

Reprint  
as at 1 July 2013



**Mutual Assistance in Criminal  
Matters Regulations 1993**  
(SR 1993/92)

Catherine A Tizard, Governor-General

**Order in Council**

At Wellington this 19th day of April 1993

Present:  
The Right Hon D C McKinnon presiding in Council

Pursuant to section 65 of the Mutual Assistance in Criminal Matters Act 1992, Her 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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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**These regulations are administered by the Ministry of Justice.**

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## **Regulations**

### **1 Title and commencement**

- (1) These regulations may be cited as the Mutual Assistance in Criminal Matters Regulations 1993.
- (2) These regulations shall come into force on 1 May 1993.

### **2 Interpretation**

- (1) In these regulations, unless the context otherwise requires,—
  - (a) a reference to **the Act** means the Mutual Assistance in Criminal Matters Act 1992;
  - (b) a reference to a numbered form is a reference to the form so numbered in the Schedule.
- (2) Expressions not defined in these regulations but defined in the Act have, in these regulations, the meanings so defined.

### **3 Forms**

- (1) The forms set out in the Schedule are the forms to be used in respect of the proceedings or matters under the Act to which those forms relate.
- (2) Such variations may be made in any prescribed form as the circumstances of any particular case may require.
- (3) Strict compliance with the prescribed forms is not necessary, and substantial compliance, or such compliance as the particular circumstances of the case allow, is sufficient.

### **4 Issue of summons to appear as witness or produce documents or articles**

- (1) Where, under section 31(2) of the Act, the Attorney-General authorises the taking of evidence, or the production of documents or other articles, or both, a Judge or a Registrar of the

High Court authorised under section 35(1) of the Act may issue a summons in form 2 requiring the person to whom it is addressed to attend at the time and place specified in the summons—

- (a) where, under section 31(2) of the Act, the Attorney-General has authorised the taking of evidence, to give evidence:
  - (b) where, under section 31(2) of the Act, the Attorney-General has authorised the production of documents or other articles, to produce such documents or articles as are specified in the summons.
- (2) Every summons issued under subclause (1) in respect of any person shall be served on that person in accordance with the rules in relation to service of a summons made under the Criminal Procedure Act 2011 that apply (with all necessary modifications).

- (3) *[Revoked]*

Regulation 4(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Regulation 4(3): revoked, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **5 Witnesses expenses**

Every person attending a court upon a summons issued under regulation 4 shall be entitled to receive such fees, allowances, and travelling expenses as the court directs in accordance with the scale set out in the Witnesses and Interpreters Fees Regulations 1974 (SR 1974/124).

## **6 Registration of foreign orders**

- (1) The registration of a foreign order ordered to be registered under section 56 of the Act shall be effected by the entry, in an appropriate record book kept by the Registrar, of the following particulars:
- (a) the nature of the foreign order:
  - (b) the names of the parties to the foreign order:
  - (c) the name of the court or other authority that made the foreign order:
  - (d) the date of the foreign order:

- (e) the property to which the foreign order applies:
  - (f) the date of the order for registration.
- (2) Under the entry and on the copy of the order the Registrar shall endorse and sign the following minute:  
 “Registered in the High Court at [*place*] on [*date of registration*] pursuant to section 56 of the Mutual Assistance in Criminal Matters Act 1992.”

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**Schedule**  
**Forms**

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Form 1

Authorisation to take evidence (*or* produce  
documents or articles)

*Section 31(2), Mutual Assistance in Criminal Matters Act  
1992*

I have received a request from [*country*] under section 31 of the Mutual Assistance in Criminal Matters Act 1992, to make arrangements for the evidence set out in the Schedule to this authority to be taken in New Zealand (*or* for the documents or other articles set out in the Schedule to this authority to be produced in New Zealand).

I am satisfied—

- (a) that the request relates to criminal proceedings in that foreign country; and
- (b) that there are reasonable grounds for believing that the evidence can be taken (*or* that the documents or other articles can be produced) in New Zealand,—

and in my opinion nothing in the Mutual Assistance in Criminal Matters Act 1992 precludes the granting of this request.

Pursuant to section 31(2) of the Mutual Assistance in Criminal Matters Act 1992, I hereby authorise the taking of the evidence (*or* the production of the documents or other articles).

Dated at: [*place, date*]

Attorney-General:

Schedule

*[Here set out the general nature of the evidence to be taken, (or a description of the documents or articles to be produced), and the name(s) and, if known, the address(es) of the person(s) who is (are) to give evidence (or who have custody of the documents or articles)].*

Schedule form 1: amended, on 1 May 2000, by regulation 3 of the Mutual Assistance in Criminal Matters Amendment Regulations 2000 (SR 2000/34).

Form 2

r 4(1)

Summons to witness

*Mutual Assistance in Criminal Matters Act 1992*

To [full name], of [address, occupation]

You are summoned to attend at the High Court at [place, date, time]  
and on such other days as may be directed by the court—

- \* to give evidence in respect of [state brief particulars of criminal proceedings in foreign country].
- \* to produce the following documents (or articles): [specify what is to be produced].

Dated at: [place, date]

Judge of the High Court:  
(or Registrar of the High Court)

\*Delete if inapplicable.

Form 3  
Certificate of evidence taken for use in criminal  
proceedings in foreign country  
*Sections 31(3) and 34(2), Mutual Assistance in Criminal  
Matters Act 1992*

I hereby certify as follows:

- 1 The evidence attached as Schedule(s) [*specify*] (to) [*specify*] to this certificate was taken before me, on the oath of each witness, in the High Court at [*place, date*].
- \*2 The following documents (*or* articles) were produced at the hearing: [*specify*].
- 3 The following persons gave evidence (*or* produced documents or other articles) at the hearing:  
Name of person: [*full name*]  
Legally represented at the hearing: yes/no
- 4 The person to whom the proceedings in the foreign country relate, [*full name*], was (was not) present at the hearing and was (was not) legally represented.
- 5 The following authority of the foreign country was present at the hearing and was/was not legally represented: [*specify*].

Dated at: [*place, date*]

Judge of the High Court:  
(*or* Registrar of the High Court)

\*Delete if inapplicable.

Schedules

## Form 4

## Authorisation to apply for search warrant

*Section 43, Mutual Assistance in Criminal Matters Act 1992*

To [full name], constable

I have received a request from [country] under section 43(1) of the Mutual Assistance in Criminal Matters Act 1992, to assist in obtaining [briefly describe the article or thing] by search and seizure.

I am satisfied—

- (a) that the request relates to a criminal matter in that foreign country in respect of the offence of [specify offence], being an offence punishable by imprisonment for a term of 2 years or more; and
- (b) that there are reasonable grounds for believing that the article (or thing) is relevant to those proceedings and is located in New Zealand,—

and in my opinion nothing in the Mutual Assistance in Criminal Matters Act 1992 precludes the granting of this request.

I hereby authorise you to apply to an issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) for a search warrant in accordance with section 44 of the Mutual Assistance in Criminal Matters Act 1992 in respect of that article (or thing).

Dated at: [place, date]

## Attorney-General:

Schedule form 4: amended, on 1 October 2012, by regulation 4(1) of the Mutual Assistance in Criminal Matters Amendment Regulations 2012 (SR 2012/242).

Schedule form 4: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Schedule form 4: amended, on 1 May 2000, by regulation 3 of the Mutual Assistance in Criminal Matters Amendment Regulations 2000 (SR 2000/34).



Form 5  
Warrant to search and seize article or thing  
relevant to foreign offence  
*[Revoked]*

Schedule form 5: revoked, on 1 October 2012, by regulation 4(2) of the Mutual Assistance in Criminal Matters Amendment Regulations 2012 (SR 2012/242).

Form 6  
Authorisation to apply for search warrant under  
Proceeds of Crime Act 1991  
*Section 59, Mutual Assistance in Criminal Matters Act 1992*

**To** *[full name]*, a constable who is of or above the level of position of inspector

I have received a request from *[country]* under section 59(1) of the Mutual Assistance in Criminal Matters Act 1992, to obtain the issue of a search warrant in respect of tainted property believed to be located in New Zealand.

I am satisfied—

- (a) that the request relates to a criminal investigation (*or* criminal proceedings) in respect of the following foreign serious offence *[specify offence]*; and
- (b) that there are reasonable grounds for believing that tainted property in respect of the offence is in New Zealand—

and in my opinion nothing in the Mutual Assistance in Criminal Matters Act 1992 precludes the granting of the request.

Therefore I hereby authorise you to apply under section 38A of the Proceeds of Crime Act 1991 for the search warrant so requested.

Dated at: *[place, date]*

Attorney-General:

Schedule form 6: amended, on 1 October 2008, pursuant to section 116(b) of the Policing Act 2008 (2008 No 72).

Schedule form 6: amended, on 1 May 2000, by regulation 3 of the Mutual Assistance in Criminal Matters Amendment Regulations 2000 (SR 2000/34).

## Form 7

Authorisation to apply for restraining order  
under Proceeds of Crime Act 1991

*Section 60, Mutual Assistance in Criminal Matters Act 1992*

To *[full name]*, Solicitor-General

I have received a request from *[country]* under section 60(1) of the Mutual Assistance in Criminal Matters Act 1992, to obtain the issue of a restraining order in respect of property that is believed to be located in New Zealand.

I am satisfied—

- (a) that criminal proceedings have been commenced in that country in respect of the following foreign serious offence *[specify offence]*; and
- (b) that there are reasonable grounds for believing that property that may be made, or is, the subject of a foreign restraining order is located in New Zealand,—

and in my opinion nothing in the Mutual Assistance in Criminal Matters Act 1992 precludes the granting of the request.

Therefore I hereby authorise you to apply under section 66A of the Proceeds of Crime Act 1991 for the restraining order so requested.

Dated at: *[place, date]*

Attorney-General:

Schedule form 7: amended, on 1 May 2000, by regulation 3 of the Mutual Assistance in Criminal Matters Amendment Regulations 2000 (SR 2000/34).

Form 8  
Authorisation to apply for production order  
under Proceeds of Crime Act 1991

*Section 61, Mutual Assistance in Criminal Matters Act 1992*

To [full name], a constable who is of or above the level of position of inspector

I have received a request from [country] under section 61(1) of the Mutual Assistance in Criminal Matters Act 1992, to obtain the issue of a production order in respect of (a) property-tracking document(s).

I am satisfied—

- (a) that the request relates to a criminal matter in that country in respect of the following offence [specify offence], being a foreign drug-dealing offence; and
- (b) that there are reasonable grounds for believing that 1 or more property-tracking documents in relation to the offence are located in New Zealand,—

and in my opinion nothing in the Mutual Assistance in Criminal Matters Act 1992 precludes the granting of the request.

Therefore I hereby authorise you to apply under section 76A of the Proceeds of Crime Act 1991 for the production order so requested.

Dated at: [place, date]

Attorney-General:

Schedule form 8: amended, on 1 October 2008, pursuant to section 116(b) of the Policing Act 2008 (2008 No 72).

Schedule form 8: amended, on 1 May 2000, by regulation 3 of the Mutual Assistance in Criminal Matters Amendment Regulations 2000 (SR 2000/34).

## Form 9

Authorisation to apply for monitoring order  
under Proceeds of Crime Act 1991

*Section 62, Mutual Assistance in Criminal Matters Act 1992*

To [full name], a constable who is of or above the level of position of inspector

I have received a request from [country] under section 62(1) of the Mutual Assistance in Criminal Matters Act 1992, to obtain the issue of a monitoring order.

I am satisfied—

- (a) that the request relates to a criminal matter in that country in respect of the following offence [specify offence], being a foreign drug-dealing offence; and
- (b) that there are reasonable grounds for believing that information about transactions conducted through an account held by [full name] with a financial institution in New Zealand is relevant to the matter,—

and in my opinion nothing in the Mutual Assistance in Criminal Matters Act 1992 precludes the granting of the request.

Therefore I hereby authorise you to apply under section 81A of the Proceeds of Crime Act 1991 for the monitoring order so requested.

Dated at: [place, date]

## Attorney-General:

Schedule form 9: amended, on 1 October 2008, pursuant to section 116(b) of the Policing Act 2008 (2008 No 72).

Schedule form 9: amended, on 1 May 2000, by regulation 3 of the Mutual Assistance in Criminal Matters Amendment Regulations 2000 (SR 2000/34).

Form 10  
Certificate relating to request

*Section 64, Mutual Assistance in Criminal Matters Act 1992*

I hereby certify—

- \* that a request for assistance under the Mutual Assistance in Criminal Matters Act 1992 has been made to me by [*country*]. The assistance requested is of the following nature: [*specify*].
- \* that the request meets the requirements of that Act.
- \* that acceptance of the request has been duly made under and in accordance with that Act.

Dated at: [*place, date*]

Attorney-General:

\*Delete if inapplicable.

Marie Shroff,  
Clerk of the Executive Council.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 22 April 1993.

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**Notes****1 General**

This is a reprint of the Mutual Assistance in Criminal Matters Regulations 1993. The reprint incorporates all the amendments to the regulations as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

## **5** *List of amendments incorporated in this reprint (most recent first)*

Mutual Assistance in Criminal Matters Amendment Regulations 2012 (SR 2012/242)

Criminal Procedure Act 2011 (2011 No 81): section 413

Policing Act 2008 (2008 No 72): section 116(a)(ii), (b)

Mutual Assistance in Criminal Matters Amendment Regulations 2000 (SR 2000/34)

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