



Criminal Investigations (Bodily Samples) Amendment Regulations (No 2) 2015

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 7th day of December 2015

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 80 of the Criminal Investigations (Bodily Samples) Act 1995, Her Excellency the Administrator of the Government, 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	Principal regulations	2
4	Schedule, form 1 amended	2
5	Schedule, form 2 amended	2
6	Schedule, form 3 amended	2
7	Schedule, form 4 amended	2
8	Schedule, form 5A amended	3
9	Schedule, form 5B amended	3
10	Schedule, form 6 amended	4
11	Schedule, form 8 amended	4
12	Schedule, form 8A amended	4
13	Schedule, form 9 amended	5
14	Schedule, form 9A amended	5
15	Schedule, form 11 amended	5

Regulations

1 Title

These regulations are the Criminal Investigations (Bodily Samples) Amendment Regulations (No 2) 2015.

2 Commencement

These regulations come into force on 4 February 2016.

3 Principal regulations

These regulations amend the Criminal Investigations (Bodily Samples) Regulations 2004 (the **principal regulations**).

4 Schedule, form 1 amended

In the Schedule, form 1, under the heading “**What will the bodily sample be used for if I consent to it being taken?**”, replace the second bullet point with:

- the results of that analysis may be used as evidence in criminal proceedings in New Zealand or may be provided to a foreign country for a criminal investigation or a prosecution in that country following a request for assistance under the Mutual Assistance in Criminal Matters Act 1992.

5 Schedule, form 2 amended

In the Schedule, form 2, under the heading “**What will the bodily sample be used for if we consent to it being taken?**”, replace the second bullet point with:

- the results of that analysis may be used as evidence in criminal proceedings in New Zealand or may be provided to a foreign country for a criminal investigation or a prosecution in that country following a request for assistance under the Mutual Assistance in Criminal Matters Act 1992.

6 Schedule, form 3 amended

In the Schedule, form 3, under the heading “**What will the bodily sample be used for?**”, replace the second bullet point with:

- the results of that analysis may be used as evidence in criminal proceedings in New Zealand or may be provided to a foreign country for a criminal investigation or a prosecution in that country following a request for assistance under the Mutual Assistance in Criminal Matters Act 1992.

7 Schedule, form 4 amended

In the Schedule, form 4, under the heading “**What will the bodily sample be used for?**”, replace the second bullet point with:

- the results of that analysis may be used as evidence in criminal proceedings in New Zealand or may be provided to a foreign country for a criminal investigation or a prosecution in that country following a request for assistance under the Mutual Assistance in Criminal Matters Act 1992.

8 Schedule, form 5A amended

In the Schedule, form 5A, under the heading “**Are there any controls on the use of the information on a DNA profile databank?**”, after the third bullet point, insert:

- responding to a request by a foreign country under the Mutual Assistance in Criminal Matters Act 1992 for assistance to investigate or prosecute a criminal offence in that country, but only if the offence corresponds to an offence in New Zealand punishable by a term of imprisonment of more than 1 year.

9 Schedule, form 5B amended

- (1) In the Schedule, form 5B, under the heading “**What will the Police do with the bodily sample and the analysis of it?**”, delete “relevant”.
- (2) In the Schedule, form 5B, under the heading “**What information will be kept on the DNA profile databank?**”, replace “unless a sentence of imprisonment or a non-custodial sentence has been imposed or an order made under section 283 of the Children, Young Persons, and Their Families Act 1989.” with “unless—”.
- (3) In the Schedule, form 5B, under the heading “**What information will be kept on the DNA profile databank?**”, after the second paragraph, insert:
 - an order has been made under section 282 of the Children, Young Persons, and Their Families Act 1989 discharging the charge relating to the offence (if it is a relevant offence or a related offence) after finding the offence was proved:
 - a sentence of imprisonment or a non-custodial sentence has been imposed or an order made under section 283 of that Act.
- (4) In the Schedule, form 5B, under the heading “**Are there any controls on the use of the information on a DNA profile databank?**”, after the third bullet point, insert:
 - responding to a request by a foreign country under the Mutual Assistance in Criminal Matters Act 1992 for assistance to investigate or prosecute a criminal offence in that country, but only if the offence corresponds to an offence in New Zealand punishable by a term of imprisonment of more than 1 year.
- (5) In the Schedule, form 5B, under the heading “**Are there any circumstances when the bodily samples and the information are destroyed?**”, in the first bullet point, delete “relevant”.

10 Schedule, form 6 amended

- (1) In the Schedule, form 6, under the heading “**Are there any controls on use of information on a DNA profile databank?**”, after the third bullet point, insert:
 - responding to a request by a foreign country under the Mutual Assistance in Criminal Matters Act 1992 for assistance to investigate or prosecute a criminal offence in that country, but only if the offence corresponds to an offence in New Zealand punishable by a term of imprisonment of more than 1 year.
- (2) In the Schedule, form 6, under the heading “**When can’t I withdraw my consent to the use of the bodily sample?**”, replace “a relevant offence (as defined in section 2(1) of the Criminal Investigations (Bodily Samples) Act 1995)” with “an imprisonable offence or an offence against any of the provisions in Part 3 of the Schedule of the Criminal Investigations (Bodily Samples) Act 1995”.

11 Schedule, form 8 amended

- (1) In the Schedule, form 8, under the heading “**On what grounds may I request a databank compulsion notice hearing?**”, replace “a relevant offence (as defined in section 2(1) of the Criminal Investigations (Bodily Samples) Act 1995)” with “an imprisonable offence or an offence against any of the provisions in Part 3 of the Schedule of the Criminal Investigations (Bodily Samples) Act 1995”.
- (2) In the Schedule, form 8, under the heading “**On what grounds may I request a databank compulsion notice hearing?**” delete “relevant” in each place.
- (3) In the Schedule, form 8, under the heading “**Are there any controls on the use of information on a DNA profile databank?**”, after the third bullet point, insert:
 - responding to a request by a foreign country under the Mutual Assistance in Criminal Matters Act 1992 for assistance to investigate or prosecute a criminal offence in that country, but only if the offence corresponds to an offence in New Zealand punishable by a term of imprisonment of more than 1 year.

12 Schedule, form 8A amended

In the Schedule, form 8A, under the heading “**Are there any controls on the use of information on a DNA profile databank?**”, after the third bullet point, insert:

- responding to a request by a foreign country under the Mutual Assistance in Criminal Matters Act 1992 for assistance to investigate or prosecute a criminal offence in that country, but only if the offence corresponds to an offence in New Zealand punishable by a term of imprisonment of more than 1 year.

13 Schedule, form 9 amended

- (1) In the Schedule, form 9, under the heading “**What can I or my parent do if we think this notice is incorrect?**” replace “a relevant offence (as defined in section 2(1) of the Criminal Investigations (Bodily Samples) Act 1995)” with “an imprisonable offence or an offence against any of the provisions in Part 3 of the Schedule of the Criminal Investigations (Bodily Samples) Act 1995”.
- (2) In the Schedule, form 9, under the heading “**What can I or my parent do if we think this notice is incorrect?**” delete “relevant” in each place.
- (3) In the Schedule, form 9, under the heading “**Are there any controls on the use of information on a DNA profile databank?**”, after the third bullet point, insert:
 - responding to a request by a foreign country under the Mutual Assistance in Criminal Matters Act 1992 for assistance to investigate or prosecute a criminal offence in that country, but only if the offence corresponds to an offence in New Zealand punishable by a term of imprisonment of more than 1 year.

14 Schedule, form 9A amended

In the Schedule, form 9A, under the heading “**Are there any controls on the use of information on a DNA profile databank?**”, after the third bullet point, insert:

- responding to a request by a foreign country under the Mutual Assistance in Criminal Matters Act 1992 for assistance to investigate or prosecute a criminal offence in that country, but only if the offence corresponds to an offence in New Zealand punishable by a term of imprisonment of more than 1 year.

15 Schedule, form 11 amended

- (1) In the Schedule, form 11, replace “a relevant offence (as defined in section 2(1) of the Criminal Investigations (Bodily Samples) Act 1995)” with “an imprisonable offence or an offence against any of the provisions in Part 3 of the Schedule of the Criminal Investigations (Bodily Samples) Act 1995”.
- (2) In the Schedule, form 11, delete “relevant” in each place.

Michael Webster,
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 amend the Criminal Investigations (Bodily Samples) Regulations 2004 (the **principal regulations**). The regulations come into force on 4 February 2016 to coincide with the coming into force of the Criminal Investigations (Bodily Samples) Amendment Act 2015 and the Mutual Assistance in Criminal Matters Amendment Act 2015 (the **2015 amendment Acts**). The regulations make changes to 12 forms in the Schedule of the principal regulations to—

- align some wording with changes made by the 2015 amendment Acts:
- make changes to some wording to better reflect legislative changes made in 2009 and 2013.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 10 December 2015.

These regulations are administered by the Ministry of Justice.