

LEGAL AFFAIRS — BAIL AMENDMENT REGULATIONS 2020

97. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Bail Amendment Regulations 2020*, and I ask:

- (a) what was the catalyst for bringing about these amendments to the regulations;
- (b) who was consulted prior to these amendment regulations being finalised;
- (c) did any person consulted raise any concerns;
- (d) if yes to (c), what were these concerns;
- (e) have the finalised amendment regulations addressed these concerns; and
- (f) if no to (e), why not?

Hon Matthew Swinbourn replied:

- (a) In 2020, the Family Violence Legislation Reform Act 2020 (FVLR Act) was introduced. Part 5 of the FVLR Act dealt with a number of amendments to the Bail Act 1982 (Bail Act), including to section 38. This amendment provided that victims are not to be deemed eligible to be approved as surety for an accused person, where there is a history of family violence between them and the accused.

Under section 37(1)(b) of the Bail Act, a surety approval officer must give a person applying to be surety a Form 9 “Information for Proposed Surety”. The Form 9 is a prescribed form under the Bail Regulations 1988, and in section 5 identifies persons that are disqualified from being approved as surety. As a result of the above Act amendments, consequential amendments were required to the Bail Regulations 1988 to ensure that those additional persons who are now disqualified from being a surety under section 38(1)(d) were included in section 5 of the Form 9.

Additionally, court staff often act as surety approval officers and recommended that the Form 8 of the Bail Regulations 1988 also be amended. In section 7 of Part B of the Form 8, the applicant is asked to tick a box as to whether they “have any convictions, or are any criminal proceedings pending against you? If yes, give details.” Court staff provided feedback that, where applicants have both convictions and pending criminal proceedings, they do not disclose details of both. These amendments split section 7 into two separate questions to alleviate the confusion, and make the Form 8 more clear for applicants.

- (b) In relation to the FVLR Act, extensive consultation took place with a wide variety of internal and external stakeholders. In respect of the consequential Bail Amendment Regulations 2020, consultation took place with the executive managers of the Supreme Court, District Court, Magistrates Court, Children’s Court and the Justice of the Peace Branch. Each person consulted supported the amendments made.
- (c) Each person consulted during the drafting exercise was able to provide feedback, comments and suggestions. Any suggestions raised were discussed, and taken into consideration when the instrument was being drafted. No concerns were raised during this process.
- (d)–(f) Not applicable.