



Unsolicited Electronic Messages Regulations 2007

Anand Satyanand, Governor-General

Order in Council

At Wellington this 10th day of September 2007

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 58 of the Unsolicited Electronic Messages Act 2007, 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 Unsolicited Electronic Messages Regulations 2007.

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

- 3 Interpretation**
In these regulations, unless the context otherwise requires, **Act** means the Unsolicited Electronic Messages Act 2007.

Warrant of appointment of enforcement officers

- 4 Form of warrant of appointment of enforcement officer**
A warrant of appointment issued to an enforcement officer under section 22 of the Act must be in form 1 of the Schedule.

Formal warnings

- 5 Form of formal warnings**
A formal warning issued under section 23 of the Act must be in form 2 of the Schedule.

- 6 Manner of issuing formal warnings**
A formal warning issued under section 23 of the Act must be issued by—
(a) personal delivery to the person being warned; or
(b) posting it to the last known residential address of the person being warned.

*Civil infringement notices***7 Maximum amount of penalty for civil liability event**

The maximum penalty that may be required under a civil infringement notice for each civil liability event alleged to have occurred is—

- (a) \$200 per civil liability event for an individual; and
- (b) \$500 per civil liability event for an organisation.

8 Objection to civil infringement notice

(1) An objection to a civil infringement notice—

- (a) must be in writing; and
- (b) must be sent or delivered to the physical or postal address of the enforcement department; and
- (c) may be made only on the grounds that—
 - (i) 1 or more of the elements required for a civil liability event are not satisfied;
 - (ii) the person issued with the notice has a valid defence under the Act; and
- (d) must contain the following information:
 - (i) the name and address of the person making the objection; and
 - (ii) the number and date of the civil infringement notice; and
 - (iii) the grounds of the objection; and
 - (iv) sufficient information supporting the grounds of the objection to allow the objection to be considered; and
- (e) must be made on or before the 28th day after the date of service of the civil infringement notice.

(2) An objection is treated as having been made on the date on which it is received by the enforcement department.

*Search warrants***9 Form of search warrant to enter and search place or thing**

A search warrant issued under section 51 of the Act must be in form 3 of the Schedule.

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**Schedule
Forms**

Form 1

Warrant of appointment of enforcement officer
Section 22, Unsolicited Electronic Messages Act 2007

*Front of warrant:***Enforcement officer**
Warrant of appointment

Full name:

Identification number:

[Photo of warrant holder]

Signature:

*Back of warrant:***Warrant of appointment issued under section 22 of the Unsolicited Electronic Messages Act 2007**

This is to certify that the person whose name, photograph, and signature appear on this warrant—

- is an enforcement officer appointed under section 21 of the Unsolicited Electronic Messages Act 2007; and
- may perform the functions and exercise the powers conferred on enforcement officers by that Act.

Signature

*[Title of the chief executive of the
enforcement department]*

Form 2
Form of formal warnings
Section 23, Unsolicited Electronic Messages Act 2007

[Date]

To [name and address of individual or organisation]

Formal Warning—Unsolicited Electronic Messages Act 2007

On [date], we were advised*/our investigations showed* that
[details of events or actions that occurred].

*Delete if inapplicable.

A subsequent investigation by an enforcement officer found that this constituted a breach of [section that was breached giving rise to the civil liability event] of the Unsolicited Electronic Messages Act 2007 (the **Act**).

You are required to cease the above practice(s) immediately and ensure no further contraventions of the Act occur. If further contraventions do occur, enforcement action may be taken under the Act.

Penalties under the Act are up to \$200,000 for individuals and \$500,000 for organisations.

Please note that issuing this formal warning notice to you does not affect the enforcement department's ability to consider or impose other appropriate sanctions under the Act.

Signature
[Name of enforcement officer]

Enforcement officer

Form 3
Search warrant to enter and search place or thing
Section 51, Unsolicited Electronic Messages Act 2007

Number of warrant:

To *[name of enforcement officer]*

or

To every member of the police

or

To *[name of member of the police]*

I am satisfied, on an application made in writing and on oath, that there are reasonable grounds for believing that—

- *a civil liability event involving *[description of the civil liability event concerned]* has been, or is being, committed *[at [description of the place that may be searched*]]/[involving [description of the thing that may be searched*]]*; or
- *there is in, on, over, or under *[description of the place or thing that may be searched]* *[description of the kind of property or thing that is evidence]* that is evidence of a civil liability event involving *[description of the civil liability event concerned]*.

*Delete if inapplicable.

This warrant authorises you, at any time, by day or night, before *[date that is 15 days after the date of issue]* to—

- enter and search the following place or thing at any time by day or night *[description of the place or thing that may be searched]*;
- use the assistance that is necessary in the circumstances to enter and search the place or thing;
- use the force that is necessary in the circumstances to gain entry and to break open anything in, on, over, or under the place or thing searched;
- search any person found in or at the place or thing or who arrives at the place or thing while this warrant is being executed if, at any time while executing this warrant, you reasonably believe that any property or thing referred to in this warrant may be on that person's body:

Form 3—*continued*

- search for and seize the following property or thing, or kind of property or thing [*description of the property or thing that may be seized*]:
- take copies of documents (including information stored on a computer or other device), or extracts from documents, that you believe on reasonable grounds may be relevant.

The power to enter and search the place or thing under this search warrant may be exercised only once.

This warrant is issued subject to the following special condition(s): [*set out conditions (if any)*].

Dated:

Signature
District Court Judge

Diane Morcom,
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 the 28th day after their notification in the *Gazette*,—

- prescribe the form of the warrant of appointment of enforcement officers issued under section 22 of the Unsolicited Electronic Messages Act 2007 (the **Act**);
- prescribe the form of formal warnings issued under section 23 of the Act;
- specify the manner in which formal warnings must be issued;
- prescribe a maximum of \$200 per civil liability event as the amount of the penalty payable by an individual, and a maximum of \$500 per civil liability event as the amount of the penalty payable by an organisation, served with a civil infringement notice under section 24 of the Act;

- prescribe the time within which, and manner in which, an objection to a civil infringement notice must be made, and the information to be included in the objection:
 - prescribe the form of search warrants to enter and search places or things.
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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 13 September 2007.

These regulations are administered by the Ministry of Economic Development.
