

RESTRAINING ORDERS AMENDMENT REGULATIONS 2022

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

I refer to the *Restraining Orders Amendment Regulations 2022*, 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) First amendment: On 7 February 2017, amendments to the Restraining Orders

Regulations 1997 were gazetted. The amendments included the deletion of regulation 6A(1). On 25 November 2021, a Magistrate notified the Chief Magistrate that an error with the amended regulations had been detected. Regulation 6A(2) stated 'Subject to subregulation (3), an application under subregulation (1) is to be heard in the absence of the other party to the order'. The reference to subregulation (1) required deletion from subregulation (2). The amendments were progressed in order to remedy the error.

Second amendment: In early 2022, the Western Australia Police Force (WAPF) applied a strict reading to regulation 10(2) of the *Restraining Orders Regulations 1997* (the Regulations), which stated that only the registrar can give a document to an authorised officer to serve. The WAPF submitted that they did not have the power to give a restraining order to another authorised officer and ceased the practice of leaving restraining orders at Western Australian (WA) prisons for prison officers to serve, in situations where a respondent was in custody. For these matters, the WAPF instructed its officers to return the restraining order to the Magistrates Court for re-issue to the prison authorities.

The new process was not efficient, and the Department of Justice sought to amend the Regulations to allow the WAPF to recommence leaving restraining orders at WA prisons, when a respondent was in custody. In the *Restraining Orders Amendment Regulations 2022*, regulation 10(2) was amended to remove the requirement for a registrar to give a document to an authorised officer.

- (b) Consultation occurred with the WAPF, the Chief Magistrate and the A/Director of the Magistrates Court and Tribunals.
- (c) None raised.
- (d)–(f) Not applicable.