
JUSTICE

JM301*

RESTRAINING ORDERS ACT 1997

RESTRAINING ORDERS AMENDMENT REGULATIONS 1998

Made by the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Restraining Orders Amendment Regulations 1998*.

Regulation 10A inserted

2. Part 3 of the *Restraining Orders Regulations 1997** is amended by inserting after regulation 10 the following regulation —

“

Use of closed circuit television or screening arrangements

10A. (1) If a court hearing a matter relating to a restraining order is of the opinion that, if special arrangements are not made, a party to the matter or a witness would be likely —

- (a) to be unable to give evidence, or to give evidence satisfactorily; or
- (b) to suffer severe emotional trauma or be unnecessarily intimidated or distressed,

the court may make such arrangements as it thinks fit, using closed circuit television or screens, one-way glass or other suitable shielding devices, to reduce the likelihood of that circumstance occurring.

(2) When considering whether to make arrangements under subregulation (1) in respect of a person the court may have regard to —

- (a) the person's age;
- (b) the person's cultural background;
- (c) any physical disability or mental impairment (as defined in the *Criminal Law (Mentally Impaired Defendants) Act 1996*) of the person;
- (d) the relationship of the person to any other person involved in the proceedings;
- (e) the effect on the person of the presence of another person;
- (f) the nature of the subject-matter of the proceedings; and
- (g) the expressed views of the person;
- (h) any other factor the court considers relevant.

(3) When making arrangements under subregulation (1) the court must ensure that —

- (a) the judicial officer and all parties to the matter (or their counsel, if any) are able to see, hear and speak to each witness while he or she is giving evidence;
- (b) each party to the matter has the means of communicating with his or her counsel at all times; and
- (c) if a person takes part in the proceedings from outside the court room the person is able to see, hear and speak to the judicial officer at all times.

(4) The court may make arrangements under subregulation (1) —

- (a) on the application of a party to the matter, at the request of a witness, or of its own motion; and
- (b) at any stage of proceedings.

(5) Whenever a matter relating to a violence restraining order comes before a court, the court must consider whether it ought to make arrangements under subregulation (1).

(6) If a court considers that arrangements ought to be made under subregulation (1) but the necessary facilities are not available, the court may transfer the matter to another court where those facilities are available if to do so is practicable and will not unfairly prejudice any party to the matter.

”

[* Published in Gazette 12 September 1997, pp. 5081-146.]

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.