

CRIMES ACT 1900—REGULATION

(Crimes (General) Regulation 1995)

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.

J. P. HANNAFORD
Attorney General.

Citation

1. This Regulation may be cited as the Crimes (General) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

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.

Forms for records concerning domestic violence and child assault

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

Forms for complaints and orders concerning apprehended violence

5. For the purposes of Part 15A of the Act:
- (a) a complaint for an order may be made in a form approved by the Minister; and
 - (b) a court may make an order in a form approved by the Minister.

Repeals

6. The following Regulations are repealed:
- Crimes (Apprehended Violence) Regulation 1990
 - Crimes (Domestic Violence and Child Assault) Regulation 1994.

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.

1995—No. 125

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:
.....
.....
.....

1995—No. 125

- 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):

- 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

(CI. 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:

- 1. 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.

1995—No. 125

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.

Reasons:
.....
.....

.....
Justice/Judge/Magistrate

NOTES

TABLE OF PROVISIONS

- 1. Citation
- 2. Commencement
- 3. Definitions
- 4. Forms for records concerning domestic violence and child assault
- 5. Forms for complaints and orders concerning apprehended violence
- 6. Repeals

SCHEDULE 1—FORMS

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with no changes in substance, the provisions of the Crimes (Apprehended Violence) Regulation 1990 and the Crimes (Domestic Violence and Child Assault) Regulation 1994. The new Regulation deals with the forms to be used in certain proceedings concerning apprehended violence, domestic violence and child assault.

This Regulation is made under the Crimes Act 1900, including sections 3576, 407AA and 562Q.

This Regulation comprises or relates to matters of a machinery nature.

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