

Reprint
as at 29 October 2018



Unsolicited Electronic Messages Regulations 2007 (SR 2007/271)

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.

Contents

	Page
1 Title	2
2 Commencement	2
3 Interpretation	2
	<i>Electronic messages that are not commercial electronic messages</i>
3A Messages sent under or in connection with Takeovers Code are not commercial electronic messages	2
	<i>Warrant of appointment of enforcement officers</i>
4 Form of warrant of appointment of enforcement officer	3

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

	<i>Formal warnings</i>	
5	Form of formal warnings	3
6	Manner of issuing formal warnings	3
	<i>Civil infringement notices</i>	
7	Maximum amount of penalty for civil liability event	3
8	Objection to civil infringement notice	3
	<i>Search warrants</i>	
	<i>[Revoked]</i>	
9	Form of search warrant to enter and search place or thing <i>[Revoked]</i>	4
	Schedule Forms	5

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.

Electronic messages that are not commercial electronic messages

Heading: inserted, on 29 October 2018, by regulation 4 of the Unsolicited Electronic Messages Amendment Regulations 2018 (LI 2018/184).

3A Messages sent under or in connection with Takeovers Code are not commercial electronic messages

- (1) The following are excluded from being commercial electronic messages under section 6 of the Act:
- (a) an electronic message sent for the purpose of doing anything in accordance with the code:
 - (b) an electronic message sent by a holder of—
 - (i) voting securities in a code company for a purpose set out in rule 16C(1) of the code; or

- (ii) financial products in a target company for a purpose set out in rule 42E(1) of the code.
- (2) In this regulation,—
- (a) **code** means the Takeovers Code under the Takeovers Act 1993:
 - (b) **code company, financial products, target company, and voting securities** have the same meanings as in the code.

Regulation 3A: inserted, on 29 October 2018, by regulation 4 of the Unsolicited Electronic Messages Amendment Regulations 2018 (LI 2018/184).

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

[Revoked]

Heading: revoked, on 1 October 2012, by regulation 4 of the Unsolicited Electronic Messages Amendment Regulations 2012 (SR 2012/245).

9 Form of search warrant to enter and search place or thing

[Revoked]

Regulation 9: revoked, on 1 October 2012, by regulation 4 of the Unsolicited Electronic Messages Amendment Regulations 2012 (SR 2012/245).

Schedule Forms

rr 4, 5, 9

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

[Revoked]

Schedule form 3: revoked, on 1 October 2012, by regulation 5 of the Unsolicited Electronic Messages Amendment Regulations 2012 (SR 2012/245).

Diane Morcom,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 13 September 2007.

Reprints notes

1 *General*

This is a reprint of the Unsolicited Electronic Messages Regulations 2007 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Unsolicited Electronic Messages Amendment Regulations 2018 (LI 2018/184)

Unsolicited Electronic Messages Amendment Regulations 2012 (SR 2012/245)