

1994—No. 19

CRIMES ACT 1900—REGULATION

(Crimes (Domestic Violence and Child Assault) Regulation 1994)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Crimes Act 1900, has been pleased to make the Regulation set forth hereunder.

JOHN HANNAFORD, M.L.C.,
Attorney General.

Citation

1. This Regulation may be cited as the Crimes (Domestic Violence and Child Assault) Regulation 1994.

Commencement

2. This Regulation commences on 24 January 1994.

Definitions

3. (1) In this Regulation:

“**the Act**” means the Crimes Act 1900.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

Prescribed forms

4. The forms referred to in the Table to this clause are prescribed for the purposes of the provisions of the Act so referred to.

TABLE

Section 357G (7)	Form 1
Section 357G (12)	Part A of Form 2
Section 357G (13) (a)	Part B of Form 2
Section 407AA (5)	Form 3

Repeal

5. The Crimes (Domestic Violence and Child Assault) Regulation 1983 is repealed.

SCHEDULE 1—FORMS**Form 1**

(Cl. 4)

**RECORD OF COMPLAINT REQUESTING THE ISSUE OF A WARRANT
TO ENTER A DWELLING-HOUSE TO INVESTIGATE A SUSPECTED
DOMESTIC VIOLENCE OFFENCE**

CRIMES ACT 1900
(Section 357G (7))

I, the undersigned Magistrate, received a complaint (details overleaf) in person*/by telephone* (which was transmitted by of Police Station)* from of Police Station (hereinafter called the complainant) alleging that the complainant had been denied entry to a dwelling-house at

in which the complainant suspects or believes a domestic violence offence has been committed*/is being committed*/is imminent*/is likely to be committed* making it necessary to immediately enter the dwelling-house to investigate*/take action* and for which purpose the complainant requests I issue my warrant authorising such entry.

And being satisfied there were reasonable grounds for that suspicion or belief (give details):

.....
.....

on the day of 19 ... at a.m.*/p.m.* I granted my warrant authorising the complainant to enter the abovementioned dwelling-house pursuant to section 357G of the Crimes Act 1900. (subject to the following additional terms)*:

.....
.....
.....
.....
.....
Magistrate.

* Delete if inapplicable

DETAILS OF INCIDENT

1. Names of persons involved (if known):
.....

2. Location of incident (full address or description of dwelling-house):
.....

3. Name of civilian informant and relationship (if any) to aggrieved person:
.....

4. It is suspected that the offence of
(a domestic violence offence) has been committed*/is being committed*/is imminent*/is likely to be committed* in the dwelling-house.

5. Other information obtained by investigating police:

(a) Personal observations by police (e.g. noise from the house etc.):
.....
.....

(b) Resident's or neighbour's information:
.....
.....
.....

(c) Other information:
.....
.....
.....

6. Was the investigating police officer denied entry to the dwelling-house? yes*/
no*.

7. Details of denial of entry (including anything said or done):
.....
.....
.....

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8. The complainant requests the grant of a warrant believing it is necessary to immediately enter the dwelling-house:

to investigate whether a domestic violence offence:

- (a) has been committed*
- (b) is being committed*

or to take action:

- (c) to prevent the commission of a domestic violence offence*
- (d) to prevent the further commission of a domestic violence offence*.

* Delete if inapplicable

Form 2

(Cl. 4)

Part A

**RECORD OF GRANT OF A WARRANT TO ENTER A
DWELLING-HOUSE TO INVESTIGATE A SUSPECTED DOMESTIC
VIOLENCE OFFENCE**

CRIMES ACT 1900
(Section 357G(12))

On the day of 19 ... at a.m.*/p.m.* Magistrate, being satisfied there were reasonable grounds for doing so, granted a warrant authorising of Police Station (hereinafter called the complainant) to enter the dwelling-house at after receiving a complaint that:

- I. The Complainant had been denied entry to the dwelling-house;
2. The complainant suspects or believes:
 - (a) a domestic violence offence has recently been committed* is being committed* is imminent* is likely to be committed* in the dwelling-house and
 - (b) it is necessary to immediately enter the dwelling-house to investigate or take action in relation to the complaint.

And the warrant was granted subject to the following additional terms:*

.....

.....

.....
Signature of complainant
(Police Officer)

* Delete if inapplicable

Part B**IMPORTANT INFORMATION FOR RESIDENTS**

1. A warrant has been granted by a Magistrate authorising the police to enter your home to investigate the matter referred to in paragraph 2 (a) above relating to a domestic violence offence.
2. If necessary, the police may use reasonable force to enter your home and any person attempting to prevent the police from entering could be prosecuted for that as a criminal offence.
3. The police are authorised by the warrant to remain in your home only as long as is reasonably necessary for them to do the following things:
 - (a) to investigate whether a domestic violence offence has been committed;
 - (b) to prevent a domestic violence offence from being committed;
 - (c) to arrest a person for a domestic violence offence;
 - (d) to assist any person who is injured.

Form 3

(Cl. 4)

REASONS FOR EXCUSING A SPOUSE FROM GIVING EVIDENCE FOR THE PROSECUTION IN A DOMESTIC VIOLENCE OR CHILD ASSAULT CASE

CRIMES ACT 1900
(Section 407AA (5))

On the day of 19 ... I, the undersigned, a Justice of the Supreme Court/Judge of the District Court/Magistrate, sitting at in the State of New South Wales, dealt with an application under section 407AA of the Crimes Act 1900, that be excused from giving evidence for the prosecution in proceedings against charged with an offence against section of the Crimes Act 1900.

I am satisfied, for the reasons stated below, that the application to be excused was made freely and independently of threat or any other improper influence by any person and that:

- (a) it is relatively unimportant to the case to establish the facts in relation to which it appears that the husband or wife is to be asked to give evidence or there is other evidence available to establish those facts; and
- (b) the offence with which the accused person is charged is of a minor nature.

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Reasons:

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.....

.....
Justice/Judge/Magistrate

NOTES**TABLE OF PROVISIONS**

1. Citation
2. Commencement
3. Definitions
4. Prescribed forms
5. Repeal

SCHEDULE 1—FORMS

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, without any changes of substance, the provisions of the Crimes (Domestic Violence and Child Assault) Regulation 1983. The new Regulation, which is of a machinery nature only, prescribes forms for the purposes of certain provisions of the Crimes Act 1900 relating to domestic violence and child assault.

This Regulation is made under the Crimes Act 1900, including sections 357G and 407AA.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
