Western Australia

Prostitution Act 2000

Prostitution (Restraining Orders) Regulations 2000

Western Australia

Prostitution (Restraining Orders) Regulations 2000

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Western Australia

Prostitution Act 2000

Prostitution (Restraining Orders) Regulations 2000

##### 1. Citation

 These regulations may be cited as the *Prostitution (Restraining Orders) Regulations 2000*.

##### 2. Commencement

 These regulations come into operation on the day on which the *Prostitution Act 2000* comes into operation.

##### 3. Forms

 (1) The forms set out in Schedule 1 are prescribed in relation to the matters specified in those forms.

 (2) It is sufficient compliance with the Act if a form substantially in compliance with the prescribed form is used.

##### 4. Affidavit

 An affidavit accompanying an application for leave to apply to vary or cancel a restraining order is to be sworn before a justice.

##### 5. Orders under section 37

 (1) When a court makes a restraining order under section 37 of the Act the court is to make a written record of the proceedings in the prescribed form and cause the form to be placed on the court records.

 (2) For the purposes of section 42 of the Act, when a court makes a restraining order under section 37 of the Act, the order is taken to have been made on the application of the Commissioner of Police.

##### 6. Service of applications

 (1) A person making an application under section 38 of the Act for a restraining order must cause a copy of the application to be served on the person sought to be restrained.

 (2) A person making an application under section 42 of the Act to vary or cancel a restraining order must cause a copy of the application to be served on —

 (a) if the application is made by a police officer, the restrained person; or

 (b) if the application is made by the restrained person, the person on whose application the restraining order was made.

 (3) Part 6 Division 2 of the *Restraining Orders Act 1997* applies in relation to the service of an application relating to a restraining order under the Act as if it were a summons relating to a restraining order under the *Restraining Orders Act 1997*.

##### 7. Service of restraining orders

 Part 6 Division 2 of the *Restraining Orders Act 1997* applies in relation to the service of a restraining order under the Act as if it were a restraining order under the *Restraining Orders Act 1997*.

##### 8. Notification

 Part 6 Division 2 of the *Restraining Orders Act 1997* applies in relation to the notification of a matter under the Act as if it were the notification of a matter under the *Restraining Orders Act 1997*.

Schedule 1 — Forms

[r. 3]

|  |  |  |
| --- | --- | --- |
| **Form** | **Title** | **Section** |
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| *Prostitution Act 2000***Application for a prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court |
| Location |
|  |
| **Applicant** | Name on behalf of the Commissioner of Police |
| Regimental no. |
| Police station/division |
| Phone no. |
|  |
| **Person to be restrained**(Fill in as many details as known) | Family name | Date of birth |
| Other names |
| Home streetaddress suburb postcode |
| Work locationAddress street Suburb postcode |
| Phone nos. work home |
|  |
| **Grounds for application** | I suspect that the person to be restrained —❒ has committed an offence in a public place❒ intends to commit an offence in a public place |
| Offence |
| Public place  |
|  |
| **Directions given under s. 26 of Act** | Date | Given by (name & regimental no.)  | Given at (place) |
|  |  |  |
|  |  |  |
|  |  |  |
|  |
| **Applicant** | Signature | Date |
|  |
| **Hearing**(To by filled in by the court) | Court | Date | Time |
| Signature of registrar |

Court copy

|  |
| --- |
| **Record of Proceedings** |
| Date | Attendance | Representation | Adjournments |
| Applicant | Person to be restrained | Applicant | Person to be restrained |
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| Orders |
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| Clerk’s record |
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Back of court copy

| *Prostitution Act 2000***Application for a prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court |
| Location |
|  |
| **Applicant** | Name on behalf of the Commissioner of Police |
| Regimental no. |
| Police station/division |
| Phone no. |
|  |
| **Person to be restrained**(Fill in as many details as known) | Family name | Date of birth |
| Other names |
| Home streetaddress suburb postcode |
| Work locationAddress street Suburb postcode |
| Phone nos. work home |
|  |
| **Grounds for application** | I suspect that the person to be restrained —❒ has committed an offence in a public place❒ intends to commit an offence in a public place |
| Offence |
| Public place  |
|  |
| **Directions given under s. 26 of Act** | Date | Given by (name & regimental no.)  | Given at (place) |
|  |  |  |
|  |  |  |
|  |  |  |
|  |
| **Applicant** | Signature | Date |
|  |
| **Hearing**(To by filled in by the court) | Court | Date | Time |
| Signature of registrar |

Applicant’s copy

| *Prostitution Act 2000***Application for a prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court |
| Location |
|  |
| **Applicant** | Name on behalf of the Commissioner of Police |
| Regimental no. |
| Police station/division |
| Phone no. |
|  |
| **Person to be restrained**(Fill in as many details as known) | Family name | Date of birth |
| Other names |
| Home streetaddress suburb postcode |
| Work locationAddress street Suburb postcode |
| Phone nos. work home |
|  |
| **Grounds for application** | I suspect that the person to be restrained —❒ has committed an offence in a public place❒ intends to commit an offence in a public place |
| Offence |
| Public place  |
|  |
| **Directions given under s. 26 of Act** | Date | Given by (name & regimental no.)  | Given at (place) |
|  |  |  |
|  |  |  |
|  |  |  |
|  |
| **Applicant** | Signature | Date |
|  |
| **Hearing**(To by filled in by the court) | Court | Date | Time |
| Signature of registrar |

|  |
| --- |
| **An application for a restraining order has been made against you. The details of the application are set out above.** **You are required to attend a court hearing on this matter at the place and time set out above. If you do not attend the court hearing a restraining order may be made against you in your absence.****A restraining order may prohibit you from going to certain places or doing certain things, or impose restrictions on the places where you may go and the things that you may do.** |

Copy for person to be restrained

| *Prostitution Act 2000***Application for a prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court |
| Location |
|  |
| **Applicant** | Name on behalf of the Commissioner of Police |
| Regimental no. |
| Police station/division |
| Phone no. |
|  |
| **Person to be restrained**(Fill in as many details as known) | Family name | Date of birth |
| Other names |
| Home streetaddress suburb postcode |
| Work locationAddress street Suburb postcode |
| Phone nos. work home |
|  |
| **Grounds for application** | I suspect that the person to be restrained —❒ has committed an offence in a public place❒ intends to commit an offence in a public place |
| Offence |
| Public place  |
|  |
| **Directions given under s. 26 of Act** | Date | Given by (name & regimental no.)  | Given at (place) |
|  |  |  |
|  |  |  |
|  |  |  |
|  |
| **Applicant** | Signature | Date |
|  |
| **Hearing**(To by filled in by the court) | Court | Date | Time |
| Signature of registrar |

Proof of service copy

| **Certificate of service**  |
| --- |
|  |
| **Officer serving application** | Name |
| Regimental no. |
| Police station/division |
|  |
| **Service** | Method of service  ❒ personal ❒ by post  |
| Place where order served |
| Date of service | Time of service |
|  |  |
| **Person served**(If possible to obtain) | Name |
| Address street Suburb postcode  |
| Signature |
|  |  |
| **Certificate**  | I certify that on the day and at the time and place set out above ❒ I personally served this application on the person to be restrained ❒ I sent this application by prepaid registered post to the person to be restrained at the address set out abovein accordance with the *Prostitution (Restraining Orders) Regulations 2000.*  |
| Signature | Date |

Back of proof of service copy

|  |  |  |
| --- | --- | --- |
| *Prostitution Act 2000***Prostitution restraining order under s. 39****Record of proceedings** |  | Number |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court ❒ Other \_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Location |
|  |
| **Application** | Order made ❒ by the court of its own motion ❒ at request of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |
| **Person to be restrained**(Fill in as many details as known) | Family name | Date of birth |
| Other names |
| Home streetaddress suburb postcode |
| Work locationAddress street Suburb postcode |
| Phone nos. work home |
|  |
| **Grounds for order** | Offence ❒ s. 5 — seeking prostitution in public place ❒ s. 6 — seeking client in public place ❒ prescribed ­­­­­­­­­­­­­­­­offence ­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Place offence occurred |
| Date of offence |
| Grounds on which court considers offender is likely to commit a similar offence |

|  |  |
| --- | --- |
| **Witnesses and summary of evidence** | PolicePerson to be restrainedOther witnesses |
|  |
| **Other notes** |  |

|  |  |
| --- | --- |
| **Terms of the order** |  |
|  |
| **Order made** | Date order made | Time order made |
|  |
| **Registrar** |  | Date |

Court copy

| *Prostitution Act 2000***Prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court ❒ Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Location |
|  |
| **Restrained person** | Family name | Date of birth |
| Other names |
| Home streetaddress suburb postcode |
| Work streetAddress suburb postcode |
| Phone nos. work home |
|  |
| **Terms of the order** |  |
|  |
| **Order made** | Date | Time  |
|  |
| **Registrar** | Signature | Date |

Court copy

| *Prostitution Act 2000***Prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court ❒ Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Location |
|  |
| **Restrained person** | Family name | Date of birth |
| Other names |
| Home streetaddress suburb postcode |
| Work streetAddress suburb postcode |
| Phone nos. work home |
|  |
| **Terms of the order** |  |
|  |
| **Order made** | Date | Time  |
|  |
| **Registrar** | Signature | Date |

Restrained person’s copy

**IMPORTANT INFORMATION**

|  |
| --- |
| **Prostitution restraining order** |
| A restraining order has been made against you on the terms set out on the front of this order. It will take effect when it is served on you and it will remain in force until it expires or is varied or cancelled by a court. You must comply with this order at all times while it is in force.If there is a duration specified in the order, the order expires at the end of the specified period. If there is no duration specified in the order, it expires 1 year after it was served on you.If, in the future, there is a substantial change in the circumstances which led to the order being made you may apply to the court for leave to apply to have the order varied or cancelled. If you would like more information about doing this you should consult your lawyer or the registrar of the court.**Penalty** It is an offence to breach this restraining order. If you do, you may be arrested and will face a penalty of up to $5 000. |

Back of restrained person’s copy

| *Prostitution Act 2000***Prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court ❒ Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Location |
|  |
| **Restrained person** | Family name | Date of birth |
| Other names |
| Home streetaddress suburb postcode |
| Work streetAddress suburb postcode |
| Phone nos. work home |
|  |
| **Terms of the order** |  |
|  |
| **Order made** | Date | Time  |
|  |
| **Registrar** | Signature | Date |

Police copy

| **Certificate of service** |
| --- |
|  |
| **Officer serving order** | Name |
| Regimental no. |
| Police station/division |
|  |
| **Service** | Method of service  ❒ personal ❒ oral ❒ substituted  |
| Place where order served |
| Date of service | Time of service |
|  |  |
| **Person served**(If possible to obtain) | Name |
| Address street Suburb postcode  |
| Signature |
|  |  |
| **Certificate**  | I certify that on the day and at the time and place set out above ❒ I personally served this order on the restrained person ❒ I orally served this order on the restrained person ❒ I took the steps directed by the court to effect substituted service of this order on the restrained personin accordance with the *Prostitution (Restraining Orders) Regulations 2000*, and in the case of oral service I also certify that the restrained person appeared to understand what was said.  |
| Signature | Date |

Back of police copy

| *Prostitution Act 2000***Prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court ❒ Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Location |
|  |
| **Restrained person** | Family name | Date of birth |
| Other names |
| Home streetaddress suburb postcode |
| Work streetAddress suburb postcode |
| Phone nos. work home |
|  |
| **Terms of the order** |  |
|  |
| **Order made** | Date | Time  |
|  |
| **Registrar** | Signature | Date |

Proof of service copy

| **Certificate of service** |
| --- |
|  |
| **Officer serving order** | Name |
| Regimental no. |
| Police station/division |
|  |
| **Service** | Method of service  ❒ personal ❒ oral ❒ substituted  |
| Place where order served |
| Date of service | Time of service |
|  |  |
| **Person served**(If possible to obtain) | Name |
| Address street Suburb postcode  |
| Signature |
|  |  |
| **Certificate**  | I certify that on the day and at the time and place set out above ❒ I personally served this order on the restrained person ❒ I orally served this order on the restrained person ❒ I took the steps directed by the court to effect substituted service of this order on the restrained personin accordance with the *Prostitution (Restraining Orders) Regulations 2000*, and in the case of oral service I also certify that the restrained person appeared to understand what was said.  |
| Signature | Date |

Back of proof of service copy

| *Prostitution Act 2000***Application for leave** **to apply to vary or cancel** **a prostitution restraining****order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Court of Petty Sessions ❒ Children’s Court |
| Location |
|  |
| **Restrained person** | Family name |
| Other names |
| Address street Suburb postcode |
| Phone nos. work home |
|  |
| **Restraining order** | Date order was made |
| Restraining Order no. |
|  |  |
| **Substantial changes**  | What circumstances have substantially changed since the order was made? |
|  |
| **Variation or cancellation** | Do you want the order to be ❒ cancelled ❒ variedIf varied, what do you want changed? |
|  |
| **Grounds for variation or cancellation** | Why do you want the restraining order varied or cancelled? |
|  |
| **Person applying for leave** | Signature  | Date |
|  |
| **Hearing**(To be filled in by the court) | Court | Date | Time |
| Signature of registrar |

Court copy

|  |
| --- |
| **Record of Proceedings** |
| Date | Attendance | Representation | Adjournments |
| Applicant | Person to be restrained | Applicant | Person to be restrained |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
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| Orders |
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|  |
| Clerk’s record |
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Back of court copy

| *Prostitution Act 2000***Application for leave to apply to vary or cancel a prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Court of Petty Sessions ❒ Children’s Court |
| Location |
|  |
| **Restrained person** | Family name |
| Other names |
| Address street Suburb postcode |
| Phone nos. work home |
|  |
| **Restraining order** | Date order was made |
| Restraining Order no. |
|  |  |
| **Substantial changes**  | What circumstances have substantially changed since the order was made? |
|  |
| **Variation or cancellation** | Do you want the order to be ❒ cancelled ❒ variedIf varied, what do you want changed? |
|  |
| **Grounds for variation or cancellation** | Why do you want the restraining order varied or cancelled? |
|  |
| **Person applying for leave** | Signature  | Date |
|  |
| **Hearing**(To be filled in by the court) | Court | Date | Time |
| Signature of registrar |

Restrained person’s copy

**IMPORTANT INFORMATION**

|  |
| --- |
| **Application for leave to apply to vary or cancel**  |
| As the restrained person, before you are allowed to apply to vary or cancel the restraining order you must apply for leave to make that application.When you file your application for leave you must also file an affidavit setting out all the facts that you know about that are material to the application — this includes all the facts that may go against your application as well as the ones that support it. If you do not do this the court may reject your application. At the hearing of the application for leave you must convince the court that there has been a substantial change in the relevant circumstances since the restraining order was made. If the court is not satisfied that there has been a substantial change of circumstances your application for leave will be dismissedIf the court is satisfied that there has been a substantial change of circumstances it will order you to serve a copy of this application on the person who originally applied for the restraining order (this will usually be the Commissioner of Police). That person will then be able to attend court to oppose your application for leave if he or she wishes to do so. If the court grants you leave, you must then lodge an application to vary or cancel the restraining order. If you do not attend the hearing of your application for leave, your application may be dismissed. |

Back of restrained person’s copy

| **This form must not be served until service is ordered by the Court**  |
| --- |
|  |
| *Prostitution Act 2000***Application for leave to apply to vary or cancel a prostitution restraining order** |  | Number |
| Jurisdiction ❒ Court of Petty Sessions ❒ Children’s Court |
| Location |
|  |
| **Restrained person** | Family name |
| Other names |
| Address street Suburb postcode |
| Phone nos. work home |
|  |
| **Restraining order** | Date order was made |
| Restraining Order no. |
|  |  |
| **Substantial changes**  | What circumstances have substantially changed since the order was made? |
|  |
| **Variation or cancellation** | Do you want the order to be ❒ cancelled ❒ variedIf varied, what do you want changed? |
|  |
| **Grounds for variation or cancellation** | Why do you want the restraining order varied or cancelled? |
|  |
| **Person applying for leave** | Signature  | Date |
|  |
| **Hearing**(To be filled in by the court) | Court | Date | Time |
| Signature of registrar |

Respondent’s copy

| **This form must not be lodged until application has been served on the Respondent** |
| --- |
|  |
| *Prostitution Act 2000***Application for leave to apply to vary or cancel a prostitution restraining order** |  | Number |
| Jurisdiction ❒ Court of Petty Sessions ❒ Children’s Court |
| Location |
|  |
| **Restrained person** | Family name |
| Other names |
| Address street Suburb postcode |
| Phone nos. work home |
|  |
| **Restraining order** | Date order was made |
| Restraining Order no. |
|  |  |
| **Substantial changes**  | What circumstances have substantially changed since the order was made? |
|  |
| **Variation or cancellation** | Do you want the order to be ❒ cancelled ❒ variedIf varied, what do you want changed? |
|  |
| **Grounds for variation or cancellation** | Why do you want the restraining order varied or cancelled? |
|  |
| **Person applying for leave** | Signature  | Date |
|  |
| **Hearing**(To be filled in by the court) | Court | Date | Time |
| Signature of registrar |

Proof of service copy

| **Certificate of service**  |
| --- |
|  |
| **Person serving application** | Name |
| Home streetaddress suburb postcode |
|  |
| **Service** | Method of service  ❒ personal ❒ by post  |
| Place where order served |
| Date of service | Time of service |
|  |  |
| **Person served**(If possible to obtain) | Name |
| Regimental no. |
| Police station/division |
| Signature |
|  |  |
| **Certificate**  | I certify that on the day and at the time and place set out above ❒ I personally served this application on the person named above ❒ I sent this application by prepaid registered post to the person named above at the police station/division referred to abovein accordance with the *Prostitution (Restraining Orders) Regulations 2000.*  |
| Signature | Date |

Back of proof of service copy

| *Prostitution Act 2000***Affidavit in support of application for leave to apply to vary or cancel a prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court |
| Location |
|  |
| **Person making affidavit**  | Family name | Date of birth |
| Other names |
| Home streetaddress suburb postcode |
|  |
| **Affidavit**NOTE You must set out ALL the relevant circumstances — this includes things that may go against your application as well as those that support it.(Add extra pages if required) | I make oath and swear that since the restraining order was made the relevant circumstances have changed as follows —1.2.3.4.5.6. |
|  |
| **Sworn before a Justice of the Peace** | Signature Date |
| Justice of the Peace Signature Name |

| *Prostitution Act 2000***Application to vary or cancel a prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court |
| Location |
|  |
| **Applicant** | ❒ Police officer nominated by the Commissioner of Police |
| Name  |
| Regimental no. |
| Police station/division |
| Phone no. |
| ❒ Restrained person  |
|  |
| **Restrained person** | Family name |
| Other names |
| Address street Suburb postcode |
| Phone nos. work home |
|  |
| **Restraining order****Leave** | Date order was made |
| Restraining Order no. |
| Date leave to apply to vary was granted (if application is by restrained person)  |
|  |  |
| **Variation or cancellation** | Do you want the order to be ❒ cancelled ❒ variedIf varied, what do you want changed? |
|  |
| **Grounds for variation or cancellation** | Why do you want the restraining order to be varied or cancelled? |
|  |
| **Signature of applicant** |  | Date |
|  |
| **Hearing**(To be filled in by the court) | Court | Date | Time |
| Signature of registrar |

Court copy

|  |
| --- |
| **Record of Proceedings** |
| Date | Attendance | Representation | Adjournments |
| Applicant | Person to be restrained | Applicant | Person to be restrained |
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| Orders |
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|  |
| Clerk’s record |
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Back of court copy

| *Prostitution Act 2000***Application to vary or cancel a prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court |
| Location |
|  |
| **Applicant** | ❒ Police officer nominated by the Commissioner of Police |
| Name  |
| Regimental no. |
| Police station/division |
| Phone no. |
| ❒ Restrained person  |
|  |
| **Restrained person** | Family name |
| Other names |
| Address street Suburb postcode |
| Phone nos. work home |
|  |
| **Restraining order****Leave** | Date order was made |
| Restraining Order no. |
| Date leave to apply to vary was granted (if application is by restrained person)  |
|  |  |
| **Variation or cancellation** | Do you want the order to be ❒ cancelled ❒ variedIf varied, what do you want changed? |
|  |
| **Grounds for variation or cancellation** | Why do you want the restraining order to be varied or cancelled? |
|  |
| **Signature of applicant** |  | Date |
|  |
| **Hearing**(To be filled in by the court) | Court | Date | Time |
| Signature of registrar |

Copy for person applying to vary or cancel

| *Prostitution Act 2000***Application to vary or cancel a prostitution restraining order** |  | Number |
| --- | --- | --- |
| Jurisdiction ❒ Magistrates Court ❒ Children’s Court |
| Location |
|  |
| **Applicant** | ❒ Police officer nominated by the Commissioner of Police |
| Name  |
| Regimental no. |
| Police station/division |
| Phone no. |
| ❒ Restrained person  |
|  |
| **Restrained person** | Family name |
| Other names |
| Address street Suburb postcode |
| Phone nos. work home |
|  |
| **Restraining order****Leave** | Date order was made |
| Restraining Order no. |
| Date leave to apply to vary was granted (if application is by restrained person)  |
|  |  |
| **Variation or cancellation** | Do you want the order to be ❒ cancelled ❒ variedIf varied, what do you want changed? |
|  |
| **Grounds for variation or cancellation** | Why do you want the restraining order to be varied or cancelled? |
|  |
| **Signature of applicant** |  | Date |
|  |
| **Hearing**(To be filled in by the court) | Court | Date | Time |
| Signature of registrar |

Other party’s copy

 [Schedule 1 amended: Gazette 31 Jul 2007 p. 3799.]

Notes

1 This is a compilation of the *Prostitution (Restraining Orders) Regulations 2000* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

| **Citation** | **Gazettal** | **Commencement** |
| --- | --- | --- |
| *Prostitution (Restraining Orders) Regulations 2000* | 28 Jul 2000 pp.4067-100 | 29 Jul 2000 (see regulation 2 and *Gazette* 28 Jul 2000 p.3987) |
| *Prostitution (Restraining Orders) Amendment Regulations 2007*2 | 31 Jul 2007 p. 3799 | r. 1 and 2: 31 Jul 2007 (see r. 2(a));Regulations other than r. 1 and 2: 1 Aug 2007 (see r. 2(b)) |

2 The amendment inthe *Prostitution (Restraining Orders) Amendment Regulations 2007* r. 4(3) is not included as it is not clear what amendment was intended.