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**SUPPLEMENT**

**PROCLAMATIONS, RULES AND REGULATIONS**

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**THE CRIMINAL JUSTICE (ADMINISTRATION) ACT**

**THE CRIMINAL JUSTICE (ADMINISTRATION) (RESTITUTION ORDERS)  
REGULATIONS, 2021**

In exercise of the power conferred upon the Minister by section 65 of the Criminal Justice (Administration) Act, and of every other power hereunto enabling, the following Regulations are hereby made:—

Citation. 1. These Regulations may be cited as the Criminal Justice (Administration) (Restitution Orders) Regulations, 2021.

Amount of restitution. 2.—(1) Pursuant to section 24A of the Act, where the court restitution makes a restitution order, the court shall consider the factors specified in subparagraph (2) when determining the appropriate amount to be paid to a victim.

(2) The factors to which subparagraph (1) refers are—

(a) evidence and representations made by or on behalf of the offender;

- (b) representations made on behalf of the victim;
  - (c) evidence and representations made by the prosecutor;
  - (d) aggravating factors, including whether the offence involved a breach of trust;
  - (e) the seriousness of the offence;
  - (f) the impact of the restitution order on other parts of the sentence imposed by the court; and
  - (g) the means of the offender.
- Independent agreement for restitution. 3. Prior to the imposition of a sentence by a Judge, the parties may enter into an independent agreement for the payment of restitution, and in such circumstances, the agreement of the parties shall have the same force as an order for restitution made by a Judge.
- Fines. 4. In any case where the court imposes both a fine and a restitution order, if the means of the offender are insufficient to pay both the fine and the restitution order, priority shall be given to the payment of the restitution order.
- Victim entitlement. 5.—(1) A victim shall not be entitled to receive the amount due under a restitution order, until the offender has exhausted all rights to—
- (a) appeal against the restitution order;
  - (b) have the restitution order varied; or
  - (c) have the restitution order set aside.
- (2) A right of appeal pursuant to subparagraph (1) shall include the power of the court to grant leave to an offender to appeal out of time.
- Enforcement. 6.—(1) Payment of restitution shall be satisfied in full by the date specified in the restitution order unless the court, upon considering an application by the offender, is of the opinion that payments should be in installments.
- (2) Where the court grants approval for the payment of restitution in periodic installments, the payment scheme shall be set out in the restitution order.
- (3) A restitution order may be made in respect of several persons, and shall in such circumstances specify the amount payable by each person.
- Discharge and variation of restitution order. 7.—(1) Subject to subparagraph (2) the Court may vary or discharge a restitution order following consideration of an application by the offender to vary or discharge the restitution order.
- (2) Pursuant to subparagraph (1), the court may vary or discharge a restitution order if—
- (a) the offender has no further possibility of appeal by which the restitution order may be varied or discharged; or

(b) at the time the order for restitution was made, the offender had paid into court, the entire amount required by the restitution order.

(3) The court may exercise its power under subparagraph (2)(a) only if—

(a) pursuant to civil proceedings, a civil court determines the loss or damage in respect of which the restitution order was granted to be less than that determined by the court;

(b) the property in respect of which the restitution order was granted has been recovered and restored by the offender;

(c) the means of the offender are insufficient to satisfy a restitution order and a forfeiture order against the offender in the same proceedings pursuant to Part 11 of the Proceeds of Crime Act; or

(d) the offender has suffered a substantial reduction in means subsequent to the making of the restitution order and the means of the offender seems unlikely to increase within a reasonably ascertainable time in the future.

Appeal.

8.—(1) Where an application is made to the Court of appeal with respect to a restitution order, the Court of Appeal may discharge or vary the restitution order.

(2) Pursuant to subparagraph (1), where the Court of Appeal exercises its discretion to discharge or vary a restitution order, the court may take into consideration—

(a) the appropriateness of the restitution order;

(b) any other penalty imposed along with the restitution order;

(c) the means of the defendant; and

(d) any other consideration the court deems necessary,

(3) An order that is discharged by the Court of Appeal pursuant to subparagraph (1) shall not take effect, regardless of whether the conviction is quashed by the Court of Appeal.

(4) A restitution order that has been varied by the Court of Appeal, pursuant to subparagraph (1), shall take effect as varied.

(5) For the avoidance of doubt, where an application is made to the Court of Appeal with respect to conviction for an offence, or more than one offences, for which a restitution order forms a part of the sentence, if the conviction is quashed by the Court of Appeal, the restitution order shall have

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no effect in relation to the offence or offences for which the restitution order forms a part.

Dated this 24th day of March, 2021.

DELROY CHUCK  
Minister of Justice.