

Summary Proceedings Amendment Regulations 2007

Preamble

At Wellington this 24th day of September 2007

Pursuant to section 212 of the Summary Proceedings Act 1957, 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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- 1 Title**
These regulations are the Summary Proceedings Amendment Regulations 2007.
- 2 Commencement**
These regulations come into force on 1 October 2007.

3 Principal regulations amended

These regulations amend the Summary Proceedings Regulations 1958.

4 Orders for sentences of community work

- (1) The heading to regulation 15L is amended by adding “, **community detention, or home detention**”.
- (2) Regulation 15L is amended by inserting “, community detention, or home detention” after “community work”.

5 Notice of payment of fine if defendant imprisoned, etc

Regulation 15O is amended by inserting “community detention, or home detention,” after “community work,” in each place where it appears.

6 Schedule 1 amended

- (1) Schedule 1 is amended by inserting the forms 28A and 28B set out in Schedule 1 of these regulations after form 28.
- (2) Schedule 1 is amended by revoking form 30 and substituting the form 30 set out in Schedule 2 of these regulations.

Schedule 1

r 6(1)

New forms 28A and 28B inserted

“Form 28A

“Order for sentence of home detention for
unpaid fine

“

Form 28A—continued

Section 88(3)(ba), Summary Proceedings Act 1957

PPN:

To [defendant's full name] of [current address], [current occupation],
[current phone number(s)]

You have been ordered to pay the fine(s) specified in the Schedule of this order.

*The amount remains unpaid.

*These amounts remain unpaid.

*Delete whichever is inapplicable.

Because of this, on [specify date of sentence], a District Court Judge or Community Magistrate sentenced you to home detention for a period of [specify period] starting on [specify home detention start date].

You must serve your sentence at [specify home detention address].

*You must go to this address and begin serving your sentence immediately.

*You must go to this address and begin serving your sentence on [specify home detention start date].

*Delete whichever is inapplicable.

During your sentence, you must comply with the standard detention conditions listed in paragraph 1 of the "Important information" sheet attached. These conditions finish on [specify standard conditions end date].

*In addition, you must comply with the following special detention conditions:

*[specify special conditions].

*These finish on [specify special conditions end date].

*Delete if inapplicable.

To ensure you comply with this sentence, you may be monitored electronically.

*After you have completed your sentence on [specify home detention end date], you must comply with the standard post-detention conditions set out in paragraph 7 of the "Important information" sheet attached. These finish on [specify standard post-detention conditions end date].

*Delete if inapplicable.

*You must also comply with the following special post-detention conditions:

“

Form 28A—continued

*[specify special post-detention conditions].

*These finish on [specify special post-detention conditions end date].

*Delete if inapplicable.

*This sentence is to be served at the same time as (that is, concurrently with) the sentence of home detention imposed in the High Court at [place] on [date], CRN [specify case reference number].

*Delete if inapplicable.

*This sentence is to be served at the same time as (that is, concurrently with) the sentence of home detention imposed in the District Court at [place] on [date], CRN [specify case reference number].

*Delete if inapplicable.

*This sentence is to be served after (that is, cumulatively with) the sentence of home detention imposed in the High Court at [place] on [date], CRN [specify case reference number].

*Delete if inapplicable.

*This sentence is to be served after (that is, cumulatively with) the sentence of home detention imposed in the District Court at [place] on [date], CRN [specify case reference number].

*Delete if inapplicable.

If you pay \$ [specify total amount owing] to the Court, this sentence will be cancelled.

.....
Registrar

.....
Date

Order served on defendant at [time] am/pm* on [date].

*Delete whichever is inapplicable.

“

Form 28A—continued

.....
Bailiff/Registrar/Court
Officer*

*Delete whichever is inapplicable.

I, the defendant, have received a copy of this order.

.....
Defendant

.....
Date

Department of Corrections advised of order on [date].

Important information

Standard detention conditions

- 1 You **must** comply with the following standard detention conditions:
 - (a) you are under the supervision of a probation officer. You must co-operate with the probation officer and comply with any lawful direction given by that probation officer;
 - (b) you must **NOT** leave the home detention residence at any time, except as outlined in paragraph 2 below;
 - (c) you must keep a copy of this order in your possession at all times. You must produce this order for inspection if a member of the police or a probation officer asks you to do so;
 - (d) you must, when required to do so by a probation officer, submit to the electronic monitoring of compliance with your detention conditions:

“

Form 28A—*continued*

- (e) a probation officer may direct you not to engage, or continue to engage, in a specific employment or occupation. If a probation officer gives you that direction, you must not engage, or continue to engage, in that employment or occupation:
 - (f) a probation officer may give you a written direction not to associate with any specified person, or with persons of a specified class. If a probation officer gives you that written direction, you must not associate with that specified person or with persons of that specified class:
 - (g) a probation officer may direct you to take part in an assessment of your rehabilitative and reintegrative needs. If and when you are directed to do so, you must take part in that assessment.
- 2 You may leave your home detention residence **ONLY** in the following circumstances:
- (a) to seek urgent medical or dental treatment; or
 - (b) to avoid or minimise a serious risk of death or injury to yourself or another person; or
 - (c) with the approval of a probation officer,—
 - to comply with any special condition of your sentence of home detention;
 - to seek or engage in employment;
 - to attend training or other rehabilitative or reintegrative activities or programmes;
 - to attend a restorative justice conference or other process related to your offending;
 - to carry out any undertaking arising from any restorative justice process;
 - for any other purpose that has been approved specifically by a probation officer, such as the completion of a concurrent community work sentence.
- 3 A probation officer may approve an alternative residence while an application to vary your home detention residence is being considered.

“

Form 28A—*continued*

- 4 If you have been sentenced to home detention for 6 months or more, and you have completed three-quarters of your sentence, a probation officer may authorise you to spend up to 4 hours per day away from your home detention residence without a specified purpose. The probation officer may authorise such absences for any or all of the remaining days of the sentence.

Warning

If you do not comply with the **standard detention conditions**, without reasonable excuse, you could be arrested and prosecuted. You could be liable to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$2,000.

Other detention requirements

- 5 You **must** allow a probation officer to enter your home detention residence if you are required to be there at that time.
- 6 You **must** also allow an authorised person to enter your home detention residence at any time if the authorised person seeks entry to service or inspect the electronic monitoring equipment.

Warning

If you do not comply with these **other detention requirements**, without reasonable excuse, you could be arrested and prosecuted. You could be liable to imprisonment for a term not exceeding 3 months or be liable to a fine not exceeding \$5,000.

Standard post-detention conditions

- 7 After you have completed your sentence, you **must** comply with the following standard post-detention conditions:
- (a) you must report to a probation officer whenever you are directed to do so:
 - (b) you must tell a probation officer, if he or she asks you to do so, where you are living and the nature and place of any employment you undertake:

“

Form 28A—*continued*

- (c) if you plan to move within a probation area, you must give a probation officer reasonable notice (unless prior notification is impossible) before moving. You must advise a probation officer of your new address:
- (d) you must have written permission from a probation officer before you move to a new residential address in another probation area. You must report to a probation officer in your new probation area as soon as you can, and not later than 72 hours, after you arrive in the new probation area:
- (e) you must not live at any address that a probation officer has directed you not to live at:
- (f) a probation officer may direct you to not engage, or continue to engage, in a specific employment or occupation. If a probation officer gives you that direction, you must not engage, or continue to engage, in that employment or occupation:
- (g) a probation officer may give you a written direction not to associate with any specified person, or with persons of a specified class. If a probation officer gives you that written direction, you must not associate with that specified person or with persons of that specified class:
- (h) a probation officer may direct you to take part in an assessment of your rehabilitative and reintegrative needs. If and when you are directed to do so, you must take part in that assessment.

Warning

If you do not comply with these **standard post-detention conditions**, without reasonable excuse, you could be arrested and prosecuted. You could be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$1,500.

Variation, cancellation, or discharge of sentence or conditions

- 8 You, or a probation officer, may apply to vary or cancel your home detention sentence under section 80F of the Sentencing Act 2002.

“

- 9 You, or a probation officer, may apply to vary or discharge your post-detention conditions under section 80R of the Sentencing Act 2002.

Schedule of unpaid fines

CRN	Offence date	Offence	Amount imposed
[specify]	[specify]	[specify]	[specify]

“Form 28B
“Order for sentence of community detention for
unpaid fine”

“

PPN:

To *[defendant's full name]* of *[current address]*, *[current occupation]*,
[current phone number(s)]

You have been ordered to pay the fine(s) specified in the Schedule of
this order.

*The amount remains unpaid.

*These amounts remain unpaid.

*Delete whichever is inapplicable.

Because of this, on *[specify date of sentence]*, a District Court Judge or
Community Magistrate sentenced you to *[specify number]* months, *[specify
number]* weeks, and *[specify number]* days of community detention. This
sentence starts on *[specify sentence start date]*.

During this sentence, you will be subject to a curfew. This means that you
must be at the curfew address *[specify curfew address]* during the curfew
period.

*Your curfew starts every day at *[specify time]* and finishes at *[specify time]*.

*Delete if inapplicable.

*Your curfew starts on *[specify day]* day at *[specify time]* and finishes on
[specify day] day at *[specify time]*.

*Delete if inapplicable.

*Your curfew starts every week on *[specify day]* at *[specify time]* and finishes
on *[specify day]* at *[specify time]*.

*Delete if inapplicable.

*Your curfew starts every month on *[specify day]* at *[specify time]* and finishes
on *[specify day]* at *[specify time]*.

*Delete if inapplicable.

To ensure you comply with this sentence, you may be monitored
electronically.

“

Form 28B—continued

*This sentence is to be served at the same time as (that is, concurrently with) the sentence of community detention imposed in the High Court at [place] on [date], CRN [specify case reference number].

*Delete if inapplicable.

*This sentence is to be served at the same time as (that is, concurrently with) the sentence of community detention imposed in the District Court at [place] on [date], CRN [specify case reference number].

*Delete if inapplicable.

*This sentence is to be served after (that is, cumulatively with) the sentence of community detention imposed in the High Court at [place] on [date], CRN [specify case reference number].

*Delete if inapplicable.

*This sentence is to be served after (that is, cumulatively with) the sentence of community detention imposed in the District Court at [place] on [date], CRN [specify case reference number].

*Delete if inapplicable.

You must report in person to a probation officer in the probation area in which you reside as soon as practicable, and not later than 24 hours, after [specify start date of sentence]. If the 24 hours elapses on a weekend or a public holiday, you must report on the next working day instead.

If you pay \$ [total amount owing] to the Court, this sentence will be cancelled.

.....
Registrar

.....
Date

Order served on defendant at [time] am/pm* on [date].

*Delete whichever is inapplicable.

“

Form 28B—continued

.....
Bailiff/Registrar/Court
Officer*

*Delete whichever is inapplicable.

I, the defendant, have received a copy of this order.

.....
Defendant

.....
Date

Department of Corrections advised of order on [*date*].

Important information

Community detention general conditions

- 1 You **must** comply with the following community detention general conditions:
 - (a) you must report to a probation officer whenever you are directed to do so by the probation officer during your sentence;
 - (b) you must tell a probation officer where you are living, including any change of address, and the nature and place of any employment you are undertaking if you are asked to do so;
 - (c) you must keep a copy of this order in your possession at all times. You must produce this order for inspection if a member of the police or a probation officer asks you to do so.

Community detention curfew conditions

- 2 You **must** comply with the following curfew conditions:

“

Form 28B—*continued*

- (a) during the curfew, you are under the supervision of a probation officer and must comply with any lawful direction given by that probation officer:
 - (b) during the curfew, you must **NOT** leave the curfew address, except in the circumstances set out in paragraph 3 below.
- 3 During the curfew, you may leave the curfew address **ONLY** in the following circumstances:
- (a) to seek urgent medical or dental treatment:
 - (b) to avoid or minimise a serious risk of death or injury to yourself or another person:
 - (c) if a probation officer agrees, on humanitarian grounds. You must comply with any conditions imposed by that probation officer:
 - (d) if you are also completing a sentence of supervision or intensive supervision at the same time as (that is, concurrently with) this sentence, and a probation officer agrees, you may leave the curfew address during your curfew period to:
 - seek or engage in employment:
 - attend training or other rehabilitative or reintegrative activities or programmes:
 - attend a restorative justice conference or other process related to your offending:
 - carry out any undertaking arising from any restorative justice process.

Warning

If you do not comply with the **community detention general conditions** or the **community detention curfew conditions**, without reasonable excuse, you could be arrested and prosecuted. You could be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$1,500.

Other community detention requirements

- 4 You **must** allow a probation officer to enter your curfew address if you are required to be there at that time.

“

Form 28B—*continued*

- 5 You must also allow an authorised person to enter your curfew address at any time if the authorised person seeks entry to service or inspect the electronic monitoring equipment.

Warning

If you do not comply with these **other community detention requirements**, without reasonable excuse, you could be arrested and prosecuted. You could be liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000.

Variation or cancellation of sentence or conditions

- 6 You, or a probation officer, may apply to vary or cancel your community detention sentence under section 69I of the Sentencing Act 2002.

Schedule of unpaid fines

CRN [specify]	Offence date [specify]	Offence [specify]	Amount imposed [specify]
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Schedule 2

r 6(2)

New form 30 substituted

“Form 30

“Order for sentence of community work for unpaid fine”

“

Form 30—continued

Section 88(3)(c), Summary Proceedings Act 1957

PPN:

To [defendant's full name] of [current address], [current occupation],
[current phone number(s)]

You have been ordered to pay the fine(s) specified in the Schedule of
this order.

*The amount remains unpaid.

*These amounts remain unpaid.

'Delete whichever is inapplicable.

Because of this, on [specify date of sentence], a District Court Judge or
Community Magistrate sentenced you to [specify hours of community work]
hours of community work.

*You must report to a probation officer in the probation area in
which you reside as soon as practicable, and not later than 72 hours
after [specify date of sentence].

*The start of your sentence is deferred until [specify sentence start
date]. You must report to a probation officer in the probation area in
which you reside on that date.

*Delete whichever is inapplicable.

*This sentence is to be served at the same time as (that is, concurrently with)
the sentence of community work imposed in the High Court at [place] on
[date], CRN [specify case reference number].

*Delete if inapplicable.

*This sentence is to be served at the same time as (that is, concurrently with)
the sentence of community work imposed in the District Court at [place] on
[date], CRN [specify case reference number].

*Delete if inapplicable.

*This sentence is to be served after (that is, cumulatively with) the sentence of
community work imposed in the High Court at [place] on [date], CRN [specify
case reference number].

*Delete if inapplicable.

“

Form 30—continued

*This sentence is to be served after (that is, cumulatively with) the sentence of community work imposed in the District Court at [place] on [date], CRN [specify case reference number].

*Delete if inapplicable.

*The probation officer may allow you to complete up to 20% of your sentence as training in basic work and living skills.

*Delete if inapplicable.

If you pay \$ [total amount owing] to the Court, this sentence will be cancelled.

.....
Registrar

.....
Date

Order served on defendant at [time] am/pm* on [date].

*Delete whichever is inapplicable.

.....
Bailiff/Registrar/Court
Officer*

*Delete whichever is inapplicable.

I, the defendant, have received a copy of this order.

.....
Defendant

.....
Date

Department of Corrections advised of order on [date].

“

Form 30—*continued***Important information****Community work conditions**

- 1 You **must** comply with the following community work conditions:
 - (a) you must report to a probation officer whenever you are directed to do so during your sentence;
 - (b) you must work as directed by a probation officer until you have completed your sentence;
 - (c) if you move to a new residential address, you must advise a probation officer of your new residential address within 72 hours;
 - (d) if the probation officer is not satisfied with the quality of your work, he or she can refuse to count these hours towards your sentence. This means that you could be required to complete further hours not exceeding 10% of your total sentence;
 - (e) a probation officer may remit up to 10% of your sentence if he or she is satisfied with your compliance with your sentence.

Your sentence

- 2 The following conditions apply to your sentence:
 - (a) you may have to work a maximum of 10 hours in 1 day and a maximum of 40 hours in one week;
 - (b) if you are sentenced to 100 hours or less of community work, you must serve your sentence within 6 months of its start date;
 - (c) if you are sentenced to more than 100 hours of community work, you must serve at least 100 hours in every 6-month period from your sentence's start date until all the hours in it are served;
 - *(d) if you fail, without reasonable excuse, to complete training in basic work and living skills, the hours that you spent undertaking that training will not be counted towards your sentence.

*Delete if inapplicable.

“

Form 30—*continued*

Warning

If you do not comply with these conditions, without reasonable excuse, you could be arrested and prosecuted. You could be liable to imprisonment for a term not exceeding 3 months or be liable to a fine not exceeding \$1,000.

Variation or cancellation of sentence

- 3 Your sentence can be varied or cancelled by the Court following an application from you or a probation officer under section 68 of the Sentencing Act 2002.

Schedule of unpaid fines

CRN	Offence date	Offence	Amount imposed
<i>[specify]</i>	<i>[specify]</i>	<i>[specify]</i>	<i>[specify]</i>

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 October 2007, amend the Summary Proceedings Regulations 1958 (the **principal regulations**). The amendments reflect changes made to the Summary Proceedings Act 1957 by the provisions of the Sentencing Amendment Act 2007, in particular, in regard to the sentences of home detention, community detention, and community work. A substituted form 30 and new forms 28A and 28B are inserted into Schedule 1 of the principal regulations.

Issued under the authority of the Acts and Regulations Publication Act 1989.
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