

Authorised Version No. 003
**Serious Sex Offenders (Detention and
Supervision) Regulations 2009**

S.R. No. 187/2009

Authorised Version incorporating amendments as at
1 July 2014

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**Serious Sex Offenders (Detention and
Supervision) Regulations 2009**

S.R. No. 187/2009

Authorised Version incorporating amendments as at
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1 Objectives

The objective of these Regulations is to prescribe forms for the purposes of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

2 Authorising provision

These Regulations are made under section 198 of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

3 Commencement

These Regulations come into operation on 1 January 2010.

4 Definition

In these Regulations—

the Act means the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

5 Notice in relation to an application for a supervision order

For the purpose of section 80(2) of the Act, the prescribed form of notice in relation to an application for a supervision order under Part 2 of the Act is the form set out in Form 1.

r. 6

6 Notice in relation to an application to renew a supervision order

For the purpose of section 80(2) of the Act, the prescribed form of notice in relation to an application to renew a supervision order under Part 2 of the Act is the form set out in Form 2.

7 Notice in relation to an application for a detention order

For the purpose of section 80(2) of the Act, the prescribed form of notice in relation to an application for a detention order under Part 3 of the Act is the form set out in Form 3.

8 Notice in relation to an application to renew a detention order

For the purpose of section 80(2) of the Act, the prescribed form of notice in relation to an application to renew a detention order under Part 3 of the Act is the form set out in Form 4.

9 Notice in relation to an interim supervision order

For the purpose of section 80(2) of the Act, the prescribed form of notice in relation to an application for an interim supervision order under Part 4 of the Act is the form set out in Form 5.

10 Notice in relation to an interim detention order

For the purpose of section 80(2) of the Act, the prescribed form of notice in relation to an application for an interim detention order under Part 4 of the Act is the form set out in Form 6.

11 Notice in relation to an application to review a supervision order

For the purpose of section 80(2) of the Act, the prescribed form of notice in relation to an application to review a supervision order under Part 5 of the Act is the form set out in Form 7.

12 Notice in relation to an application to review a detention order

For the purpose of section 80(2) of the Act, the prescribed form of notice in relation to an application to review a detention order under Part 5 of the Act is the form set out in Form 8.

13 Notice in relation to an application to review supervision order conditions

For the purpose of section 80(2) of the Act, the prescribed form of notice in relation to an application to review the conditions of a supervision order under Part 5 of the Act is the form set out in Form 9.

14 Notice in relation to an application to review interim supervision order conditions

For the purpose of section 80(2) of the Act, the prescribed form of notice in relation to an application to review the conditions of an interim supervision order under Part 5 of the Act is the form set out in Form 10.

15 Notice to offender of rights relating to an appeal relating to a supervision order

For the purpose of section 99(4) of the Act, the prescribed form of notice with respect to an appeal concerning a supervision order under Part 7 of the Act is the form set out in Form 11.

16 Notice to offender of rights relating to an appeal relating to an interim supervision order

For the purpose of section 99(4) of the Act, the prescribed form of notice with respect to an appeal concerning an interim supervision order under Part 7 of the Act is the form set out in Form 12.

r. 17

17 Notice to offender of rights relating to an appeal relating to a detention order

For the purpose of section 99(4) of the Act, the prescribed form of notice in relation to an appeal concerning a detention order under Part 7 of the Act is the form set out in Form 13.

18 Notice to offender of rights relating to an appeal relating to an interim detention order

For the purpose of section 99(4) of the Act, the prescribed form of notice in relation to an appeal concerning an interim detention order under Part 7 of the Act is the form set out in Form 14.

Reg. 18A
inserted by
S.R. No.
21/2014 reg. 5.

18A Transfer of a proceeding

For the purposes of section 172A(3) of the Act, the prescribed form for an order made by the Magistrates' Court to transfer a proceeding is the form set out in Form 14A.

19 Information to be given about offender's rights and responsibilities when holding power exercised

For the purpose of section 167(2)(b) of the Act, the prescribed information about the offender's rights and responsibilities under Division 3 of Part 11 of the Act is the information in the form set out in Form 15.

FORMS

FORM 1

Regulation 5

**NOTICE TO OFFENDER OF APPLICATION FOR A
SUPERVISION ORDER**

**PART 2—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Secretary to the Department of Justice ("**the Secretary**") has applied to the *Supreme Court/*County Court to make you subject to a supervision order under the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

This notice provides information about—

- your rights in relation to the application; and
- the procedure for hearing and determining the application; and
- the nature of supervision orders.

If you have any questions about this information or your rights you should seek legal advice.

REASON FOR APPLICATION FOR A SUPERVISION ORDER

The Secretary has applied to the *Supreme Court/*County Court for a supervision order because—

- you have committed a relevant offence; and
- you have been sentenced to imprisonment for a relevant offence; and
- at least one medical expert has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released in the community and are not subject to an order; and
- the Secretary has formed the view that an application for a supervision order should be made.

Form 1

A copy of the following assessment *report/*reports are included with this notice—

[State name of report maker and date of report]

PURPOSES OF SUPERVISION ORDER

The purposes of a supervision order are—

- to protect the community, by requiring offenders who have served custodial sentences for relevant offences and who present an unacceptable risk of harm to the community to be subject to ongoing supervision; and
- to facilitate the treatment and rehabilitation of these offenders.

EFFECT OF SUPERVISION ORDER

A person subject to a supervision order does not live in prison or a police gaol. The person may be directed to reside at a particular place, including in a residential facility.

A supervision order is not punishment for committing any offence.

If you are subject to a supervision order you must comply with the conditions set out in the order (see below) and you may also be required to comply with directions given to you by the Adult Parole Board.

PERIOD AND DURATION OF SUPERVISION ORDER

A supervision order starts either—

- when a person's custodial sentence, or any consecutive custodial sentence finishes; or
- if the custodial sentence has already finished, on a date that the court will set.

The court will decide the duration of the order. The maximum duration of an order is 15 years, however a supervision order—

- generally must be reviewed at least every 3 years and you can apply to the court for leave to review the supervision order at any time in certain circumstances;
- can be repeatedly renewed by a court, if you continue to pose an unacceptable risk.

CONDITIONS OF SUPERVISION ORDER

Core conditions of order

If you are subject to a supervision order, then in addition to other matters, the order will specify that you must—

- not commit a "relevant offence" in Victoria or elsewhere;
- attend at any place as directed by the Adult Parole Board for the purpose of administering the conditions of the order;
- attend at any place directed by the Adult Parole Board for the purpose of making assessments (including a personal examination by a medical expert);
- report to and receive visits from the Secretary, or any person nominated by the Secretary;
- notify the Adult Parole Board of any change of employment or new employment (paid or unpaid) at least 2 clear days before the change;
- not leave Victoria without the Adult Parole Board's permission;
- if residing at a residential facility, obey all reasonable instructions given by a supervision officer that are necessary to ensure the security or good order of the residential facility or the safety and welfare of offenders or staff or visitors at the facility;
- comply with directions given by the Adult Parole Board in the exercise of its emergency powers. These powers allow the Board to manage you differently from the way the court has ordered where it is not practicable to apply to the court for a variation of the conditions of the supervision order if there is an imminent risk of harm to you or to the community, or if the accommodation specified by the court becomes unavailable.

Possible other conditions of supervision order

If the court imposes on you a supervision order, then in addition to the above core conditions of the order, the court must consider whether it is appropriate to impose any of the following conditions—

- where you may reside in the community (including whether you should reside at a residential facility);
- times when you must be home;
- the conditions under which you may leave your place of residence;
- the places or areas that you must not visit or may only visit at specified times;

Form 1

-
- treatment or rehabilitation programs or activities that you must attend and participate in;
 - types of employment in which you must not engage;
 - requiring you not to consume alcohol;
 - requiring you to not use prohibited drugs, obtain drugs unlawfully or abuse drugs of any kind;
 - requiring you to submit to breath testing, urinalysis or other test procedures (other than blood tests) approved by the Secretary for detecting alcohol or drug use;
 - types of behaviour that you must not engage in, where that behaviour was preparatory to your prior relevant offences or may increase your risk of committing a relevant offence;
 - community activities in which you must not engage;
 - persons or classes of persons with whom you must not have contact;
 - forms of monitoring (including electronic monitoring) of compliance with the supervision order, to which you must submit;
 - personal examinations by a medical expert which you must attend for the medical expert to prepare a report for the Adult Parole Board to assist it to make directions under the order.

The court may also impose any other conditions it considers appropriate—

- to reduce your risk of re-offending; or
- to promote your rehabilitation and treatment; or
- to provide for the reasonable concerns of your victims in relation to their safety and welfare.

CHANGE OF NAME

If you are the subject of a supervision order you must obtain the written approval of the Adult Parole Board before applying to a registrar to change your name.

CONSEQUENCES OF BREACH OF SUPERVISION ORDER

If you do not comply with all of the requirements of a supervision order, then after investigating your conduct, the Adult Parole Board may—

- give you a formal warning;
- vary any directions that it has given you;

-
- recommend that the Secretary apply to the court to review the conditions of your supervision order;
 - recommend that the Secretary initiate the process to apply to have you made subject to a detention order, which would require you to live in prison;
 - take steps to have you prosecuted for breach of the order. If the court finds you guilty of this offence it may impose a penalty on you of up to 5 years imprisonment.

HEARING AND DETERMINATION OF APPLICATION FOR A SUPERVISION ORDER

Before the hearing—

Documents

The Secretary must give you—

- a copy of the application; and
- a copy of any assessment report that accompanied the application and any other reports filed with the court;
- this notice, which sets out—
 - your rights in relation to the application; and
 - the procedure for hearing and determining the application; and
 - the nature of the supervision order.

Assessment report

An assessment report is prepared by a medical expert who has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released in the community and are not subject to a supervision order.

Independent report

You have the right to a reasonable opportunity to obtain an independent report of any kind. The court may adjourn the hearing to give you the opportunity to obtain an independent report. If you obtain an independent report and you intend to rely on it at the hearing, you must file a copy with the court and give the Secretary a copy as soon as practicable after you have obtained it. The court may direct either you or the Secretary or both to obtain any other assessment reports or reports of another kind.

Timing of the hearing

The court will not start hearing the application until at least 25 working days after the application has been made unless the court is satisfied that a shorter period is required in the interests of justice.

Legal representation

You have the right to a reasonable opportunity to obtain legal representation. The court **may** adjourn the hearing to give you the opportunity to obtain legal representation.

THE HEARING

You must be present during the hearing of the application unless—

- your actions at the hearing make this impracticable. If this happens the court can order that you be removed and may continue to hear the application in your absence; or
- you are unable to be present. If you are unable to be present, the hearing may proceed if—
 - the court is satisfied that conducting the hearing in your absence will not prejudice your interests; and
 - the interests of justice require that the hearing take place.

At the hearing the Secretary will argue that you should be subject to a supervision order. You have the right to argue that you should not be subject to a supervision order.

The court may only make you subject to a supervision order if it is satisfied that you pose an unacceptable risk of committing a relevant offence if a supervision order is not made and you are in the community.

In deciding whether there would be an unacceptable risk, the court must take into account—

- any assessment report or other report made, or evidence given, in relation to the application; and
- anything else it considers appropriate.

You or the Secretary may dispute the whole or any part of an assessment report or other report by filing with the court a notice of intention to dispute. If the notice is filed before the application is determined, the court cannot take the disputed information in any of these reports into consideration unless you have had the opportunity to lead evidence on the disputed matters.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the supervision order or application, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- the content of any reports or documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of 600 penalty units may be imposed.

THE COURT'S DECISION

The court will decide whether or not you should be subject to a supervision order.

The court must state the reasons for its decision.

The court must cause a copy of any order to be given to you.

REVIEW OF SUPERVISION ORDER

Supervision orders must be reviewed by the court at least every 3 years, or within a shorter timeframe if ordered by the court.

The Director of Public Prosecutions, the Secretary or you may apply to the court that made the supervision order at any time for leave to apply for a review of that order.

Form 1

YOUR RIGHTS

You have the following rights in relation to an application for a supervision order—

- to have the application heard and determined by the *Supreme Court/
*County Court;
- to a reasonable opportunity to obtain legal representation;
- to obtain one or more independent reports.

If the court makes you subject to a supervision order, you have the following rights—

- to appeal against the making of the supervision order;
- to appeal against the period of the supervision order;
- to appeal against the conditions (other than the core conditions) of the supervision order;
- to seek the court's permission for it to review the supervision order earlier than specified in the order;
- to seek the court's permission for it to review the conditions of the supervision order.

*Delete if inapplicable

FORM 2

Regulation 6

**NOTICE TO OFFENDER OF APPLICATION TO RENEW A
SUPERVISION ORDER**

**PART 2—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Secretary to the Department of Justice ("**the Secretary**") has applied under the **Serious Sex Offenders (Detention and Supervision) Act 2009** to the *Supreme Court/*County Court to renew your supervision order.

This notice provides information about—

- your rights in relation to the application; and
- the procedure for hearing and determining the application; and
- the nature of supervision orders.

If you have any questions about this information or your rights you should seek legal advice.

**REASON FOR APPLICATION TO RENEW A SUPERVISION
ORDER**

The Secretary has applied to the *Supreme Court/*County Court asking it to renew the supervision order at any time or because—

- at least one medical expert has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are in the community and not subject to an order; and
- the Secretary has formed the view that he or she should apply for renewal of a supervision order.

A copy of the following assessment reports or progress reports are included with this notice—

[*State name of report maker and date of report*]

PURPOSES OF SUPERVISION ORDER

The purposes of a supervision order are—

- to protect the community, by requiring offenders who have served custodial sentences for relevant offences and who present an unacceptable risk of harm to the community to be subject to ongoing supervision; and
- to facilitate the treatment and rehabilitation of these offenders.

EFFECT OF SUPERVISION ORDER

A person subject to a supervision order does not live in prison or a police gaol. The person may be directed to reside at a particular place, including in a residential facility.

A supervision order is not punishment for committing any offence.

If you are subject to a supervision order you must comply with the conditions set out in the order (see below) and you may also be required to comply with directions given to you by the Adult Parole Board.

PERIOD AND DURATION OF SUPERVISION ORDER

The supervision order will start on a date that the court will set.

The court will decide the duration of the supervision order. The maximum duration of a supervision order is 15 years, however a supervision order—

- generally must be reviewed at least every 3 years and you can apply to the court for leave to review the supervision order at any time in certain circumstances;
- can be repeatedly renewed by a court, if you continue to pose an unacceptable risk.

CONDITIONS OF SUPERVISION ORDER

Core conditions of supervision order

If you are subject to a supervision order, then in addition to other matters, the order will specify that you must—

- not commit a "relevant offence" in Victoria or elsewhere;
- attend at any place as directed by the Adult Parole Board for the purpose of administering the conditions of the order;
- attend at any place directed by the Adult Parole Board for the purpose of making assessments (including a personal examination by a medical expert);

-
- report to and receive visits from the Secretary, or any person nominated by the Secretary;
 - notify the Adult Parole Board of any change of employment or new employment (paid or unpaid) at least 2 clear days before the change;
 - not leave Victoria without the Adult Parole Board's permission;
 - if residing at a residential facility, obey all reasonable instructions given by a supervision officer that are necessary to ensure the security or good order of the residential facility or the safety and welfare of offenders or staff or visitors at the facility;
 - comply with directions given by the Adult Parole Board in the exercise of its emergency powers. These powers allow the Board to manage you differently from what the Court has ordered where it is not practicable to apply to the court for a variation of the conditions of the supervision order if there is an imminent risk of harm to you or to the community, or if the accommodation specified by the court becomes unavailable.

Possible other conditions of supervision order

If the court imposes on you a supervision order, then in addition to the above core conditions of the order, the court must consider whether it is appropriate to impose any of the following conditions—

- where you may reside in the community (including whether you should reside at a residential facility);
- times when you must be home;
- the conditions under which you may leave your place of residence;
- the places or areas that you must not visit or may only visit at specified times;
- treatment or rehabilitation programs or activities that you must attend and participate in;
- types of employment in which you must not engage;
- requiring you not to consume alcohol;
- requiring you to not use prohibited drugs, obtain drugs unlawfully or abuse drugs of any kind;
- requiring that you submit to breath testing, urinalysis or other test procedures (other than blood tests) approved by the Secretary for detecting alcohol or drug use;

Form 2

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- types of behaviour that you must not engage in, where that behaviour was preparatory to your prior relevant offences or may increase your risk of committing a relevant offence;
 - community activities in which you must not engage;
 - persons or classes of persons with whom you must not have contact;
 - forms of monitoring (including electronic monitoring) of compliance with the supervision order, to which you must submit;
 - personal examinations by a medical expert which you must attend for the medical expert to prepare a report for the Adult Parole Board to assist it to make directions under the order.

The court may also impose any other conditions it considers appropriate—

- to reduce your risk of re-offending; or
- to promote your rehabilitation and treatment; or
- to provide for the reasonable concerns of your victims in relation to their safety and welfare.

CHANGE OF NAME

If you are the subject of a supervision order you must obtain the written approval of the Adult Parole Board before applying to a registrar to change your name.

CONSEQUENCES OF BREACH OF SUPERVISION ORDER

If you do not comply with all of the requirements of a supervision order, then after investigating your conduct, the Adult Parole Board may—

- give you a formal warning;
- vary any directions that it has given you;
- recommend that the Secretary apply to the court to review the conditions of your supervision order;
- recommend that the Secretary initiate the process to apply to have you made subject to a detention order, which would require you to live in prison;
- take steps to have you prosecuted for breach of the order. If the court finds you guilty of this offence it may impose a penalty on you of up to 5 years imprisonment.

HEARING AND DETERMINATION OF APPLICATION TO RENEW A SUPERVISION ORDER

Before the hearing—

Documents

The Secretary must give you—

- a copy of the application and any other reports filed with the court;
and
- a copy of any assessment report or progress report that accompanied
the application; and
- this notice, which sets out—
 - your rights in relation to the application; and
 - the procedure for hearing and determining the application; and
 - the nature of supervision orders.

Assessment report

An assessment report is prepared by a medical expert who has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released in the community and are not subject to a supervision order.

Progress report

A progress report is prepared by a medical expert who has assessed your propensity to commit relevant offences in the future. These reports include efforts made by you to address the causes of sexual offending including your participation in rehabilitation or treatment. Progress reports also address factors that might increase or decrease any identified risks.

Independent report

You have the right to a reasonable opportunity to obtain an independent report of any kind. The court may adjourn the hearing to give you the opportunity to obtain an independent report. If you obtain an independent report and you intend to rely on it at the hearing, you must file a copy with the court and give the Secretary a copy as soon as practicable after you have obtained it. The court may direct either you or the Secretary or both to obtain any other assessment reports or reports of another kind.

Timing of the hearing

The court will not start hearing the application until at least 25 working days after the application has been made unless the court is satisfied a shorter period is required in the interests of justice.

Form 2

Legal representation

You have the right to a reasonable opportunity to obtain legal representation. The court **may** adjourn the hearing to give you the opportunity to obtain legal representation.

HEARING FOR RENEWAL OF SUPERVISION ORDER

You must be present during the hearing of the application unless—

- your actions at the hearing make this impracticable. If this happens the court can order that you be removed and may continue to hear the application in your absence; or
- you are unable to be present. If you are unable to be present, the hearing may proceed if—
 - the court is satisfied that conducting the hearing in your absence will not prejudice your interests; and
 - the interests of justice require that the hearing take place.

At the hearing the Secretary will argue that you should continue to be subject to a supervision order. You have the right to argue that you should not be subject to a supervision order.

The court may make you subject to a supervision order if it is satisfied that you pose an unacceptable risk of committing a relevant offence if a supervision order is not made and you are in the community.

In deciding whether there would be an unacceptable risk, the court must take into account—

- any assessment report or other report made, or evidence given, in relation to the application; and
- anything else it considers appropriate.

You or the Secretary may dispute the whole or any part of the assessment report or progress report prepared for the purpose of the renewal application or other report by filing with the court a notice of intention to dispute. If the notice is filed before the application is determined, the court cannot take the disputed information in any of these reports into consideration unless you have had the opportunity to lead evidence on the disputed matters.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the supervision order or application unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any reports or documents put before the court;

-
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
 - any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

THE COURT'S DECISION

The court will decide whether or not you should be subject to a renewed supervision order.

The court must state the reasons for its decision.

The court must cause a copy of any order to be given to you.

REVIEW OF SUPERVISION ORDER

Supervision orders must be reviewed by the court at least every 3 years, or within a shorter timeframe if ordered by the court.

The Director of Public Prosecutions, the Secretary or you may apply to the court that made the supervision order at any time for leave to apply for a review of that order.

YOUR RIGHTS

You have the following rights in relation to an application to renew a supervision order—

- to have the application heard and determined by the *Supreme Court/
*County Court;
- to be given an opportunity to obtain legal representation;
- to obtain one or more independent reports.

Serious Sex Offenders (Detention and Supervision) Regulations 2009
S.R. No. 187/2009

Form 2

If the court makes you subject to a supervision order, you have the following rights—

- to appeal against the renewal of the supervision order;
- to appeal against the period of the supervision order;
- to appeal against the conditions (other than the core conditions) of the supervision order;
- to seek the court's permission for it to review the supervision order earlier than specified in the order;
- to seek the court's permission for it to review the conditions of the supervision order.

*Delete if inapplicable

FORM 3

Regulation 7

**NOTICE TO OFFENDER OF APPLICATION FOR A
DETENTION ORDER**

**PART 3—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Director of Public Prosecutions ("**the DPP**") has applied to the Supreme Court of Victoria to make you subject to a detention order under the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

This notice provides information about—

- your rights in relation to the application; and
- the procedure for hearing and determining the application; and
- the nature of detention orders.

If you have any questions about this information or your rights you should seek legal advice.

REASONS FOR APPLICATION FOR A DETENTION ORDER

The DPP has applied to the Supreme Court for a detention order because—

- you have committed a relevant offence; and
- you have been sentenced to imprisonment for an offence; and
- at least one medical expert has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released into the community; and
- the DPP has formed the view that an application for a detention order should be made.

A copy of the following assessment reports or progress reports are included with this notice—

[*State name of report maker and the date of report*]

PURPOSES OF DETENTION ORDER

The purposes of a detention order are—

- to protect the community, by requiring offenders who have served custodial sentences for relevant offences and who pose an unacceptable risk of harm to the community to be subject to ongoing detention;
- to facilitate the treatment and rehabilitation of these offenders.

EFFECT OF DETENTION ORDER

A person subject to a detention order will—

- not live in the community, but in prison; and
- be subject to the **Corrections Act 1986**.

PERIOD AND DURATION OF DETENTION ORDER

The detention order will commence either—

- when a person's custodial sentence, or any consecutive custodial sentence, finishes; or
- if the custodial sentence has already finished, on a date that the court will set.

The court will decide the duration of the order. The maximum duration of an order is 3 years, however a detention order—

- generally must be reviewed at least every year and you can apply to the court for leave to review the detention order at any other time in certain circumstances;
- can be repeatedly renewed by the court if you continue to pose an unacceptable risk.

THE COURT MAY MAKE SUPERVISION ORDER

If the court is not satisfied that there is an unacceptable risk unless a detention order is made, the court may make a supervision order.

EFFECT OF SUPERVISION ORDER

A person subject to a supervision order does not live in prison or a police gaol. The person may be directed to reside at a particular place, including in a residential facility.

A supervision order is not punishment for committing any offence.

If you are subject to a supervision order you must comply with the conditions set out in the order and you may also be required to comply with directions given to you by the Adult Parole Board.

CHANGE OF NAME

If you are the subject of a detention order you must obtain the written approval of the Adult Parole Board before applying to a registrar to change your name.

HEARING AND DETERMINATION OF APPLICATION FOR DETENTION ORDER

Before the hearing—

Documents

The DPP must give you—

- a copy of the application; and
- a copy of at least one assessment report and, if you are subject to a supervision order, a progress report and the last assessment prepared for the supervision order; and
- this notice, which sets out—
 - your rights in relation to the application; and
 - the procedure for hearing and determining the application; and
 - the nature of detention orders.

Assessment report

An assessment report is prepared by a medical expert who has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released into the community and not made subject to a detention order and the reasons for that assessment.

Progress report

A progress report is prepared by a medical expert who has assessed your propensity to commit relevant offences in the future. These reports include efforts made by you to address the causes of sexual offending including your participation in rehabilitation or treatment. Progress reports also address factors that might increase or decrease any identified risks.

Independent report

You have the right to a reasonable opportunity to obtain an independent report of any kind. The court may adjourn the hearing to give you the opportunity to obtain an independent report. If you obtain an independent report and you intend to rely on it at the hearing, you must file a copy with

Form 3

the court and give the DPP a copy as soon as practicable after you have obtained it. The court may direct either you or the DPP or both to obtain any other assessment reports or reports of any other kind.

Timing of the hearing

The court will not start hearing the application until at least 25 working days after the application has been made unless the court is satisfied that a shorter period is required in the interests of justice.

Legal representation

You have the right to a reasonable opportunity to obtain legal representation. The court **may** adjourn the hearing to give you the opportunity to obtain legal representation.

THE HEARING

You must be present during the hearing of the application unless—

- your actions at the hearing make this impracticable. If this happens the court can order that you be removed and may continue to hear the application in your absence; or
- you are unable to be present. If you are unable to be present, the hearing may proceed if—
 - the court is satisfied that conducting the hearing in your absence will not prejudice your interests; and
 - the interests of justice require that the hearing take place.

At the hearing the DPP will argue that you should be subject to a detention order. You have the right to argue that you should not be subject to a detention order.

The court may only make you subject to a detention order if it is satisfied that you pose an unacceptable risk of committing a relevant offence if a detention order is not made.

In deciding whether there would be an unacceptable risk, the court must take into account—

- any assessment report or other report made, or evidence given, in relation to the application; and
- anything else it considers appropriate.

You or the DPP may dispute the whole or any part of an assessment report or other report by filing with the court a notice of intention to dispute. If the notice is filed before the application is determined, the court cannot take the disputed information in any of these reports into consideration unless you have had the opportunity to lead evidence on the disputed matters.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the detention order or application, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any reports or documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

THE COURT'S DECISION

The court will decide whether or not you should be subject to—

- a new detention order; or
- a supervision order.

The court must state the reasons for its decision.

The court must cause a copy of any order to be given to you.

REVIEW OF THE DETENTION ORDER

Detention orders must be reviewed by the court at least every year, or within a shorter timeframe if ordered by the court.

The DPP or you may apply to the court that made the detention order at any time for leave to apply for a review of that order.

REVIEW OF SUPERVISION ORDER

Supervision orders must be reviewed by the court at least every 3 years, or within a shorter timeframe if ordered by the court.

The Director of Public Prosecutions, the Secretary to the Department of Justice or you may apply to the court that made the supervision order at any time for leave to apply for a review of that order.

YOUR RIGHTS

You have the following rights in relation to an application for a detention order—

- to have the application heard and determined by the Supreme Court;
- to be granted reasonable time to secure legal representation;
- to obtain one or more independent reports.

If the court makes you subject to a detention order, you have the following rights—

- to appeal against the making of the detention order;
- to appeal against the duration of the detention order;
- to seek the court's permission for it to review the detention order earlier than specified in the order.

If the court makes you subject to a supervision order, you have the following rights—

- to appeal against the renewal of the supervision order;
- to appeal against the period of the supervision order;
- to appeal against the conditions (other than the core conditions) of the supervision order;
- to seek the court's permission for it to review the supervision order earlier than specified in the order;
- to seek the court's permission for it to review the conditions of the supervision order.

While you are in prison under a detention order and for no other reason, you have the right to be treated in a way that is appropriate to your status as an unconvicted prisoner subject to any reasonable requirements necessary to maintain—

- the management, security and good order of the prison; or
- your safe custody and welfare or that of any other prisoners.

In that regard, you may be accommodated or detained with prisoners who have been convicted of offences if—

- it is reasonably necessary for the purposes of your rehabilitation, treatment, work, education, general socialisation and other group activities; or
- it is necessary for your safe custody or welfare or that of other prisoners or the security of the prison; or
- you have elected to be accommodated or detained with these prisoners.

*Delete if inapplicable

FORM 4

Regulation 8

**NOTICE TO OFFENDER OF APPLICATION TO RENEW A
DETENTION ORDER**

**PART 3—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Director of Public Prosecutions ("**the DPP**") has applied under the **Serious Sex Offenders (Detention and Supervision) Act 2009** to the Supreme Court to renew your detention order.

This notice provides information about—

- your rights in relation to the application; and
- the procedure for hearing and determining the application; and
- the nature of detention orders.

If you have any questions about this information or your rights you should seek legal advice.

REASON FOR APPLICATION TO RENEW A DETENTION ORDER

The DPP has applied to the Supreme Court asking it to renew your detention order because—

- at least one medical expert has assessed you and formed an opinion about any risk that you will commit another relevant offence if the order is not made and you are in the community;
- the DPP has formed the view that he or she should apply for renewal of the detention order.

A copy of the following assessment reports or progress reports are included with this notice—

[*State name of report maker and date of report*]

PURPOSES OF DETENTION ORDER

The purposes of a detention order are—

- to protect the community, by requiring offenders who have served a custodial sentence for relevant offences to be subject to ongoing detention; and
- to facilitate the treatment and rehabilitation of these offenders.

EFFECT OF DETENTION ORDER

A person subject to a detention order will—

- not live in the community, but in prison; and
- be subject to the **Corrections Act 1986**.

PERIOD AND DURATION OF DETENTION ORDER

The detention order will start on a date that the court will set.

The court will decide the duration of the order. The maximum duration of an order is 3 years, however a detention order—

- generally must be reviewed at least every year and you can apply to the court for leave to review the detention order at any other time in certain circumstances;
- can be repeatedly renewed by the court if you continue to pose an unacceptable risk.

THE COURT MAY MAKE SUPERVISION ORDER

If the court is not satisfied that there is an unacceptable risk unless a detention order is made, the court may make a supervision order.

EFFECT OF SUPERVISION ORDER

A person subject to a supervision order does not live in prison or a police gaol. The person may be directed to reside at a particular place, including in a residential facility.

A supervision order is not punishment for committing any offence.

If you are subject to a supervision order you must comply with the conditions set out in the order and you may also be required to comply with directions given to you by the Adult Parole Board.

CHANGE OF NAME

If you are the subject of a detention order you must obtain the written approval of the Adult Parole Board before applying to a registrar to change your name.

HEARING AND DETERMINATION OF APPLICATION TO RENEW A DETENTION ORDER

Before the hearing—

Documents

The DPP must give you—

- a copy of the application;
- a copy of any assessment report or progress report that accompanied the application;
- this notice, which sets out—
 - your rights in relation to the application; and
 - the procedure for hearing and determining the application; and
 - the nature of detention orders.

Assessment report

An assessment report is prepared by a medical expert who has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released into the community and no order is made.

Progress report

A progress report is prepared by a medical expert who has assessed your propensity to commit relevant offences in the future. These reports include efforts made by you to address the causes of sexual offending including your participation in rehabilitation or treatment. Progress reports also address factors that might increase or decrease any identified risks.

Independent report

You have the right to a reasonable opportunity to obtain an independent report of any kind. The court may adjourn the hearing to give you the opportunity to obtain an independent report. If you obtain an independent report and you intend to rely on it at the hearing, you must file a copy with the court and give the DPP a copy as soon as practicable after you have obtained it. The court may direct either you or the DPP or both to obtain any other assessment reports or reports of any other kind.

Timing of the hearing

The court will not start hearing the application until at least 25 working days after the application has been made unless the court is satisfied that a shorter period is required in the interests of justice.

Legal representation

You have the right to a reasonable opportunity to obtain legal representation. The court **may** adjourn the hearing to give you the opportunity to obtain legal representation.

HEARING FOR RENEWAL OF DETENTION ORDER

You must be present during the hearing of the application unless—

- your actions at the hearing make this impracticable. If this happens the court can order that you be removed and may continue to hear the application in your absence; or
- you are unable to be present. If you are unable to be present, the hearing may proceed if—
 - the court is satisfied that conducting the hearing in your absence will not prejudice your interests; and
 - the interests of justice require that the hearing take place.

At the hearing the DPP will argue that you should continue to be subject to a detention order. You have the right to argue that you should not be subject to a detention order.

The court may only make you subject to a detention order if it is satisfied that you pose an unacceptable risk of committing a relevant offence if a detention order is not made.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the detention order or application, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any reports or documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Form 4

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

THE COURT'S DECISION

The court will decide whether or not you should be subject to—

- a new detention order; or
- a supervision order.

The court must state the reasons for its decision.

The court must cause a copy of any order to be given to you.

REVIEW OF DETENTION ORDER

Detention orders must be reviewed by the court at least annually or within a shorter timeframe if ordered by the court.

The DPP or you may apply to the court that made the detention order at any time for leave to apply for a review of that order.

REVIEW OF SUPERVISION ORDER

Supervision orders must be reviewed by the court at least every 3 years, or within a shorter timeframe if ordered by the court.

The DPP, the Secretary to the Department of Justice or you may apply to the court that made the supervision order at any time for leave to apply for a review of that order.

YOUR RIGHTS

You have the following rights in relation to an application for a renewal of a detention order—

- to have the application heard and determined by the Supreme Court;
- to have a reasonable opportunity to obtain legal representation;
- to obtain one or more independent reports.

If the court makes you subject to a supervision order, you have the following rights—

- to appeal against the renewal of the supervision order;
- to appeal against the period of the supervision order;
- to appeal against the conditions (other than the core conditions) of the supervision order;
- to seek the court's permission for it to review the supervision order earlier than specified in the order;
- to seek the court's permission for it to review the conditions of the supervision order.

If the court makes you subject to a detention order, you have the following rights—

- to appeal against the making of the detention order;
- to appeal against the period of the order;
- to seek the court's permission for it to review the detention order earlier than specified in the order.

While you are in prison under a detention order and for no other reason, you have the right to be treated in a way that is appropriate to your status as an unconvicted prisoner subject to any reasonable requirements necessary to maintain—

- the management, security and good order of the prison; or
- your safe custody and welfare or that of any other prisoners.

In that regard, you may be accommodated or detained with prisoners who have been convicted of offences if—

- it is reasonably necessary for the purposes of your rehabilitation, treatment, work, education, general socialisation and other group activities; or
- it is necessary for your safe custody or welfare or that of other prisoners or the security of the prison; or
- you have elected to be accommodated or detained with these prisoners.

*Delete if inapplicable

FORM 5

Regulation 9

**NOTICE TO OFFENDER OF APPLICATION FOR AN
INTERIM SUPERVISION ORDER**

**PART 4—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Secretary to the Department of Justice ("**the Secretary**") has applied to the *Supreme Court/*County Court to make you subject to an interim supervision order under the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

This notice provides information about—

- your rights in relation to the application; and
- the procedure for hearing and determining the application; and
- the nature of interim supervision orders.

If you have any questions about this information or your rights you should seek legal advice.

INTERIM SUPERVISION ORDERS

Interim supervision orders are orders that may be made by the court in certain circumstances if—

- the court is satisfied that the Secretary has applied for a supervision order or renewal of a supervision order; and
- it appears to the court that the documentation supporting the application would, if proved, justify the making of the supervision order; and
- the court is satisfied that it is in the public interest to make the order.

REASON FOR APPLICATION FOR AN INTERIM SUPERVISION ORDER

The Secretary has applied to the *Supreme Court/*County Court for an interim supervision order because—

- *you are currently the subject of an application for a supervision order and either you are no longer serving a custodial sentence, or will no longer be serving a custodial sentence when the application is determined; or
- *you are currently the subject of an application for renewal of a supervision order and the supervision order to which you are currently subject *has expired/*will have expired before the application can be determined.

EFFECT OF INTERIM SUPERVISION ORDER

A person subject to an interim supervision order does not live in prison or a police gaol. In some cases the person may be directed to reside at a particular place, including a residential facility.

An interim supervision order is not punishment for committing any offence.

If you are subject to an interim supervision order you must comply with the conditions set out in the order (see below) and you may also be required to comply with directions given to you by the Adult Parole Board.

PERIOD AND DURATION OF INTERIM SUPERVISION ORDER

An interim supervision order starts either—

- when a person's custodial sentence, or any consecutive custodial sentence finishes; or
- if the custodial sentence has already finished, on a date that the court will set; or
- immediately on the expiry of an existing supervision order; or
- if the previous supervision order has already expired, on a date that the court will set.

The court will decide the duration of the interim supervision order.

The maximum duration of an interim supervision order is 4 months, unless the court considers that exceptional circumstances exist that require a longer period.

The Secretary may apply to extend the interim supervision order if the application for a supervision order or renewal of a supervision order has not been heard before the interim supervision order lapses.

Form 5

If the interim supervision order is made by the Court of Appeal after deciding that the *Trial Division of the Supreme Court/*County Court should have made or not revoked a supervision order, it applies until the application for a supervision order is finally re-heard and then determined by the appropriate court.

CONDITIONS OF INTERIM SUPERVISION ORDER

Core conditions of interim supervision order

If you are subject to an interim supervision order, then in addition to other matters, the order will specify that you—

- not commit a "relevant offence" in Victoria or elsewhere;
- attend at any place as directed by the Adult Parole Board for the purpose of administering the conditions of the order;
- attend at any place directed by the Adult Parole Board for the purpose of undergoing medical assessments;
- report to and receive visits from the Secretary, or any person nominated by the Secretary;
- notify the Adult Parole Board of any change of employment or new employment (paid or unpaid) at least 2 clear days before the commencement date or change;
- not leave Victoria without the Adult Parole Board's permission;
- if residing at a residential facility, obey all reasonable instructions given by a supervision officer that are necessary to ensure the security or good order of the residential facility or the safety and welfare of offenders or staff or visitors at the facility;
- comply with the directions given by the Adult Parole Board in the exercise of its emergency powers. These powers allow the Board to manage you differently from the way the court has ordered where it is not practical to apply to the court for a variation of the conditions of the supervision order if there is an imminent risk of harm to you or to the community, or if the accommodation specified by the court becomes unavailable.

Possible other conditions of interim supervision order

If the court imposes on you an interim supervision order, then in addition to the above core conditions of the order, the court may make any other condition it considers appropriate to meet the purposes of the interim supervision order, including—

- where you may reside in the community (including whether you should reside at a residential facility);

-
- the times when you must be home;
 - the conditions under which you may leave your place of residence;
 - the places or areas that you must not visit or may only visit at specified times;
 - the treatment or rehabilitation programs or activities that you must attend and participate in;
 - the types of employment in which you must not engage;
 - that you not consume alcohol;
 - requiring that you not use prohibited drugs, obtain drugs unlawfully or abuse drugs of any kind;
 - requiring that you must submit as required by the order to breath testing, urinalysis or other test procedures (other than blood tests) approved by the Secretary for the purpose of detecting alcohol or other drugs;
 - the behaviour that you must not engage in, where that behaviour was preparatory to your prior offences or may increase your risk of committing a relevant offence;
 - the community activities in which you must not engage;
 - the persons or classes of persons with whom you must not have contact;
 - the forms of monitoring (including electronic monitoring) of compliance with the interim supervision order, to which you must submit.

CONSEQUENCES OF BREACH OF INTERIM SUPERVISION ORDER

If you do not comply with all of the requirements of an interim supervision order, then after investigating your conduct, the Adult Parole Board may—

- give you a formal warning;
- vary any directions that it has given you;
- recommend that the Secretary apply to the court to review the conditions of your interim supervision order;
- recommend that the Secretary initiate the process to apply to have you made subject to a detention order, which would require you to live in prison;

Form 5

- take steps to have you prosecuted for breach of the order. If the court finds you guilty of this offence it may impose a penalty on you of up to 5 years imprisonment.

HEARING AND DETERMINATION OF APPLICATION FOR AN INTERIM SUPERVISION ORDER

Before the hearing—

Documents

The Secretary must give you—

- a copy of the application; and
- this notice, which sets out—
 - your rights in relation to the application; and
 - the procedure for hearing and determining the application; and
 - the nature of interim supervision orders.

Timing of the hearing and legal representation

Unless the court is satisfied that exceptional circumstances exist, the court will not start hearing the application until the court is satisfied that you have had a reasonable opportunity to obtain legal representation.

THE HEARING

You must be present during the hearing of the application unless—

- your actions at the hearing make this impracticable. If this happens the court can order that you be removed and may continue to hear the application in your absence; or
- you are unable to be present. If you are unable to be present, the hearing may proceed if—
 - the court is satisfied that conducting the hearing in your absence will not prejudice your interests; and
 - the interests of justice require that the hearing take place.

At the hearing the Secretary will argue that you should be subject to an interim supervision order. You have the right to argue that you should not be subject to an interim supervision order.

The court may make you subject to an interim supervision order if it is satisfied—

- that the Secretary has applied for a supervision order, or renewal of a supervision order; and

-
- that you are no longer serving a custodial sentence or will no longer be serving a custodial sentence when the application is determined; and
 - in the case of an application by the Secretary for renewal of a supervision order, that the supervision order has expired or will have expired before the application can be determined; and
 - that the documentation supporting the application for the supervision order would, if proved, justify the making of a supervision order; and
 - that it is in the public interest to make an interim supervision order having regard to the reasons why the application will not be determined before the expiry of the sentence (or the expiry of the supervision order).

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the interim supervision order or application, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any reports or documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

Form 5

THE COURT'S DECISION

The court will decide whether or not you should be subject to an interim supervision order.

If the court makes an interim supervision order, the court must state that it is satisfied that the making of the order is justified and that it is in the public interest to make the order.

The court must cause a copy of any order to be given to you.

YOUR RIGHTS

You have the following rights in relation to an application for an interim supervision order—

- to have the application heard and determined by the
*Supreme Court/*County Court;
- to appeal to the Court of Appeal against a decision to make an interim supervision order;
- to appeal to the Court of Appeal against the period of any interim supervision order made;
- to appeal to the Court of Appeal against the conditions (other than the core conditions) of any interim supervision order made;
- to have a reasonable opportunity to obtain legal representation.

*Delete if inapplicable

FORM 6

Regulation 10

**NOTICE TO OFFENDER OF APPLICATION FOR AN
INTERIM DETENTION ORDER**

**PART 4—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Director of Public Prosecutions ("**the DPP**") has applied to the Supreme Court to make you subject to an interim detention order under the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

This notice provides information about—

- your rights in relation to the application; and
- the procedure for hearing and determining the application; and
- the nature of interim detention orders.

If you have any questions about this information or your rights you should seek legal advice.

INTERIM DETENTION ORDERS

Interim detention orders are orders that may be made by the Supreme Court in certain circumstances if—

- the Court is satisfied that the DPP has applied for a detention order or renewal of a detention order; and
- it appears to the Court that the documentation supporting the application for the detention order would, if proved, justify the making of a detention order; and
- the Court is satisfied that it is in the public interest to make the order.

REASON FOR APPLICATION FOR AN INTERIM DETENTION ORDER

The DPP has applied to the Supreme Court for an interim detention order because—

- *you are currently the subject of an application for a detention order and either you are no longer serving a custodial sentence, or will no longer be serving a custodial sentence when the application is determined;
- *you are currently the subject of an application for renewal of a detention order and the detention order to which you are currently subject will have expired before the application can be determined.

EFFECT OF INTERIM DETENTION ORDER

A person subject to an interim detention order will—

- not live in the community, but in prison; and
- be subject to the **Corrections Act 1986**.

EFFECT OF INTERIM SUPERVISION ORDER

A person subject to an interim supervision order does not live in prison or a police gaol. In some cases the person may be directed to reside at a particular place, including a residential facility.

An interim supervision order is not punishment for committing any offence.

If you are subject to an interim supervision order you must comply with the conditions set out in the order and you may also be required to comply with directions given to you by the Adult Parole Board.

PERIOD AND DURATION OF INTERIM DETENTION ORDER

An interim detention order starts either—

- when a person's custodial sentence or any consecutive custodial sentence finishes; or
- if the custodial sentence has already finished, on a date that the court will set; or
- immediately on the expiry of an existing detention order; or
- if the previous detention order has already expired, on a date that the court will set.

The court will decide the duration of the interim detention order.

The maximum duration of an interim detention order is four months, unless the court considers that exceptional circumstances exist which require a longer period.

The DPP may apply to extend the interim detention order if the application for a detention order or renewed detention order has not been heard before the interim detention order lapses.

If the interim detention order is made by the Court of Appeal after deciding that the Trial Division of the Supreme Court should have made, or not revoked, a detention order, it applies until the application for a detention order is finally re-heard and determined by the appropriate court.

HEARING AND DETERMINATION OF APPLICATION FOR AN INTERIM DETENTION ORDER

Before the hearing—

Documents

The DPP must give you—

- a copy of the application; and
- this notice, which sets out—
 - your rights in relation to the application; and
 - the procedure for hearing and determining the application; and
 - the nature of interim detention orders.

Timing of the hearing and legal representation

Unless the court is satisfied that exceptional circumstances exist, the court will not start hearing the application until the court is satisfied that you have had a reasonable opportunity to obtain legal representation.

THE HEARING

You must be present during the hearing of the application unless—

- your actions at the hearing make this impracticable. If this happens the court can order that you be removed and may continue to hear the application in your absence; or
- you are unable to be present. If you are unable to be present the hearing may proceed if—
 - the court is satisfied that conducting the hearing in your absence will not prejudice your interests; and
 - the interests of justice require that the hearing take place.

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At the hearing the DPP will argue that you should be subject to an interim detention order. You have the right to argue that you should not be subject to an interim detention order.

The Court may make you subject to an interim detention order if it is satisfied that—

- the DPP has applied for a detention order, or renewal of a detention order; and
- you are no longer serving a custodial sentence or will no longer be serving a custodial sentence when the application is determined; and
- in the case of an application by the DPP for renewal of a detention order, the detention order has expired or will have expired before the application can be determined; and
- it appears to the Court that the documentation supporting the application for the detention order would, if proven, justify the making of a detention order; and
- it is in the public interest to make the order having regard to the need to adequately protect the community and the reasons why the application for the detention order or renewal of the detention order will not be determined either before the expiry of your custodial sentence or before the expiry of your detention order; and
- it is in the public interest to make the order having regard to any other matters that the Court considers appropriate.

The Court may elect to make an interim supervision order if—

- the Court is satisfied that the DPP has applied for a detention order or renewal of a detention order; and
- the Court considers that an interim detention order is not justified; and
- it appears to the Court that the documentation supporting the application for an interim detention order would, if proved, justify the making of an interim supervision order; and
- the Court is satisfied that it is in the public interest to make the interim supervision order having regard to—
 - the reasons why the application will not be determined before the expiry of the custodial sentence or detention order; and
 - any other matters that the Court considers appropriate.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the interim detention order or application, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any reports or documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

THE COURT'S DECISION

The court will decide whether or not you should be subject to—

- an interim detention order; or
- an interim supervision order.

The court must state the reasons for its decision.

The court must cause a copy of any order to be given to you.

YOUR RIGHTS

You have the following rights in relation to an application for an interim detention order—

- to have the application heard and determined by the Supreme Court;
- to appeal to the Court of Appeal against the making of an interim detention order;
- to appeal to the Court of Appeal against the period of any interim detention order made;

Serious Sex Offenders (Detention and Supervision) Regulations 2009
S.R. No. 187/2009

Form 6

- to appeal to the Court of Appeal against a decision to make an interim supervision order;
- to appeal to the Court of Appeal against the period of any interim supervision order made;
- to appeal to the Court of Appeal against the conditions (other than the core conditions) of any interim supervision order made;
- to have a reasonable opportunity to obtain legal representation.

* Delete if inappropriate

FORM 7

Regulation 11

**NOTICE TO OFFENDER OF APPLICATION TO REVIEW A
SUPERVISION ORDER**

**PART 5—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because you are subject to a supervision order made by the *Supreme Court/*County Court under the **Serious Sex Offenders (Detention and Supervision) Act 2009** and an application has been made to the court for it to review the order to determine whether it should—

- remain in operation; or
- be revoked and replaced with a supervision order with different conditions or a detention order; or
- be revoked.

This notice provides information about—

- your rights in relation to the application; and
- the procedure for hearing and determining the application; and
- that nature of the review of supervision orders.

If you have any questions about this information or your rights you should seek legal advice.

**REASONS FOR APPLICATION FOR REVIEW OF SUPERVISION
ORDER**

Periodic review

The Secretary to the Department of Justice ("**the Secretary**") must apply to the court for review of a supervision order—

- at least every 3 years after the order was made or last reviewed; or
- by any earlier review date specified in the order.

Form 7

Application by the Secretary, Director of Public Prosecutions or offender for review of a supervision order

The Secretary or the Director of Public Prosecutions ("**the DPP**") may apply at any time to the court for a review of the supervision order.

If on a review of a supervision order, the court or the DPP considers that a detention order should be made in respect of the offender, the DPP may apply to the Supreme Court for the detention order.

If you are subject to a supervision order, you may also apply at any time to the court for a review of the supervision order.

The court may agree to review the order if—

- there are new facts or circumstances that would justify a review of the order; or
- it would be in the interests of justice, having regard to the purposes of the order and the manner or effect of its implementation, to review the order.

The court is reviewing the supervision order because—

- *the Secretary has applied for a periodic review.
- *the Secretary has applied for a review other than a periodic review.
- *the DPP has applied for a review.

EFFECT OF SUPERVISION ORDER

A person subject to a supervision order does not live in prison or a police gaol. The person may be directed to reside at a particular place, including in a residential facility.

A supervision order is not punishment for committing any offence.

If you are subject to a supervision order you must comply with the conditions set out in the order (see below) and you may also be required to comply with directions given to you by the Adult Parole Board.

HEARING AND DETERMINATION OF APPLICATION FOR REVIEW OF SUPERVISION ORDER

Before the hearing—

Documents

If the *Secretary/*DPP is applying for the review, the *Secretary/*DPP must give you—

- a copy of the application for review; and

-
- a copy of a progress report that accompanied the application for review; and
 - this notice, which sets out—
 - your rights in relation to the application; and
 - the procedure for hearing and determining the application; and
 - the nature of the review of a supervision order.

Progress report

A progress report is prepared by a medical expert who has assessed your current level of risk of committing a relevant offence if you are released into the community and are not subject to a supervision order.

Independent report

You have the right to a reasonable opportunity to obtain an independent report of any kind. The court may adjourn the hearing to give you the opportunity to obtain an independent report. If you obtain an independent report and you intend to rely on it at the hearing, you must file a copy with the court and give the *Secretary/*DPP a copy as soon as practicable after you have obtained it. The court may direct any of the parties to obtain any other assessment reports or reports of another kind.

Timing of the hearing

The court will not start hearing the application until at least 25 working days after the application has been made unless the court is satisfied that a shorter period is required in the interests of justice.

Legal representation

You have the right to a reasonable opportunity to obtain legal representation. The court **may** adjourn the hearing to give you the opportunity to obtain legal representation.

THE HEARING

You must be present during the hearing of the application unless—

- your actions at the hearing make this impracticable. If this happens the court can order that you be removed and may continue to hear the application in your absence; or
- you are unable to be present. If you are unable to be present, the hearing may proceed if—
 - the court is satisfied that conducting the hearing in your absence will not prejudice your interests; and
 - the interests of justice require that the hearing take place.

Form 7

At the hearing the *Secretary/*DPP will argue that you should be subject to a supervision order. You have the right to argue that you should not be subject to a supervision order.

The court must consider—

- a progress report about you;
- any other report made, or evidence given, by a medical expert;
- any report made by the Adult Parole Board;
- any report made by the Secretary or the DPP;
- any submissions made by the parties to the review.

The court may consider—

- any previous assessment report or progress report or reports filed with the court;
- anything else that the court considers appropriate.

The court must revoke the supervision order unless it is satisfied that you still pose an unacceptable risk of committing a relevant offence if a supervision order is not in effect and you are in the community.

You or the *Secretary/*DPP may dispute the whole or any part of a progress report or other report by filing with the court a notice of intention to dispute. If the notice is filed before the application is determined, the court cannot take the disputed information in any of these reports into consideration unless you have had the opportunity to lead evidence on the disputed matters.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the supervision order or application, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- the content of any reports or documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

THE COURT'S DECISION

The court will decide whether or not you should continue to be subject to a supervision order. The court may also change the period and the conditions (other than the core conditions) of that order.

The court must state the reasons for its decision.

The court must cause a copy of any order to be given to you.

YOUR RIGHTS

You have the following rights—

- to have the application for the review of your supervision order heard and determined by the *Supreme Court/*County Court;
- to be given a reasonable opportunity to obtain legal representation;
- to obtain one or more independent reports.

If the court decides not to revoke the supervision order and you are not taken into custody for any other reason, you have the following rights—

- to appeal to the Court of Appeal against a decision by the court reviewing the supervision order not to revoke the supervision order;
- to appeal to the Court of Appeal against a decision by the court reviewing the supervision order to impose particular conditions on the order;
- to appeal to the Court of Appeal against a decision by the court reviewing the supervision order to impose a particular period on the order;
- to seek the court's permission for it to review the supervision order earlier than specified in the order;
- to seek the court's permission for it to review the conditions of the supervision order.

*Delete if inapplicable

FORM 8

Regulation 12

**NOTICE TO OFFENDER OF APPLICATION TO REVIEW A
DETENTION ORDER**

**PART 5—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because you are subject to a detention order under the **Serious Sex Offenders (Detention and Supervision) Act 2009** and an application has been made to the court for it to review the order to determine whether it should—

- remain in operation; or
- be revoked and replaced with a supervision order; or
- be revoked and not replaced with any order.

This notice provides information about—

- your rights in relation to the application; and
- the procedure for hearing and determining the application; and
- the nature of the review of a detention order.

If you have any questions about this information or your rights you should seek legal advice.

**REASONS FOR APPLICATION FOR REVIEW OF A DETENTION
ORDER**

Periodic review

The Director of Public Prosecutions ("**the DPP**") must apply to the court for a review of the order—

- at least annually after the order was made or last reviewed; or
- by any earlier review date specified in the order.

However, if you are subject to a custodial sentence at the time of the scheduled review, you are not entitled to a review of the detention order at that time.

Application by the DPP or offender for review of a detention order

The DPP may apply at any time to the court for a review of a detention order.

If you are subject to a detention order, you may also apply at any time to the court for a review of the detention order.

The court may agree to review the order if—

- there are new facts or circumstances which would justify a review of the order; or
- it would be in the interests of justice, having regard to the purposes of the order and the manner and effect of its implementation, to review the order.

The court is reviewing the detention order because—

- *the DPP has applied for periodic review.
- *the DPP has applied for review other than a periodic review.

HEARING A DETERMINATION OF APPLICATION FOR REVIEW OF A DETENTION ORDER

Before the hearing—

Documents

If the DPP is applying for the review, the DPP must give you—

- a copy of the application for review; and
- a copy of the progress report that accompanied the application for review; and
- this notice, which sets out—
 - your rights in relation to the application; and
 - the procedure for hearing and determining the application; and
 - the nature of the review of a detention order.

Assessment report

An assessment report is prepared by a medical expert who has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released in the community and are not subject to a supervision order.

Form 8

Progress report

A progress report is prepared by a medical expert who has assessed your propensity to commit relevant offences in the future. These reports include efforts made by you to address the causes of sexual offending including your participation in rehabilitation or treatment. Progress reports also address factors that might increase or decrease any identified risks.

Independent report

You have the right to a reasonable opportunity to obtain an independent report of any kind. The court may adjourn the hearing to give you the opportunity to obtain an independent report. If you obtain an independent report and you intend to rely on it at the hearing, you must file a copy with the court and give the DPP a copy as soon as practicable after you have obtained it. The court may either direct you or the DPP or both to obtain any other assessment reports or reports of any other kind.

Timing of the hearing

The court will not start hearing the application until at least 25 working days after the application has been made unless the court is satisfied that a shorter period is required in the interests of justice.

Legal representation

You have the right to a reasonable opportunity to obtain legal representation. The court **may** adjourn the hearing to give you the opportunity to obtain legal representation.

THE HEARING

You must be present during the hearing of the application unless—

- your actions at the hearing make this impracticable. If this happens the court can order that you be removed and may continue to hear the application in your absence; or
- you are unable to be present. If you are unable to be present, the hearing may proceed if—
 - the court is satisfied that conducting the hearing in your absence will not prejudice your interests; and
 - the interests of justice require that the hearing take place.

At the hearing the DPP will argue that you should be subject to a detention order. You have the right to argue that you should not be subject to a detention order.

The court must revoke the detention order unless it is satisfied that you still pose an unacceptable risk of committing a relevant offence if a detention order is not in effect and you are in the community. The court may continue the detention order, or it may revoke the detention order and make a supervision order.

You or the DPP may dispute the whole or any part of a progress report or other report by filing with the court a notice of intention to dispute. If the notice is filed before the application is determined, the court cannot take the disputed information in any of these reports into consideration unless you have had the opportunity to lead evidence on the disputed matters.

If the Court is not satisfied that the risk would be unacceptable unless a detention order were made, the court may revoke the detention order and make a supervision order.

EFFECT OF SUPERVISION ORDER

A person subject to a supervision order does not live in prison or a police gaol. The person may be directed to reside at a particular place, including in a residential facility.

A supervision order is not punishment for committing any offence.

If you are subject to a supervision order you must comply with the conditions set out in the order (see below) and you may also be required to comply with directions given to you by the Adult Parole Board.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the detention order or application, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any reports or documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

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If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

THE COURT'S DECISION

The court must consider—

- a progress report about you;
- any other report made, or evidence given, by a medical expert;
- any report made by the Adult Parole Board;
- any report made by the Secretary to the Department of Justice or the DPP;
- any submissions made by the parties to the review.

The court may consider—

- previous assessment reports, progress reports, or reports filed with the court in relation to the offender; and
- anything else that the court considers appropriate.

The court that reviews a detention order must state the reasons for its decision.

The court must cause a copy of any order to be given to you.

YOUR RIGHTS

You have the following rights—

- to have the application for the review of your detention order heard and determined by the Supreme Court;
- to have a reasonable opportunity to obtain legal representation;
- to obtain one or more independent assessment reports;
- to appeal to the Court of Appeal against the decision to revoke the order and make a new supervision order or detention order;
- to appeal to the Court of Appeal against the conditions (other than the core conditions) of any supervision order made;
- to appeal to the Court of Appeal against the period of any supervision order made.

Serious Sex Offenders (Detention and Supervision) Regulations 2009
S.R. No. 187/2009

Form 8

If the court decides not to revoke the detention order and you are not taken into custody for any other reason, you have the following rights—

- to appeal to the Court of Appeal against the decision not to revoke the detention order;
- to seek the court's permission for it to review the detention order earlier than specified in the order.

*Delete if inapplicable

FORM 9

Regulation 13

**NOTICE TO OFFENDER OF APPLICATION FOR REVIEW
OF SUPERVISION ORDER CONDITIONS**

**PART 5—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Secretary to the Department of Justice ("**the Secretary**") has applied to the *Supreme Court/*County Court to review the conditions, other than the core conditions, of your supervision order under the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

This notice provides information about—

- your rights in relation to the application; and
- the procedure for hearing and determining the application; and
- the nature of the review of the conditions of a supervision order.

If you have any questions about this information or your rights you should seek legal advice.

REASONS FOR APPLICATION FOR REVIEW

The Secretary has applied to the *Supreme Court/*County Court for a review of the conditions of your order, other than the core conditions, because—

- there are new facts or circumstances which would justify a review of the conditions of the order, other than the core conditions; or
- it would be in the interests of justice, having regard to the purposes of the order and the manner and effect of its implementation, to review the conditions of the order, other than the core conditions.

HEARING AND DETERMINATION OF APPLICATION FOR A REVIEW OF SUPERVISION ORDER CONDITIONS

Before the hearing—

Documents

The Secretary must give you—

- a copy of the application; and
- a copy of any assessment report or progress report that accompanied the application; and
- this notice, which sets out—
 - your rights in relation to the application; and
 - the procedure for hearing and determining the application; and
 - the nature of the review of the conditions of a supervision order.

Timing of the hearing

The court will not start hearing the application until at least 25 working days after the application has been made unless the court is satisfied that a shorter period is required in the interests of justice.

Assessment report

An assessment report is prepared by a medical expert who has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released in the community and are not subject to a supervision order.

Progress report

A progress report is prepared by a medical expert who has assessed your propensity to commit relevant offences in the future. These reports include efforts made by you to address the causes of sexual offending including your participation in rehabilitation or treatment. Progress reports also address factors that might increase or decrease any identified risks.

Independent report

You have the right to a reasonable opportunity to obtain an independent report of any kind. The court may adjourn the hearing to give you the opportunity to obtain an independent report. If you obtain an independent report and you intend to rely on it at the hearing, you must file a copy with the court and give the Secretary a copy as soon as practicable after you have obtained it. The court may direct either you or the Secretary or both to obtain any other assessment reports or reports of another kind.

THE HEARING

You must be present during the hearing of the application unless—

- your actions at the hearing make this impracticable. If this happens the court can order that you be removed and may continue to hear the application in your absence; or
- you are unable to be present. If you are unable to be present, the hearing may proceed if—
 - the court is satisfied that conducting the hearing in your absence will not prejudice your interests; and
 - the interests of justice require that the hearing take place.

At the hearing the Secretary will argue that the court should change the conditions of your order, other than the core conditions. You have the right to respond to the Secretary's proposal.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the supervision order or application, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any report of documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

**THE COURT'S DECISION ON REVIEW OF THE CONDITIONS OF
YOUR SUPERVISION ORDER**

The court may—

- vary, add or remove any conditions of the supervision order;
- confirm the conditions of the supervision order;
- review the supervision order.

YOUR RIGHTS

You have the following rights in relation to an application for a review of the conditions, other than the core conditions, of your supervision order—

- to have the application heard and determined by the
*Supreme Court/*County Court;
- to appeal to the Court of Appeal against a decision made by a court
reviewing the conditions to impose conditions;
- to have a reasonable opportunity to obtain legal representation.

*Delete if inapplicable

FORM 10

Regulation 14

**NOTICE TO OFFENDER OF APPLICATION FOR REVIEW
OF INTERIM SUPERVISION ORDER CONDITIONS**

**PART 5—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Secretary to the Department of Justice ("**the Secretary**") has applied to the *Supreme Court/*County Court to review the conditions, other than the core conditions, of your interim supervision order under the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

This notice provides information about—

- your rights in relation to the application; and
- the procedure for hearing and determining the application; and
- the nature of the review of the conditions of an interim supervision order.

If you have any questions about this information or your rights you should seek legal advice.

INTERIM SUPERVISION ORDERS

Interim supervision orders are orders that may be made by the court in certain circumstances if—

- the court is satisfied that the Secretary has applied for a supervision order or renewal of a supervision order; and
- it appears to the court that the documentation supporting the application would, if proved, justify the making of the supervision order; and
- the court is satisfied that it is in the public interest to make the order.

REASONS FOR APPLICATION FOR REVIEW

The Secretary has applied to the *Supreme Court/*County Court for a review of the conditions of your interim supervision order, other than the core conditions, because—

- there are new facts or circumstances which would justify a review of the conditions of the order, other than core conditions; or
- it would be in the interests of justice, having regard to the purposes of the order and the manner and effect of its implementation, to review the conditions of the order, other than the core conditions.

HEARING AND DETERMINATION OF APPLICATION FOR A REVIEW OF INTERIM SUPERVISION ORDER CONDITIONS

Before the hearing—

Documents

The Secretary must give you—

- a copy of the application; and
- a copy of any assessment report or progress report that accompanied the application; and
- this notice, which sets out—
 - your rights in relation to the application; and
 - the procedure for hearing and determining the application; and
 - the nature of the review of the conditions of an interim supervision order.

Timing of the hearing

The court will not start hearing the application until at least 25 working days after the application has been made unless the court is satisfied that a shorter period is required in the interests of justice.

Assessment report

An assessment report is prepared by a medical expert who has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released in the community and are not subject to a supervision order.

Progress report

A progress report is prepared by a medical expert who has assessed your propensity to commit relevant offences in the future. These reports include efforts made by you to address the causes of sexual offending including your participation in rehabilitation or treatment. Progress reports also address factors that might increase or decrease any identified risks.

Independent report

You have the right to a reasonable opportunity to obtain an independent report of any kind. The court may adjourn the hearing to give you the opportunity to obtain an independent report. If you obtain an independent report and you intend to rely on it at the hearing, you must file a copy with the court and give the Secretary a copy as soon as practicable after you have obtained it. The court may direct either you or the Secretary or both to obtain any other assessment reports or reports of another kind.

THE HEARING

You must be present during the hearing of the application unless—

- your actions at the hearing make this impracticable. If this happens the court can order that you be removed and may continue to hear the application in your absence; or
- you are unable to be present. If you are unable to be present, the hearing may proceed if—
 - the court is satisfied that conducting the hearing in your absence will not prejudice your interests; and
 - the interests of justice require that the hearing take place.

At the hearing the Secretary will argue that the court should change the conditions of your order, other than the core conditions. You have the right to respond to the Secretary's proposal.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the supervision order or application, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any report of documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

THE COURT'S DECISION ON REVIEW OF THE CONDITIONS OF YOUR INTERIM SUPERVISION ORDER

The court may—

- vary, add or remove any conditions of the interim supervision order;
- confirm the conditions of the interim supervision order;
- review the interim supervision order.

YOUR RIGHTS

You have the following rights in relation to an application for a review of the conditions, other than core conditions, of your interim supervision order—

- to have the application heard and determined by the
*Supreme Court/*County Court;
- to appeal to the Court of Appeal against a decision made by a court reviewing the conditions to impose conditions;
- to have a reasonable opportunity to obtain legal representation.

*Delete if inapplicable

FORM 11

Regulation 15

**NOTICE TO OFFENDER OF RIGHTS RELATING TO AN
APPEAL RELATING TO A SUPERVISION ORDER**

**PART 7—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Secretary to the Department of Justice ("**the Secretary**") is making an appeal to the Court of Appeal from a decision of the *Trial Division of the Supreme Court/*County Court concerning a supervision order under the **Serious Sex Offenders (Detention and Supervision) Act 2009** that involves you as the offender.

Your order remains operative now unless a court has expressly stated that the order is stayed.

This notice provides information about the procedure for hearing and determining the appeal and your rights in relation to the appeal.

If you have any questions about this information or your rights you should seek legal advice.

**APPEAL FROM DECISION CONCERNING A SUPERVISION
ORDER**

The Secretary has applied to the Court of Appeal concerning the following *decision/*decisions made by the *Trial Division of the Supreme Court/*County Court about the supervision order—

- *The decision not to make you subject to a supervision order. The Secretary is appealing this decision.
- *The decision to make you subject to a supervision order with certain conditions. The Secretary is appealing the conditions imposed by the Court.
- *The decision to make you subject to a supervision order of a particular period. The Secretary is appealing the period of the supervision order.

-
- *The decision not to renew your supervision order. The Secretary is appealing this decision.
 - *The decision to revoke your supervision order. The Secretary is appealing this decision.

HEARING AND DETERMINATION OF THE APPEAL

Before the appeal

The Secretary must provide you with—

- a copy of the notice of appeal; and
- this notice, which sets out—
 - your rights in relation to the appeal; and
 - the procedure for hearing and determining the appeal.

Assessment report

An assessment report is prepared by a medical expert who has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released in the community and are not subject to a supervision order.

Progress report

A progress report is prepared by a medical expert who has assessed your propensity to commit relevant offences in the future. These reports include efforts made by you to address the causes of sexual offending including your participation in rehabilitation or treatment. Progress reports also address factors that might increase or decrease any identified risks.

THE APPEAL

The Court of Appeal has the power to achieve the following outcomes on appeal—

- consider new evidence in relation to you; or
- require the Secretary to provide a new assessment report or progress report about you; or
- confirm the decision made by the court; or
- revoke the supervision order, renewed supervision order, interim supervision order, or any condition or variation to an order; or
- *if the Court of Appeal considers that a supervision order should have been made or renewed, it can set aside the decision of the court and require that court to hear the matter again. The Court of Appeal may give the court directions about the decision it must make. If the Court

Form 11

of Appeal does not give the court directions, the court may make any of the decisions that it was able to make at the first hearing; or

- *if the Court of Appeal considers that the court should not have revoked the original supervision order and replaced it with no order or a detention order, it may set aside the decision to revoke the supervision order (and, if the case requires, revoke the detention order) and revive the supervision order. This means that you will be subject to a supervision order; or
- make an interim supervision order pending re-hearing of an application by the appropriate court. An interim supervision order can have all of the conditions of a final supervision order, and applies until the application is finally re-heard and then determined by the appropriate court; or
- make any other order that the Court of Appeal considers appropriate.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the supervision order or appeal, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any report of documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

RIGHT TO MAKE AN APPLICATION TO THE COURT OF APPEAL

You have the right to make an application to the Court of Appeal in relation to the following—

- a decision to make or renew a supervision order;
- the conditions of a supervision order;
- the period of a supervision order;
- a decision not to revoke a supervision order on review;
- a decision to revoke a supervision order and make a new supervision order or detention order.

*Delete if inapplicable

FORM 12

Regulation 16

**NOTICE TO OFFENDER OF RIGHTS RELATING TO AN
APPEAL RELATING TO AN INTERIM SUPERVISION
ORDER**

**PART 7—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Secretary to the Department of Justice ("**the Secretary**") is making an appeal to the Court of Appeal from a decision of the *Trial Division of the Supreme Court/*County Court concerning an interim supervision order under the **Serious Sex Offenders (Detention and Supervision) Act 2009** that involves you as the offender.

Your order remains operative now unless a court has expressly stated that the order is stayed.

This notice provides information about the procedure for hearing and determining the appeal and your rights in relation to the appeal.

If you have any questions about this information or your rights you should seek legal advice.

INTERIM SUPERVISION ORDERS

Interim supervision orders are orders that may be made by the court in certain circumstances if—

- the court is satisfied that the Secretary has applied for a supervision order or renewal of a supervision order; and
- it appears to the court that the documentation supporting the application would, if proved, justify the making of the supervision order; and
- the court is satisfied that it is in the public interest to make the order.

**APPEAL FROM DECISION CONCERNING AN INTERIM
SUPERVISION ORDER**

The Secretary has applied to the Court of Appeal concerning the following *decision/*decisions made by the *Trial Division of the Supreme Court/*County Court about the interim supervision order—

-
- *The decision not to make you subject to an interim supervision order. The Secretary is appealing this decision.
 - *The decision not to extend an interim supervision order. The Secretary is appealing this decision.
 - *The decision to impose a particular period of operation on an interim supervision order. The Secretary is appealing this decision.
 - *The decision to impose or not impose particular conditions on an interim supervision order. The Secretary is appealing this decision.

HEARING AND DETERMINATION OF THE APPEAL

Before the appeal

The Secretary must provide you with—

- a copy of the notice of appeal; and
- this notice, which sets out—
 - your rights in relation to the appeal; and
 - the procedure for hearing and determining the appeal.

Assessment report

An assessment report is prepared by a medical expert who has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released in the community and are not subject to a supervision order.

Progress report

A progress report is prepared by a medical expert who has assessed your propensity to commit relevant offences in the future. These reports include efforts made by you to address the causes of sexual offending including your participation in rehabilitation or treatment. Progress reports also address factors that might increase or decrease any identified risks.

THE APPEAL

The Court of Appeal has the power to achieve the following outcomes on appeal—

- consider new evidence in relation to you; or
- require the Secretary to provide a new assessment report or progress report about you; or
- confirm the decision made by the court; or
- revoke the interim supervision order, extended interim supervision order or any condition or variation to an order; or

Form 12

- *if the Court of Appeal considers that an interim supervision order should have been made or renewed it can set aside the decision of the court and require that court to hear the matter again. The Court of Appeal may give the court directions about the decision it must make. If the Court of Appeal does not give the court directions the court may make any of the decisions that it was able to make at the first hearing; or
- *if the Court of Appeal considers that the court should not have revoked the original interim supervision order and replaced it with no order or a detention order, it may set aside the decision to revoke the interim supervision order (and, if the case requires, revoke the detention order) and revive the interim supervision order. This means that you will be subject to an interim supervision order; or
- make an interim supervision order pending re-hearing of an application by the appropriate court. An interim supervision order can have all of the conditions of a final supervision order, and applies until the application is finally re-heard and then determined by the appropriate court; or
- make any other order that the Court of Appeal considers appropriate.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the interim supervision order or appeal, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any report of documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

RIGHT TO MAKE AN APPLICATION TO THE COURT OF APPEAL

You have the right to make an application to the Court of Appeal in relation to the following—

- a decision to make or extend an interim supervision order;
- the conditions of an interim supervision order;
- the period of an interim supervision order;
- a decision to revoke an interim supervision order and make a new supervision order or detention order.

*Delete if inapplicable

FORM 13

Regulation 17

**NOTICE TO OFFENDER OF RIGHTS RELATING TO AN
APPEAL RELATING TO A DETENTION ORDER**

**PART 7—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Director of Public Prosecutions ("**the DPP**") is making an appeal to the Court of Appeal from a decision of the Trial Division of the Supreme Court concerning a detention order under the **Serious Sex Offenders (Detention and Supervision) Act 2009** which involves you as the offender.

Your order remains operative now unless a court has expressly stated that the order is stayed.

This notice provides information about the procedure for hearing and determining the appeal and your rights in relation to the appeal.

If you have any questions about this information or your rights you should seek legal advice.

APPEAL FROM DECISION CONCERNING A DETENTION ORDER

The DPP has applied to the Court of Appeal concerning the following *decision/*decisions made by the Trial Division of the Supreme Court about the detention order—

- *The decision not to make you subject to a detention order. The DPP is appealing this decision.
- *The decision not to renew a detention order. The DPP is appealing this decision.
- *The decision to not make an interim detention order. The DPP is appealing this decision.
- *The decision to revoke a detention order on a review and to replace it with no other order. The DPP is appealing this decision.
- *The decision to revoke your detention order and replace it with a supervision order. The DPP is appealing this decision.

HEARING AND DETERMINATION OF THE APPEAL

Before the appeal

The DPP must provide you with—

- a copy of the notice of appeal; and
- this notice, which sets out—
 - your rights in relation to the appeal; and
 - the procedure for hearing and determining the appeal.

Assessment report

An assessment report is prepared by a medical expert who has assessed you and formed an opinion about any risk that you will commit another relevant offence if you are released in the community and are not subject to a supervision order.

Progress report

A progress report is prepared by a medical expert who has assessed your propensity to commit relevant offences in the future. These reports include efforts made by you to address the causes of sexual offending including your participation in rehabilitation or treatment. Progress reports also address factors that might increase or decrease any identified risks.

THE APPEAL

The Court of Appeal may—

- consider new evidence in relation to you; and
- require the DPP to provide a new assessment report or progress report about you.

The Court of Appeal has the power to achieve the following outcomes on appeal—

- it can confirm the decision of the court; or
- it can revoke the detention order or renewed detention order; or
- *if the Court of Appeal considers that a detention order should have been made or renewed it can set aside the decision of the court and require the court to hear the matter again. The Court of Appeal may give the court directions about the decision it must make. If the Court of Appeal does not give the court directions, the court may make any of the decisions that it was able to make at the first hearing; or

Form 13

- *if the Court of Appeal considers that the court should not have revoked a detention order and replaced it with a supervision order or no order, it may set aside the decision to revoke the detention order, revoke the supervision order and revive the detention order. This means that you would remain subject to a detention order and will continue to reside in prison; or
- make an interim detention order pending re-hearing of an application by the appropriate court. An interim detention order will apply until the application is finally re-heard and determined by the appropriate court; or
- make any other order that the Court of Appeal considers appropriate.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the supervision order or appeal, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any report of documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

RIGHT TO MAKE AN APPLICATION TO THE COURT OF APPEAL

You have the right to make an application to the Court of Appeal in relation to the following—

- a decision to make or renew a detention order;
- a decision to impose a particular period of operation of the order;

Serious Sex Offenders (Detention and Supervision) Regulations 2009
S.R. No. 187/2009

Form 13

-
- a decision not to revoke the detention order on review;
 - a decision to revoke the detention order and make a new supervision order, including the right to appeal against the non-core conditions and the period of the supervision order.

*Delete if inappropriate

FORM 14

Regulation 18

**NOTICE TO OFFENDER OF RIGHTS RELATING TO AN
APPEAL RELATING TO AN INTERIM DETENTION ORDER**

**PART 7—SERIOUS SEX OFFENDERS (DETENTION AND
SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because the Director of Public Prosecutions ("**the DPP**") is making an appeal to the Court of Appeal from a decision of the Trial Division of the Supreme Court concerning an interim detention order under the **Serious Sex Offenders (Detention and Supervision) Act 2009** which involves you as the offender.

Your order remains operative now unless a court has expressly stated that the order is stayed.

This notice provides information about the procedure for hearing and determining the appeal and your rights in relation to the appeal.

If you have any questions about this information or your rights you should seek legal advice.

INTERIM DETENTION ORDERS

Interim detention orders are orders that may be made by the Supreme Court in certain circumstances if—

- the Court is satisfied that the DPP has applied for a detention order or renewal of a detention order; and
- it appears to the Court that the documentation supporting the application for the detention order would, if proved, justify the making of a detention order; and
- the Court is satisfied that it is in the public interest to make the order.

**APPEAL FROM DECISION CONCERNING AN INTERIM
DETENTION ORDER**

The DPP has applied to the Court of Appeal concerning the following
*decision/*decisions made by the Trial Division of the Supreme Court about
the interim detention order—

- *The decision not to make you subject to an interim detention order.
The DPP is appealing this decision.
- *The decision not to extend an interim detention order. The DPP is
appealing this decision.
- *The decision to impose a particular period of operation of an interim
detention order. The DPP is appealing this decision.

HEARING AND DETERMINATION OF THE APPEAL

Before the appeal

The DPP must provide you with—

- a copy of the notice of appeal; and
- this notice, which sets out—
 - your rights in relation to the appeal; and
 - the procedure for hearing and determining the appeal.

THE APPEAL

The Court of Appeal may—

- consider new evidence in relation to you; and
- require the DPP to provide a new assessment report or progress report
about you.

The Court of Appeal has the power to achieve the following outcomes on
appeal—

- it can confirm the decision of the court; or
- it can revoke the interim detention order or extend the interim
detention order; or
- *if the Court of Appeal considers that a interim detention order should
have been made or extended it can set aside the decision of the court
and require the court to hear the matter again. The Court of Appeal
may give the court directions about the decision it must make. If the
Court of Appeal does not give the court directions, the court may
make any of the decisions that it was able to make at the first hearing;
or

Form 14

- *if the Court of Appeal considers that the court should not have revoked an interim detention order and replaced it with a supervision order or no order, it may set aside the decision to revoke the interim detention order, revoke the supervision order and revive the interim detention order. This means that you would remain subject to an interim detention order and will continue to reside in prison; or
- make an interim detention order pending re-hearing of an application by the appropriate court. An interim detention order will apply until the application is finally re-heard and determined by the appropriate court; or
- make any other order that the Court of Appeal considers appropriate.

Suppression of publication

It is an offence for any person or body to publish or cause to be published the following matters relating to the interim detention order or appeal, unless the court authorises publication because of exceptional circumstances—

- any evidence given;
- any report of documents put before the court;
- any other information that is submitted to the court that might enable any person, other than you, who has appeared or given evidence to be identified;
- any information or evidence that may enable a victim to be identified.

Your identity or whereabouts may be published unless—

- the court chooses to prohibit the publication of these matters if it considers that it would be in the public interest to do so; or
- you apply to the court for an order restricting publication and are granted that order.

If a person contravenes an order restricting publication, or the suppression provisions of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a penalty of up to 120 penalty units or imprisonment for 1 year, or both, may be imposed, or in the case of a body corporate, a penalty of up to 600 penalty units may be imposed.

RIGHT TO MAKE AN APPLICATION TO THE COURT OF APPEAL

You have the right to make an application to the Court of Appeal in relation to the following—

- a decision to make or extend an interim detention order;
- a decision to impose a particular period of operation of the order;

Serious Sex Offenders (Detention and Supervision) Regulations 2009
S.R. No. 187/2009

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-
- a decision to revoke the interim detention order and make a new supervision order, including the right to appeal against the non-core conditions and the period of the supervision order.

*Delete if inappropriate

Form 14A

Form 14A
inserted by
S.R. No.
21/2014 reg. 6.

FORM 14A

Regulation 18A

**ORDER FOR THE TRANSFER OF PROCEEDINGS FOR
BREACH OF SUPERVISION ORDER**

**DIVISION 4—PART 11—SERIOUS SEX OFFENDERS
(DETENTION AND SUPERVISION) ACT 2009**

The Magistrates' Court of Victoria at

Informant:

Accused:

Date of Birth:

Proceedings commenced by: Charge and Summons*/Charge and Warrant*

Nature of Charge: That the Accused did contravene a condition of a supervision order under section 160 of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

I, [*name*], registrar of the Magistrates' Court of Victoria at [*venue*] order that the proceeding under the **Serious Sex Offenders (Detention and Supervision) Act 2009** be transferred to the

COUNTY COURT at*

SUPREME COURT at*

This order is made under section 172A of the **Serious Sex Offenders (Detention and Supervision) Act 2009** and takes effect on the filing of the evidence of service of the summons in the above mentioned court*/on the execution of the warrant against the offender*.

Dated at:

On:

Registrar of the Magistrates' Court of Victoria

*Strike out whichever is inapplicable.

FORM 15

Regulation 19

**NOTICE TO BE GIVEN ABOUT OFFENDER'S RIGHTS AND
RESPONSIBILITIES WHEN HOLDING POWER EXERCISED**

**DIVISION 3—PART 11—SERIOUS SEX OFFENDERS
(DETENTION AND SUPERVISION) ACT 2009**

GENERAL INFORMATION

To—[*Name of offender*]

This notice has been served on you because a member of the Victoria Police has exercised a holding power under the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

This notice provides information about your rights and responsibilities while you are being held.

If you have any questions about this information or your rights you should seek legal advice.

REASON FOR POLICE EXERCISING HOLDING POWER

A member of the Victoria Police has apprehended and detained you because there are reasonable grounds to suspect that there is an imminent risk that you will breach a condition of a supervision order.

A member of the Victoria Police may use the force reasonably necessary to apprehend and detain you.

DETENTION IS NOT ARREST

If a member of Victoria Police reasonably suspects that you have breached one or more of the conditions of a supervision order, you may be arrested. An arrest for a suspected breach is different from detention on suspicion that there is an imminent risk that you will breach a condition of a supervision order. This notice concerns instances where the police suspect an imminent risk of a breach.

EFFECT OF HOLDING POWER

You may be detained at a police station, or in a police gaol only if the police officer considers it necessary to do so for the protection of any person or property, or to prevent you from escaping from detention.

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A member of the Victoria Police may search you and any vehicle, package or thing in your possession if the member suspects, on reasonable grounds, that you have in your possession any object that may cause injury or damage or be used to escape.

The maximum period that you may be detained is 10 hours after the detention begins.

While you are being held, Victoria Police must not interview or question you in relation to any offence or alleged offence or in relation to any breach or alleged breach of a condition of a supervision order.

YOUR RIGHTS

You have the following rights in relation to your apprehension and detention—

- you may communicate or attempt to communicate with a friend or relative to inform them of your whereabouts; and
- you may communicate or attempt to communicate with a legal practitioner.

If you wish to communicate with a friend, relative or legal practitioner, a member of the Victoria Police must—

- provide you reasonable facilities as soon as practicable to enable you to do so; and
 - allow your legal practitioner or their clerk to communicate with you in private (as far as is practicable).
-
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ENDNOTES

1. General Information

The Serious Sex Offenders (Detention and Supervision) Regulations 2009, S.R. No. 187/2009 were made on 22 December 2009 by the Governor in Council under section 198 of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, No. 91/2009 and came into operation on 1 January 2010: regulation 3.

The Serious Sex Offenders (Detention and Supervision) Regulations 2009 will sunset 10 years after the day of making on 22 December 2019 (see section 5 of the **Subordinate Legislation Act 1994**).

Serious Sex Offenders (Detention and Supervision) Regulations 2009
S.R. No. 187/2009

Endnotes

2. Table of Amendments

This Version incorporates amendments made to the Serious Sex Offenders (Detention and Supervision) Regulations 2009 by statutory rules, subordinate instruments and Acts.

Serious Sex Offenders (Detention and Supervision) Amendment Regulations 2014,
S.R. No. 21/2014

Date of Making: 29.4.14

Date of Commencement: Regs 5, 6 on 1.7.14; reg. 3

3. Explanatory Details

No entries at date of publication.