direction expires or is revoked or ceases to be in force, that does not prevent a further direction being made in respect of the same information.

* *Delete or omit if inapplicable*

Reg. 8 (4)

Form 2

NOTICE TO APPLICANT WHERE APPLICATION FOR DIRECTION DECLINED
Section 110 (2), Domestic Violence Act 1995

Your application for a direction under Part VI of the Domestic Violence Act 1995 in relation to information on [*Specify which register(s) the notice relates to*] that discloses, or is likely to disclose, the whereabouts of [*Specify either the applicant or the child of the applicant's family or both, as the case may require*] has been declined for the following reason(s):
[*State reason(s)*]

IMPORTANT INFORMATION

You have the right to complain to the Privacy Commissioner about this decision. [*Insert the address and telephone number of the office of the Privacy Commissioner nearest to the applicant.*]

If you wish to make a complaint it must be made within 5 working days after you receive this notice.

You can ask the Privacy Commissioner to extend this period.

The complaint can be made orally or in writing.

The information in respect of which you sought a direction will not be made publicly available until the expiry of 5 working days after you receive this notice or, where the Privacy Commissioner extends the period for making a complaint, until the expiry of that longer period.

If you do make a complaint, the information will not be made publicly available until the Privacy Commissioner has dealt with your complaint.

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 July 1996, prescribe procedural and other matters for the purposes of Part VI of the Domestic Violence Act 1995. Under that Part of the Act, directions can be made for the non-publication of information relating to protected persons on public registers. These regulations apply to only some public registers, being those registers maintained under the provisions specified in regulation 3 of the regulations.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 13 June 1996.
These regulations are administered in the Ministry of Justice.