



IMMIGRATION AMENDMENT REGULATIONS (NO. 3) 1999

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 31st day of May 1999

Present:

THE RIGHT HON JENNY SHIPLEY PRESIDING IN COUNCIL

PURSUANT to section 150 of the Immigration Act 1987, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

ANALYSIS

- 1. Title and commencement
- 2. New Part inserted

PART IIIA
CASES INVOLVING SECURITY
CONCERNS

26A. Methods of notification
26B. Notification by chief executive of preliminary decision of Minister to rely on security risk certificate
26C. Application for review of security risk certificate
26D. Notification by chief executive of final decision of Minister to rely on security risk certificate

- 26E. Notification of failure to confirm certificate on review, or of withdrawal of certificate or Minister's notice
- 3. Warrants of commitment
- 4. Second Schedule amended

SCHEDULE

New Form 7A Inserted in Second Schedule of Principal Regulations

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Immigration Amendment Regulations (No. 3) 1999, and are part of the Immigration Regulations 1991* (“the principal regulations”).

(2) These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

2. New Part inserted—The principal regulations are amended by inserting, after regulation 26, the following Part:

“PART IIIA

“CASES INVOLVING SECURITY CONCERNS

“26A. **Methods of notification**—(1) Notification under regulations 26B, 26D, and 26E for the purposes of Part IVA of the Act is to be by way of personal service, or by registered post (which includes a system of recorded delivery including by courier), or by facsimile copy sent to the relevant office.

“(2) In the case of notification by facsimile copy, the notification is to be treated as having been made as soon as the machine sending the facsimile copy prints a report indicating that the transmission has been received by the machine at the relevant office receiving the facsimile copy.

“(3) In any case where notification occurs by registered post, the provisions of section 146 (6) of the Act apply. Where notification is received by a system of recorded delivery, notification is to be treated as having been made at the time at which notification was recorded as being received.

“26B. **Notification by chief executive of preliminary decision of Minister to rely on security risk certificate**—(1) Notification by the chief executive of the Department of Labour for the purposes of section 114G (4)(c) of the Act is to be made to the relevant Secretary or Registrar of the Authority, Tribunal, District Court, or High Court, as the case may require.

“(2) The notification must be made by the chief executive immediately upon receipt of written notice of the preliminary decision of the Minister to rely on the security risk certificate.

“(3) The notification must be made in a form approved for the purpose under section 132 of the Act, and must be accompanied by a copy of the notice of the preliminary decision to rely on the certificate signed by the Minister.

“26C. **Application for review of security risk certificate**—(1) Every application under section 114I(1) or section 114I(2) of the Act to the Inspector-General of Intelligence and Security for the review of a security

*S.R. 1991/241

Amendment No. 1: (*Revoked by S.R. 1994/106*)

Amendment No. 2: S.R. 1993/164

Amendment No. 3: S.R. 1993/327

Amendment No. 4: S.R. 1994/124

Amendment No. 5: S.R. 1995/25

Amendment No. 6: S.R. 1995/203

Amendment No. 7: S.R. 1996/243

Amendment No. 8: S.R. 1996/372

Amendment 1997: S.R. 1997/118

Amendment 1998: S.R. 1998/111

Amendment (No. 2) 1998: S.R. 1998/165

Amendment (No. 3) 1998: S.R. 1998/259

Amendment (No. 4) 1998: S.R. 1998/320

Amendment (No. 5) 1998: S.R. 1998/467

Amendment 1999: S.R. 1999/65

Amendment (No. 2) 1999: S.R. 1999/140

risk certificate issued by the Director of Security must be made on a form approved for the purpose under section 132 of the Act and obtainable free of charge.

“(2) The form must be signed by the person seeking the review or by their representative.

“(3) In the case of a person seeking review who is inside New Zealand, the person must, within 5 days of service upon them of the Ministerial notice of the preliminary decision to rely on the security risk certificate, ensure that the completed review application form (or a facsimile copy) is received by the Inspector-General at the Office of the Inspector-General of Intelligence and Security, Department of Prime Minister and Cabinet, Executive Wing, Parliament Buildings, Wellington.

“(4) In the case of a person seeking review who is outside New Zealand, the person must, within 28 days of service upon them of the Ministerial notice of the preliminary decision to rely on the security risk certificate, ensure that the completed review application form (or a facsimile copy) is received by the Inspector-General at the Office of the Inspector-General of Intelligence and Security, Department of Prime Minister and Cabinet, Executive Wing, Parliament Buildings, Wellington.

“(5) The person seeking review must ensure that the review application form is accompanied by the following information:

“(a) The address (including any facsimile number) to which communications relating to the appeal may be notified to the person:

“(b) An indication as to whether the person wishes to present any information, evidence, or submissions in support of the application for review:

“(c) An indication as to whether the person wishes to exercise their right pursuant to section 19 (4) of the Inspector-General of Intelligence and Security Act 1996 to be heard.

“26D. **Notification by chief executive of final decision of Minister to rely on security risk certificate**—(1) Notification by the chief executive of the Department of Labour for the purposes of section 114K (3) (a) of the Act is to be made to the relevant Secretary or Registrar of the Authority, Tribunal, District Court, or High Court, as the case may require.

“(2) The notification must be made by the chief executive immediately upon receipt of the written direction of the Minister to rely on the security risk certificate.

“(3) The notification must be made in a form approved under section 132 of the Act, and must be accompanied by a copy of the direction to rely on the certificate signed by the Minister.

“26E. **Notification of failure to confirm certificate on review, or of withdrawal of certificate or Minister’s notice**—(1) Notification by the chief executive of the Department of Labour for the purposes of section 114L (2) (d) of the Act is to be made to the relevant Secretary or Registrar of the Authority, Tribunal, District Court, or High Court, as the case may require.

“(2) The notification must be made by the chief executive immediately upon receipt of notice of the relevant decision, or, in the case of a failure by the Minister to make a decision within the required time limit, at the end of the time specified.

“(3) The notification must be made in a form approved under section 132 of the Act, and must be accompanied by a copy of the relevant decision, or, in any case where the Minister has failed to make a decision within the required time limit, a statement to that effect.

3. Warrants of commitment—Regulation 30 of the principal regulations is amended by inserting, after subclause (3), the following subclause:

“(3A) A warrant of commitment issued by a District Court Judge under section 114O (1)(b) of the Act must be in form 7A in the Second Schedule of these regulations.”

4. Second Schedule amended—The Second Schedule of the principal regulations is amended by inserting, after form 7, the form 7A set out in the Schedule of these regulations.

SCHEDULE

Reg. 4

NEW FORM 7A INSERTED IN SECOND SCHEDULE OF PRINCIPAL REGULATIONS
"Form 7A

WARRANT OF COMMITMENT

Reg. 30 (3A)

Section 114o (1) (b), Immigration Act 1987

To every member of the Police (or To , member of the
Police), and to the Superintendent of
..... (in this warrant called the subject), a citizen of

[Full name]

[Specified penal institution]

[Name]

....., was detained pursuant to section 114G (5) of the
Immigration Act 1987, and is to be detained for more than 48 hours.

[Country if known]

I DIRECT YOU, the said member(s) of the Police, to deliver the subject to
..... and you, the said to receive

[Specified penal institution]

[Superintendent]

the subject into your custody and detain the subject until required by a
member of the Police to deliver up the person in accordance with the
provisions of the Immigration Act 1987 relating to the execution of a
removal order or a deportation order, or unless earlier notified in writing
by an immigration officer or member of the Police that the subject should
be released in accordance with section 114O (3) of the Immigration Act
1987.

Signature: Date:.....
(District Court Judge)

District Court at
[Place]

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 28 days after their notification in the *Gazette*, amend the Immigration Regulations 1991 for the purpose of prescribing matters in relation to the new Part IVA of the Immigration Act 1987. The new Part IVA relates to cases involving security concerns, and was inserted in the principal Act by the Immigration Amendment Act 1999.

Regulation 2 inserts a new Part IIIA into the principal regulations that sets out the requirements for notification of various matters under Part IVA of the Act.

Regulations 3 and 4 and the *Schedule* prescribe the form of a warrant of commitment issued under Part IVA.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 3 June 1999.

These regulations are administered in the Department of Labour.