

JU301*

Civil Judgments Enforcement Act 2004

Civil Judgments Enforcement Amendment Regulations 2007

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Civil Judgments Enforcement Amendment Regulations 2007*.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. The regulations amended

The amendments in these regulations are to the *Civil Judgments Enforcement Regulations 2005*.

4. Regulation 9 amended

Regulation 9(2) is amended by deleting “on the person entitled to the benefit of the judgment.” and inserting instead —

“

on —

- (a) the person entitled to the benefit of the judgment; or
- (b) if the application is being made by a tenant in relation to a judgment in proceedings under the *Residential Tenancies Act 1987* — a real estate agent who is managing premises that are the subject of the application and whose address

has been notified to the tenant under section 51(2) of that Act.

”.

5. Regulation 16 amended

Regulation 16 is amended by deleting “trial” and inserting instead —

“ inquiry ”.

6. Regulation 17 amended

(1) Regulation 17 is amended as follows:

(a) by inserting before “If” the subregulation designation “(1)”;

(b) by deleting “If” and inserting instead —

“ Except as provided in subregulation (2), if ”.

(2) At the end of regulation 17 the following subregulation is inserted —

“

(2) Subregulation (1) does not apply to a judgment debtor if —

(a) the court is satisfied that the judgment debtor is unable to attend the means inquiry through illness or other special circumstances and instead orders the judgment debtor to —

(i) complete the statement of financial affairs in the form of an affidavit; and

(ii) deliver the affidavit to the court personally or by post at least 2 clear days before the first day of the inquiry;

and

(b) the judgment debtor complies with that order.

”.

7. Regulation 37 amended

Regulation 37(b) is amended by deleting “real or”.

8. Regulation 41 amended

Regulation 41(3) is repealed and the following subregulations are inserted instead —

“

(3) Subregulations (3a) and (3b) apply if a property (seizure and sale) order is registered under —

(a) the *Transfer of Land Act 1893* section 133(4);
or

(b) the *Registration of Deeds Act 1856*.

- (3a) The judgment creditor must, within 7 days after the application for the registration of the order was lodged, give to the Sheriff at the office at which the order was served under regulation 38(2) written notice of —
- (a) the real property in respect of which the order was registered; and
 - (b) the date from which the registration of the order has effect.

Penalty: \$1 000.

- (3b) The judgment creditor must, within 7 days after the application for the registration of the order was lodged, serve on the judgment debtor written notice of —
- (a) the real property in respect of which the order was registered; and
 - (b) the date from which the registration of the order has effect; and
 - (c) the name and address of the enforcement officer who can advise the judgement debtor of the amount that is required to satisfy the order, including the Sheriff's commission and costs of carrying out the order.

Penalty: \$1 000.

”.

9. Regulation 80 amended

- (1) Regulation 80(1) is amended by inserting after “an individual” —
- “ who is not represented by a lawyer ”.
- (2) Regulation 80(2) is amended by inserting after “a partnership” —
- “ that is not represented by a lawyer ”.
- (3) Regulation 80(3) is amended by inserting after “a corporation” —
- “ that is not represented by a lawyer ”.
- (4) After regulation 80(3) the following subregulation is inserted —
- “
- (4) If a person to be served with or given a document is represented by a lawyer, the person's address is the principal place of business of the lawyer or the lawyer's number (if any) at a document exchange approved by the chief executive officer.

”.

10. Regulation 80A inserted

After regulation 80 the following regulation is inserted —

“

80A. Applications and requests to specify address for service

- (1) If a person makes an application or request under the Act section 9, the application or request must specify the person's address for service.
- (2) The address for service specified on the application or request is to be taken to be the person's address for service under regulation 80 until —
 - (a) if the application or request specifies the address of a lawyer under regulation 80(4), the lawyer lodges a notice in the approved form —
 - (i) stating that the lawyer no longer acts for the party; and
 - (ii) specifying the person's last known address for service under regulation 80(1), (2) or (3), as the case requires, or any new address for service under regulation 80(4) that is known to the lawyer;
 - or
 - (b) the person lodges a notice of change of address in the approved form.

”.

11. Regulation 88 amended

Regulation 88 is amended as follows:

- (a) after each of paragraphs (a), (b) and (c) by inserting —

“ or ”;
- (b) in each of paragraphs (c), (d) and (e) by inserting before “leaving” —

“

except in the case of a summons issued under the Act section 29 or 89,

”.

12. Regulation 92 amended

Regulation 92(1)(a) is amended by deleting “usual or last known place of residence or principal or last known place of business, as the case may be,” and inserting instead —

“ last known address for service ”.

13. Regulation 96 amended

- (1) Regulation 96(1) is amended as follows:
 - (a) by deleting the full stop at the end of the definition of “arrest warrant” and inserting instead a semicolon;

- (b) by inserting in the appropriate alphabetical positions —

“

“arrested person” means a person who has been arrested under an arrest warrant;

“prescribed registry” —

- (a) in relation to a warrant issued under the Act section 29(4) — has the meaning given in regulation 14(1); or
- (b) in relation to a warrant issued under the Act section 89(4) — has the meaning given in regulation 62(1).

”.

- (2) Regulation 96(3) is amended as follows:

- (a) by deleting “(an “arrested person”)”;
- (b) after paragraph (a) by inserting —
“ and ”;
- (c) by deleting the full stop at the end of paragraph (c) and inserting instead —

“

,

and must be dealt with by the court on the day that the person is so brought before the court.

”.

- (3) After regulation 96(4) the following subregulations are inserted —

“

- (4a) When a person has been arrested under an arrest warrant, the court must notify the judgment creditor or, if the judgment creditor is represented by a lawyer, the judgment creditor’s lawyer —

- (a) that the person has been so arrested; and
- (b) when and where the person will be brought before the court at the prescribed registry.

- (4b) When an arrested person is brought before the court at the prescribed registry, the court may conduct the means inquiry or default inquiry, as the case may be, at that time if —

- (a) the judgment creditor has been given notification of the hearing under subregulation (4a)(b); and
- (b) whether or not the judgment creditor is in attendance, the court is satisfied that it is appropriate for the inquiry to be conducted at that time.

”.

- (4) After regulation 96(7) the following subregulations are inserted —
- “
- (7a) When an arrested person is brought before the court and the court does not —
- (a) conduct the means inquiry or default inquiry at that time; or
- (b) release the person under subregulation (5),
- the court may order that the accused be kept in custody until that the means inquiry or default inquiry is conducted, however in that case the inquiry must be conducted not more than 8 days after the arrested person was brought before the court under the arrest warrant.
- (7b) When the court lists a means inquiry or a default inquiry under subregulation (5) or (7a), the court must notify the judgment creditor or, if the judgment creditor is represented by a lawyer, the judgment creditor's lawyer, of when and where the means inquiry or default inquiry will be held.

”.

- (5) Regulation 96(10) is amended by deleting “a defendant” and inserting instead —

“ an accused ”.

- (6) Regulation 96(11) is amended by deleting the full stop at the end of that subregulation and inserting instead —

“

, and the *Bail Act 1982* section 51(3), (5), (7) and (8) applies, with any necessary changes, in relation to the offence.

”.

- (7) After regulation 96(12) the following subregulation is inserted —

“

- (12a) The *Bail Act 1982* sections 56, 57 and 58 apply, with any necessary changes, to an arrested person, an undertaking and an offence under subregulation (11), in the same way as they apply respectively in relation to an accused, a bail undertaking and an offence under that Act section 51(1), (2) or (2a).

”.

- (8) Regulation 96(13) is amended by deleting “a defendant” and inserting instead —

“ an accused ”.

14. Regulation 102 amended

Regulation 102(2) is amended by deleting “warrant,”.

15. Schedule 4 amended

Schedule 4 Form 2 is amended by deleting “Crown” in both places where it occurs and inserting instead —

“ State ”.

By Command of the Governor,

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