

Reprint
as at 1 July 2019



Domestic Violence (General) Amendment Regulations 2010

(SR 2010/121)

Domestic Violence (General) Amendment Regulations 2010: revoked, on 1 July 2019, pursuant to regulation 25(a) of the Family Violence Regulations 2019 (LI 2019/96).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 24th day of May 2010

Present:

His Excellency the Governor-General in Council

Pursuant to section 127 of the Domestic Violence Act 1995, 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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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 Justice.

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Regulations

1 Title

These regulations are the Domestic Violence (General) Amendment Regulations 2010.

2 Commencement

These regulations come into force on 1 July 2010.

3 Principal regulations amended

These regulations amend the Domestic Violence (General) Regulations 1996.

4 New regulations 4 to 6 added

The following regulations are added:

4 Service of temporary protection order issued under section 124N of Act

- (1) This regulation applies in respect of a temporary protection order issued under section 124N of the Act.
- (2) An order must be served personally on the person against whom the order is issued by leaving it with that person or, if that person does not accept it, by putting it down in that person's presence and bringing it to his or her attention.
- (3) An order must be served by—
 - (a) a Registrar; or
 - (b) a bailiff; or
 - (c) a constable; or
 - (d) a party's lawyer, or an agent of a party's lawyer.
- (4) Service of the order may be proved—
 - (a) on oath before the Court; or
 - (b) by an affidavit of service stating that the order has been served and the date, time, and mode of service.
- (5) If an order is served by a Registrar, bailiff, or constable, service may be proved—

- (a) by stating that the order has been served, and the date, time, and mode of service—
 - (i) in an endorsement on the original order or a copy of it, which endorsement must be signed by the person who served the document; or
 - (ii) in a certificate attached to the original order or a copy of it, which certificate must be signed by the person who served the document; or
- (b) in either of the ways stated in subclause (4).

5 Information relating to issue of temporary protection order under section 124N of Act to be sent to Family Court

- (1) This regulation applies if a temporary protection order is issued under section 124N of the Act.
- (2) As soon as possible after complying with section 124Q(1) of the Act, the District Court must send to the Registrar of the Family Court,—
 - (a) if the person against whom the order is made has been served with a copy of the order, proof of service; and
 - (b) if the District Court has directed the person against whom the order is made to attend a specified programme, a copy of that direction; and
 - (c) if requested by the Registrar of the Family Court, copies of any other specified information relating to the issue of the order (which may include a copy of the Police safety order).

6 Forms in relation to Part 6A of Act

The forms set out in the Schedule are prescribed for the following purposes:

- (a) form 1 for a Police safety order issued under section 124B(1) of the Act:
- (b) form 2 for a warrant to arrest for contravening a Police safety order under section 124O(1)(a) and (2) of the Act:
- (c) form 3 for the making of a complaint under section 124L(3) of the Act:
- (d) form 4 for a summons served under section 124M(1)(b) of the Act:
- (e) form 5 for a warrant to arrest issued under section 124M(3) of the Act:
- (f) form 6 for a warrant issued under section 124O(1)(b) and (2) of the Act:
- (g) form 7 for a temporary protection order made under section 124N(2)(b) of the Act.

5 New Schedule added

The Schedule set out in the Schedule of these regulations is added.

Schedule

New Schedule added

r 5

Schedule Forms

r 6

Form 1 Police safety order

r 6(a)

Sections 124A, 124B, Domestic Violence Act 1995

To [full name, address, date of birth of person against whom the Police safety order is issued]

This Police safety order is issued against you.

1 Purpose of order

The purpose of this order is to ensure the protection of a person with whom you are, or have been, in a domestic relationship (a **person at risk**).

2 Person(s) at risk

This order protects the following person(s) at risk:

[Full name of person for whose safety the order is issued]

*[Full name of each child residing with the person named above].

*Omit if it does not apply.

3 Commencement of order

The order comes into force immediately after a copy has been served on you.

4 Duration of order

This order continues in force for [number] days/hours*. It expires on [date, time].

*Select one.

5 Effect of order

You must immediately—

- (a) surrender to a constable—
 - (i) any weapon in your possession or control; and
 - (ii) any firearms licence held by you:

- (b) vacate any land or building occupied by a person at risk, whether or not you have a legal or equitable interest in the land or building.

6 Conditions of order

It is a condition of this order that you must not—

- (a) physically or sexually abuse a person at risk; or
- (b) threaten to physically or sexually abuse a person at risk; or
- (c) damage, or threaten to damage, property of a person at risk; or
- (d) engage, or threaten to engage, in other behaviour, including intimidation or harassment, that amounts to psychological abuse of a person at risk; or
- (e) encourage any person to engage in behaviour against a person at risk, where the behaviour, if engaged in by you, would be prohibited by the order; or
- (f) watch, loiter near, or prevent or hinder access to or from the place of residence, business, or employment of a person at risk, or an educational institution attended by a person at risk, or any other place that a person at risk visits often; or
- (g) follow a person at risk about, or stop or accost a person at risk in any place; or
- (h) where a person at risk is present on any land or building, enter or remain on that land or building in circumstances that constitute a trespass; or
- (i) make any other contact with a person at risk (whether by telephone, electronic message, correspondence, or otherwise), except such contact as is reasonably necessary in any emergency.

Include paragraph 7 if the person against whom the order is issued has a firearms licence.

7 Suspension of firearms licence

On the issue of this order, and for the period that this order is in force,—

- (a) any firearms licence held by you is deemed to be suspended; and
- (b) you are deemed, for all purposes, not to be the holder of a firearms licence.

8 Suspension of parenting order or agreement

While this order continues in force, the provisions of any parenting order or agreement affording you day-to-day care of, or contact with, any child protected by this order are suspended.

9 Consequences of breach of order

If you refuse or fail to comply with this order or any condition of this order, you may be taken into custody and brought before a District Court.

An application may then be made to bring you before a District Court.

A District Court may—

- (a) direct that another Police safety order be issued against you:
- (b) issue under section 14 of the Domestic Violence Act 1995 a temporary protection order against you.

Date:

Issued by:

Form 2

Warrant to arrest for contravening Police safety order

r 6(b)

Section 124O(1)(a) and (2), Domestic Violence Act 1995

To every constable/[*full name*], constable*

*Select one.

- 1 On [*date, time*], a Police safety order was issued against [*full name, address, date of birth*].
- 2 On [*date*], [*full name*] refused or failed to comply with the order/conditions of the order* by [*state details of refusal or failure*].
*Select one.
- 3 I am/We are* satisfied that there are grounds for the issue of a warrant to arrest [*full name*].
*Select one.
- 4 I/We* direct you to arrest [*full name*] and bring him/her* before a District Court as soon as possible.
*Select one.
- 5 For the purpose of executing this warrant, the constable executing it may at any time enter onto any premises, by force if necessary, if the constable has reasonable grounds to believe that [*full name*] is on those premises.

Date:

Place:

Signature:

(District Court Judge/Justice(s) of the Peace/Community Magistrate(s)*)

*Select one.

Form 3
Complaint

r 6(c)

*Section 124L(3), Domestic Violence Act 1995*I, *[full name, address]*, constable, say on oath that—

- 1 On *[date, time]*, a Police safety order was issued against *[full name, address, date of birth]*.
- 2 On *[date]*, *[full name]* refused or failed to comply with the order/conditions of the order* by *[state details of refusal or failure]*.
*Select one.
- 3 The jurisdiction of the District Court is sought to make a direction or order under section 124N of the Domestic Violence Act 1995.

Signature of constable:

Sworn at *[place, date]*Before me: *[name, signature]*

(District Court Judge/Justice(s) of the Peace/Community Magistrate(s)/Registrar (not being a constable)*)

*Select one.

Form 4

Police summons to appear before District Court

r 6(d)

Section 124M(1)(b) and (2), Domestic Violence Act 1995

To [full name, address, date of birth]

1 For this paragraph—

- select statement A if the person being summoned refused or failed to comply with a Police safety order; or
- select statement B if the person being summoned refused or failed to comply with the conditions of a Police safety order.

Statement A

The complaint against you is that you refused or failed to comply with a Police safety order issued against you on [date] by [state details].

Statement B

The complaint against you is that you refused or failed to comply with the conditions of a Police safety order issued against you on [date] by [state details].

2 You are summoned to appear personally before the District Court at [place, date, time] to answer the complaint.

Date:

Signature of constable:

Form 5

Warrant to arrest for failure to attend District Court following summons

r 6(e)

*Section 124M(3), Domestic Violence Act 1995***To every constable/[full name], constable***

*Select one.

1 On [date], a complaint was made that [full name, address, date of birth] refused or failed to comply with a Police safety order/the conditions of a Police safety order* issued against him/her*.

*Select one.

2 On [date], a summons was served on [full name] under section 124M(2) of the Domestic Violence Act 1995 to appear personally before the District Court at [place, date, time] to answer the complaint.

3 [Full name] did not attend personally at the District Court at the place, date, and time specified in the summons.

4 I/We* direct you to arrest [full name] and bring him/her* before a District Court as soon as possible.

*Select one.

5 For the purpose of executing this warrant, the constable executing it may at any time enter onto any premises, by force if necessary, if the constable has reasonable grounds to believe that [full name] is on those premises.

Date:

Place:

Signature:

(District Court Judge/Justice(s) of the Peace/Community Magistrate(s)*)

*Select one.

Form 6

Warrant to arrest for failing to attend adjourned proceedings

r 6(f)

Section 124O(1)(b) and (2), Domestic Violence Act 1995

To every constable/[*full name*], constable*

*Select one.

- 1 On [*date, time*], a Police safety order was issued against [*full name, address, date of birth*].
- 2 On [*date*], the District Court at [*place*] was satisfied that [*full name*] had refused or failed to comply with that order and adjourned the proceedings to enable a District Court Judge to consider whether a temporary protection order should be issued against [*full name*].
- 3 On [*date of adjourned proceedings*], [*full name*] did not attend personally at the adjourned proceedings.
- 4 I am/We are* satisfied that there are grounds for the issue of a warrant to arrest [*full name*].
*Select one.
- 5 For the purpose of executing this warrant, the constable executing it may at any time enter on to any premises, by force if necessary, if the constable has reasonable grounds to believe that [*full name*] is on those premises.

Date:

Place:

Signature:

(District Court Judge/Justice(s) of the Peace/Community Magistrate(s)*)

*Select one.

Form 7
Temporary protection order

r 6(g)

*Section 124N(2)(b), Domestic Violence Act 1995*In the District Court at [*place*]No: [*number of proceeding*]**Applicant**[*Full name and address of person named in Police safety order for whose safety the order was issued*]**Respondent**[*Full name and address of person who the Court is satisfied refused or failed to comply with the Police safety order*]The Court makes a temporary protection order against [*full name of respondent*].**Person(s) protected by the order**

This order protects the following person(s):

[*Full name of applicant*]*[*Full name of each child of the applicant's family*]

*Omit if it does not apply.

*The Court also directs that the order applies for the benefit of the following person(s):

[*Full name of each person in respect of whom the Court makes a direction under section 16(2) of the Act*]

*Omit if it does not apply.

Conditions of order**1 Standard conditions prohibiting domestic violence and contact**

It is a condition of this order that—

- (a) the respondent must not—
 - (i) physically or sexually abuse any protected person; or
 - (ii) threaten to physically or sexually abuse any protected person; or
 - (iii) damage, or threaten to damage, property of any protected person; or
 - (iv) engage, or threaten to engage, in other behaviour, including intimidation or harassment, that amounts to psychological abuse of any protected person; or

- (v) encourage any person to engage in behaviour against any protected person if that behaviour, if engaged in by the respondent, would be prohibited by the order; and
- (b) unless the protected person and the respondent are living in the same dwellinghouse with the express consent* of the protected person (which may be withdrawn at any time), the respondent must not—
 - (i) watch, loiter near, or prevent or hinder access to or from any protected person's place of residence, business, employment, educational institution, or any other place that any protected person visits often; or
 - (ii) follow any protected person about, or stop or accost any protected person in any place; or
 - (iii) without the protected person's express consent,* enter or remain on any land or building occupied by any protected person; or
 - (iv) if any protected person is present on any land or building, enter or remain on that land or building in circumstances that constitute a trespass; or
 - (v) make any other contact with any protected person (whether by telephone, electronic message, correspondence, or otherwise), except contact—
 - (A) that is reasonably necessary in any emergency; or
 - (B) that is permitted under any order or written agreement relating to the role of providing day-to-day care for, or access to, or contact with, or custody of, any minor; or
 - (C) that is permitted under any special condition of this protection order; or
 - (D) that is necessary for the purposes of attending a family group conference under the Children, Young Persons, and Their Families Act 1989.

*The Court may specify, in a special condition of a protection order, a person who may consent or withdraw consent on a protected person's behalf.

2 Standard conditions relating to weapons

It is also a condition of this order that the respondent—

- (a) must not possess, or have under his or her control, any weapon; and
- (b) must not hold a firearms licence; and
- (c) must,—
 - (i) as soon as practicable after being served with a copy of this order, but in any case no later than 24 hours after that service; and

- (ii) on demand made, at any time, by any member of the Police,—
surrender to a member of the Police—
- (iii) any weapon in his or her possession, or under his or her control,
whether or not the weapon is lawfully in his or her possession or
under his or her control; and
- (iv) any firearms licence held by him or her.

Note: The Domestic Violence Act 1995 defines a weapon as any firearm, air-gun, pistol, restricted weapon, ammunition, or explosive, as those terms are defined in the Arms Act 1983.

Omit paragraph 3 if it does not apply.

3 Special conditions

The Court also imposes the following special conditions: *[specify]*.

Unless otherwise stated, these conditions last for the duration of this order.

Omit paragraph 4 if it does not apply.

4 Attendance at programme

The Court directs *[full name of respondent]* to attend the following programme:
[name of programme and programme provider].

The respondent must attend the programme—

- *(a) for *[number]* sessions per month.
- *(b) for 1 session per month and for any other session or sessions per month
that the programme provider from time to time specifies.
- *(c) for the number of sessions per month that the programme provider from
time to time specifies.

*Select the paragraph that applies.

The respondent must attend the programme for the first time—

- *(a) on *[date, time]* at *[place]*.
- *(b) on a date and at a time and place to be advised by the programme pro-
vider as soon as practicable.

*Select the paragraph that applies.

Omit the following 2 headings and paragraphs if they do not apply.

Direction that hearing be held

The Court directs that there be a hearing in relation to the whole of this order/the fol-
lowing parts of this order*: *[specify]*.

*Select one.

Date of hearing

I appoint [*date, time*] at the Family Court at [*place*] for this hearing.

Date:

Registrar:

Important information for respondent

Effect of temporary protection order

For this paragraph—

- *select statement A if the Court has not directed that a hearing be held:*
- *select statement B if the Court has directed that a hearing be held.*

Statement A

This order is a temporary order.

If you do nothing after being served, this order will automatically become a final order 3 months after the date on which it was made. If you wish to dispute this order, you must notify the Family Court at [*place*] as soon as possible.

Statement B

This order is a temporary order.

The Court has directed that a hearing be held in relation to the whole of this order/ specified parts of this order* at the Family Court at [*place*].

*Select one.

This hearing will take place whether or not you wish to appear. If you wish to dispute any part of the order, you must notify the Family Court at [*place*] as soon as possible.

If you do nothing, the Family Court may make a final order in your absence/the parts of the order in relation to which a hearing is not required will become final 3 months after the date on which this order was made, and the Family Court may confirm the other parts of the order at the hearing*.

*Select one.

Effect of standard condition relating to weapons

The effect of this condition is that any firearms licence held by you is automatically suspended as soon as this order is made. If the order becomes final, the licence is automatically revoked. However, you may apply to the Family Court at [*place*] to modify or discharge this condition (*see below*).

If you do not surrender to a member of the Police all weapons in your possession or under your control, and your firearms licence, within 24 hours after being served with this order, or on demand made by a constable, the Police may use their powers under

the Arms Act 1983 to enter your property without warrant and search for and seize the weapons. You may also be prosecuted for failing to comply with this order (*see* below).

Objection to direction to attend programme

The Court has directed you to attend a programme. You have 5 days after you have been served with this order to notify the Family Court at [*place*] if you object to that direction.

If you do not make an objection within the 5-day period, and then fail to attend programme sessions, you may be prosecuted for failing to comply with this order (*see* below).

Prohibition on contact with protected person

The effect of this order is to prohibit you from having contact with any protected person in any of the ways set out in the order. This order may also contain special conditions relating to contact between you and a protected person. You must read the terms of the order very carefully to find out what contact you may or may not have with any protected person.

If the protected person has expressly consented to living in the same dwellinghouse with you, the prohibition on contact and any special condition that is inconsistent with living in the same dwellinghouse are suspended.

The protected person may withdraw that consent at any time. If that happens (and this order has not in the meantime been discharged or varied), you must comply with all the standard conditions and special conditions of the order.

Note that the special conditions of this order may specify who is entitled to consent (or withdraw consent) on behalf of a protected person.

Modification or discharge of this order

You or a protected person may apply to a Family Court at any time—

- (a) for the modification or discharge of the standard condition relating to weapons. (The Family Court may make a change to this standard condition only if it is satisfied that the condition, or a term of the condition, is not needed to protect the persons for whose benefit this order applies from further domestic violence):
- (b) for a variation or discharge of any special conditions of this order, or for the imposition of a new special condition:
- (c) for the variation or discharge of a direction to attend a programme, or for that direction to be made:
- (d) for this order to be discharged.

Consequences of breach of this order

You commit an offence if you breach the order by—

- (a) doing an act in contravention of this order; or
- (b) failing to comply with any condition in this order.

You have a defence to proceedings for this offence if you can prove that you had a reasonable excuse for breaching the order.

The maximum penalty for this offence is 2 years' imprisonment.

If a constable has good cause to suspect that you have breached this order, you may be arrested without warrant. Police bail is not available during the 24 hours immediately following an arrest. During that period, any bail application must be made to a Judge.

Consequences of failing to comply with direction

You commit an offence if, without reasonable excuse, you fail on any occasion to comply with a direction to attend a programme.

The maximum penalty for this offence is 6 months' imprisonment or a fine not exceeding \$5,000.

Advice

If you need help, consult a lawyer or contact a Family Court office immediately.

Office hours

The office of a Family Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Important information for protected persons

Effect of temporary protection order

For this paragraph—

- *select statement A if the Court has not directed that a hearing be held:*
- *select statement B if the Court has directed that a hearing be held.*

Statement A

This order is a temporary order.

If the respondent does nothing after being served, this order will automatically become a final order 3 months after the date on which it was made. You will then be sent a copy of the final order. The respondent may, however, give notice that he or she wishes to dispute this order. In that case, a hearing will be held and you will be notified of the hearing date.

Statement B

This order is a temporary order.

The Court has directed that a hearing be held in relation to the whole of this order/ specified parts of this order* at the Family Court at [place].

*Select one.

You are entitled to appear or be represented at the hearing to present your case to satisfy the Family Court at [place] that the order must be made final/the parts of the order in relation to which the hearing is required must be part of the final order. If the respondent does nothing, the parts of the order in relation to which a hearing is not required will become final 3 months after the date on which this order was made, and the Family Court may confirm the other parts of the order at the hearing*.

*Select one.

Respondent prohibited from contact with you

The effect of this order is to prohibit the respondent from having contact with you in any of the ways set out in the order. This order may also contain special conditions relating to contact between you and the respondent.

If you expressly consent to living in the same dwellinghouse with the respondent, the prohibition on contact and any special condition that is inconsistent with living in the same dwellinghouse are suspended.

You may withdraw that consent at any time. If that happens (and this order has not in the meantime been discharged or varied), the respondent must comply with all the standard conditions and special conditions of the order.

Note that the special conditions of this order may specify who is entitled to consent (or withdraw consent) on behalf of a protected person.

Standard condition relating to weapons

The effect of this condition is that any firearms licence held by the respondent is automatically suspended as soon as this order is made. If the order becomes final, the licence is automatically revoked. However, this condition may be modified or discharged by the Family Court (*see below*).

Attendance at programme

You may request to attend a programme, or that any child protected by the order attend a programme, or that both you and a child protected by the order attend a programme. If you wish to make such a request you may do so by contacting the Registrar of the Family Court.

Any other adult person protected by the order can also request to attend a programme by contacting the Registrar of the Family Court.

Modification or discharge of this order

You or the respondent may apply to a Family Court at any time—

- (a) for the modification or discharge of the standard condition relating to weapons. (The Family Court may make a change to this standard condition only if it is satisfied that the condition, or a term of the condition, is not needed to protect

the persons for whose benefit this order applies from further domestic violence):

- (b) for a variation or discharge of any special conditions of this order, or for the imposition of a new special condition:
- (c) for the variation or discharge of a direction that the respondent attend a programme, or for that direction to be made:
- (d) for this order to be discharged.

If the respondent makes any of these applications, you will be notified and have an opportunity to dispute the application.

Consequences of breach of this order

The respondent commits an offence if he or she—

- (a) does any act in contravention of this order; or
- (b) fails to comply with any condition in this order.

The respondent will have a defence to proceedings for this offence if it can be proved that he or she had a reasonable excuse for breaching the order.

The maximum penalty for this offence is 2 years' imprisonment.

If a constable has good cause to suspect that the respondent has breached the order, the respondent may be arrested without warrant. Police bail is not available during the 24 hours immediately following an arrest. During that period, the respondent may apply to a Judge for bail.

Consequences of failing to comply with direction

The respondent commits an offence if, without reasonable excuse, he or she fails on any occasion to comply with a direction to attend a programme.

The maximum penalty for this offence is 6 months' imprisonment or a fine not exceeding \$5,000.

Advice

If you need help, consult a lawyer or contact a Family Court office immediately.

Office hours

The office of a Family Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Michael Webster,
for 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 1 July 2010, amend the Domestic Violence (General) Regulations 1996. The amendments—

- provide for the service of a temporary protection order issued under section 124N in Part 6A of the Domestic Violence Act 1995 (the **Act**);
- require a District Court that has issued an order of this kind to send to the Registrar of the Family Court certain information relating to the order;
- prescribe forms for the purposes of Part 6A of the Act (in relation to Police safety orders).

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 27 May 2010.

Reprints notes

1 *General*

This is a reprint of the Domestic Violence (General) Amendment Regulations 2010 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*

Family Violence Regulations 2019 (LI 2019/96): regulation 25(a)