

NORTHERN TERRITORY OF AUSTRALIA

SENTENCING REGULATIONS 1996

As in force at 1 July 2024

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 July 2024

SENTENCING REGULATIONS 1996

Regulations under the *Sentencing Act 1995*

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Sentencing Regulations 1996*.

Part 2 General matters

2 Prescribed program and undertaking

- (1) For the definition ***prescribed program*** in section 3(1) of the Act, each of the following is a prescribed program for a community correction order or an intensive community correction order:
 - (a) an alcohol or other drug treatment program;
 - (b) an education or training program in driving;
 - (c) any other education or training program;
 - (d) treatment or counselling addressing personal factors.
- (2) For the definition ***undertaking*** in section 3(1) of the Act, the prescribed form is Form 1 in the Schedule.

3 Proper officer

For section 3(1) of the Act, definition ***proper officer***, the proper officer for the Local Court is a registrar (as defined in section 3 of the *Local Court Act 2015*).

Note for regulation 3

For the Supreme Court, see rule 81A of the Supreme Court Rules 1987.

4 Prescribed persons

- (1) For the purposes of sections 42(3)(b) and 43(1) and (2) of the Act, each person who is a probation and parole officer and an employee of the Agency responsible under the Minister for the administration of the *Correctional Services Act 2014* is a prescribed person.
- (2) In addition to subregulation (1), for the purposes of section 43(1) and (2), each person who is a prosecutor is a prescribed person.
- (3) For the purposes of section 85(2) of the Act, the Chief Health Officer is a prescribed person.
- (4) For the purposes of section 86(1) of the Act, the Chief Health Officer and the Commissioner are prescribed persons.

5 Prescribed conditions

- (1) For section 34(1)(c) of the Act, the following conditions are prescribed:
 - (a) the offender:
 - (i) is under the ongoing supervision of a probation and parole officer; and
 - (ii) must report to a probation and parole officer at a specified place within 2 business days after the order comes into force;
 - (b) the offender must remain in the offender's residence for a specified period of time of the day;
 - (c) the offender must wear or have attached an approved monitoring device;
 - (d) the offender must allow the placing or installation in, and retrieval from, a specified place of anything necessary for the effective operation of the monitoring device;
 - (e) the offender must participate in a prescribed program, designed to address the personal factors that contribute to the offender's criminal behaviour, as directed by the Commissioner;
 - (f) the offender must participate in any other program, course or service the court considers appropriate;

- (g) the offender must not consume or purchase alcohol or a drug (other than as prescribed by a medical practitioner or other health practitioner);
 - (h) the offender must submit to a breath test, breath analysis or blood or urine test at the request of a probation and parole officer or police officer;
 - (i) the offender must not:
 - (i) be in company with one or more specified persons; or
 - (ii) communicate in any way (including by post, fax, phone and other electronic means, and whether directly or indirectly) with one or more specified persons;
 - (j) the offender must not, except as provided in the order, visit one or more specified places (including a district or specific location).
- (2) For section 48(1)(d) of the Act, the conditions specified in subregulation (1)(b) to (j) are prescribed.

11 Breach of order suspending sentence

For the purposes of section 43(1) and (2) of the Act, the prescribed form is Form 4 in the Schedule.

12 Hospital orders

For the purposes of section 80(1)(a) and (b) of the Act, the prescribed form is Form 5 in the Schedule.

12A Breach of hospital order

For the purposes of section 86(1) of the Act, the prescribed form is Form 5A in the Schedule.

12B Certificate for victims of identity crime

For section 97AB of the Act, the prescribed form is Form 5B in the Schedule.

13 Other alleged offences taken into account

For the purposes of section 107 of the Act, the prescribed form is Form 6 in the Schedule.

Part 3 Rehabilitation program in relation to domestic and family violence

14 Definition

In this Part:

order, in relation to an offender, means a community correction order or an intensive community correction order subject to the condition that the offender satisfactorily complete a rehabilitation program in relation to domestic and family violence.

15 Application of Part

For sections 34(3) and 48(3) of the Act, this Part applies.

16 Notification obligations of program facilitator

- (1) A program facilitator for a rehabilitation program in relation to domestic and family violence must notify both the police and a probation and parole officer if the facilitator:
 - (a) becomes aware of an offender committing domestic violence while the offender is subject to an order; or
 - (b) becomes aware of an offender engaging in conduct that contravenes a DVO while the offender is subject to an order; or
 - (c) believes on reasonable grounds that an offender may present an unacceptable risk to the safety or welfare of a protected person or any other person.
- (2) The notice must be in writing and include the particulars of the offender's conduct of which the program facilitator is aware.
- (3) A program facilitator for a rehabilitation program in relation to domestic and family violence must provide the following to a probation and parole officer:
 - (a) if an offender satisfactorily completes the requirements of the program – a completion notice;
 - (b) if an offender fails to comply with a requirement of the program – a non-compliance notice.

Note for subregulation (3)(b)

A failure to comply with a requirement of the program may constitute a breach of the order – see sections 39A and 39B or sections 48F and 48G of the Act for the consequences of breaching an order.

- (4) If requested by a court, a program facilitator for a rehabilitation program in relation to domestic and family violence must provide a participation notice to the court summarising an offender's participation in the program.

17 Bringing offender before court for review

- (1) The court may require an offender who is subject to an order to appear before it from time to time for a review of the offender's progress in the program.
- (2) The court may request the program facilitator for the program to provide a participation notice under regulation 16(4) for an offender prior to a review under subregulation (1).

18 Satisfactory completion of rehabilitation program in relation to domestic and family violence

An offender subject to an order is considered to have satisfactorily completed a rehabilitation program in relation to domestic and family violence if:

- (a) the offender completes the program; and
- (b) if a DVO in relation to the offender is in force – the offender did not breach the DVO for the duration of the order; and
- (c) the defendant did not commit any domestic violence for the duration of the order; and
- (d) a probation and parole officer receives a completion notice under regulation 16(3)(a).

Schedule

FORM 1

regulation 2

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act 1995

UNDERTAKING

WHEREAS, I (full name and address of offender) was before the Court in respect of the following offence/s:

NOW I give the following undertaking:

Dated

Offender

FORM 4

regulation 11

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act 1995

APPLICATION FOR BREACH OF ORDER SUSPENDING SENTENCE –
SECTION 43(1), (2) AND (3)

This application will be dealt with by (name of court) at (venue) at (time) on (date).

Dated

*Sheriff / Registrar of ___ Court

This application is being made by

of

TO:

of

SENTENCING ORDER

On / / the Court at

made an order against you suspending a sentence of imprisonment under section 40 of the *Sentencing Act 1995*.

*APPLICATION UNDER SECTION 43(1)

I apply under section 43(1) of the *Sentencing Act 1995* to the Court for an order under section 43 of the *Sentencing Act 1995* that you be dealt with for a breach of the order suspending your sentence.

GROUND OF APPLICATION

While the order suspending the sentence of imprisonment was in force or within 2 years after the operational period of the order it appears that you committed the following offence punishable by imprisonment:

*APPLICATION UNDER SECTION 43(2)

I apply to the Court under section 43(2) of the *Sentencing Act 1995* for an order under section 43 of the *Sentencing Act 1995* that you be dealt with for a breach of the order suspending your sentence.

GROUNDS OF APPLICATION

That you failed to comply with the following condition(s) to which the order suspending your sentence was subject:

Dated

Prescribed person

* Delete whichever is inapplicable.

FORM 5

regulation 12

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act 1995

CERTIFICATE AND REPORT OF CHIEF HEALTH OFFICER

Ref No.

Date of hearing:

Full name of defendant:

Address of defendant:

PART A – CERTIFICATE

I, the undersigned, the Chief Health Officer, certify that the abovenamed defendant was examined by (name of medical practitioner), a medical practitioner, on (time and date) at .

It is his/her opinion that:

- (a) the defendant appears to be suffering from a mental illness that requires treatment;
- (b) the treatment can only be obtained by admission to and detention in a hospital; and
- (c) the defendant should be admitted as a patient for his or her health or safety or for the protection of members of the public.

The opinion is based on the following facts:

PART B – REPORT

I, the undersigned, the Chief Health Officer, report that facilities are available at the (name of hospital) for the abovenamed defendant to undertake treatment for his/her mental illness and the admission, detention and treatment of the defendant is appropriate.

Dated

Chief Health Officer

FORM 5A

regulation 12A

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act 1995

APPLICATION FOR ORDER FOR BREACH OF HOSPITAL ORDER –
SECTION 86(1) AND (2)

This application will be dealt with by (name of court) at (venue) at (time) on
(date)

Dated

*Sheriff / Registrar of ___ Court

This application is being made by

of

TO:

of

HOSPITAL ORDER

On / / you were found guilty of the following offence(s):

and the Court pursuant to section 80:

* sentenced you to and ordered that you be admitted to and
detained in a hospital to enable you to be diagnosed, assessed and treated
for a period, not exceeding 3 months, as determined by the Chief Health
Officer.

* instead of sentencing you, ordered that you be admitted to and
detained in a hospital to enable you to be diagnosed, assessed and treated
for the period of .

* sentenced you to and ordered that you be admitted to and
detained in a hospital to enable you to be treated for the period of .

The order was subject to the following condition(s):

APPLICATION

I apply to the Court for an order under section 86 of the *Sentencing Act 1995*
that you be dealt with for a breach of the order made under section 80 of the
Sentencing Act 1995.

GROUNDS OF APPLICATION

Dated

Prescribed person

* Delete whichever is inapplicable.

FORM 5B

regulation 12B

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act 1995

CERTIFICATE FOR VICTIM OF IDENTITY CRIME

Name of Supreme Court Judge / Local Court Judge:

Place where certificate is being issued:

Full name or business
name of victim:

Current address:

Date of birth or ABN:

Details of how identification information relating to the victim was used to
commit an offence against section 228C, 228D or 228E of the Criminal Code:

Any other relevant information:

In issuing this certificate, I have had regard to section 97AB of the Act.

Dated

Supreme Court Judge / Local Court Judge

FORM 6

regulation 13

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act 1995

OTHER ALLEDGED OFFENCES THAT MAY BE TAKEN INTO ACCOUNT

PART A

To

Charged with

Before the Court at .

MEMORANDUM FOR ACCUSED'S INFORMATION

- (1) The list on the back of this form gives particulars of other offences you are alleged to have committed, but in respect of which you have not been found guilty.
- (2) If you are convicted on a charge set out above you may, before sentence is passed, ask to be allowed to admit all or any of the other offences listed on the back of this form and to have them taken into account by the Court in passing sentence on you.
- (3) If at your request any of the other offences listed on the back are taken into account by the Court, then –
 - (a) this does not amount to a conviction in respect of the other offences taken into account;
 - (b) the Court may not impose a sentence on you in respect of a charge set out above in excess of the maximum penalty for the offence with which you are charged.
- (4) No further proceedings may be taken against you in respect of any other offences taken into account at your request unless your conviction for the offence above is quashed or set aside.
- (5) If any proceedings are taken against you in respect of any offence that you have asked to have taken into account your admission of that offence cannot be used as evidence against you in those proceedings.

Dated

Prosecutor/police officer

Dated

Accused

PART B

CERTIFICATE

In sentencing for the offence(s) of

this day the Court has taken into account the following offences alleged against and admitted by the accused, that is to say the offences numbered on the back of this form.

Dated

Supreme Court Judge / Local Court Judge

PART C

Number	Place where offence committed	Date of offence	Description of offence (<i>with particulars</i>)
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ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Sentencing Regulations (SL No. 28, 1996)***

Notified	1 July 1996
Commenced	1 July 1996

Amendments of Sentencing Regulations (SL No. 57, 1996)

Notified	19 December 1996
Commenced	19 December 1996

Amendment of Sentencing Regulations (SL No. 9, 1997)

Notified	9 April 1997
Commenced	9 April 1997

Statute Law Revision Act 1997 (Act No. 17, 1997)

Assent date	11 April 1997
Commenced	s 16: 10 December 1997; rem: 1 May 1997 (<i>Gaz</i> G17, 30 April 1997, p 2)

Sentencing (Consequential Amendments) Act 2001 (Act No. 56, 2001)

Assent date	19 October 2001
Commenced	22 October 2001 (s 2)

Sentencing Amendment (Prescribed Persons) Regulations 2006 (SL No. 1, 2006)

Notified	1 February 2006
Commenced	1 February 2006

Sentencing Amendment (Alcohol Court) Regulations 2006 (SL No. 21, 2006)

Notified	14 June 2006
Commenced	14 June 2006

Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act 2011 (Act No. 19, 2011)

Assent date	20 May 2011
Commenced	1 July 2011 (<i>Gaz</i> G23, 8 June 2011, p 6)

Prisons (Correctional Services) (Community Orders) Regulations (SL No. 53, 2011)

Notified	20 December 2011
Commenced	27 February 2012 (r 2, s 2 <i>Justice (Corrections) and Other Legislation Amendment Act 2011</i> (Act No. 24, 2011) and Gaz S9, 21 February 2012)

Alcohol Mandatory Treatment Act 2013 (Act No. 17, 2013)

Assent date	28 June 2013
Commenced	1 July 2013 (s 2)

Sentencing Amendment Regulations 2014 (No. 23, 2014)

Notified	1 July 2014
Commenced	1 July 2014 (r 2, s 2, <i>Justice and Other Legislation Amendment Act</i> (No. 11, 2014) and Gaz S54, 1 July 2014)

Sentencing Amendment (Identity Crime) Regulations 2014 (No. 24, 2014)

Notified	1 July 2014
Commenced	1 July 2014 (r 2, s 2 <i>Criminal Code Amendment (Identity Crime) Act 2014</i> (Act No. 9, 2014) and Gaz S52, 1 July 2014)

Correctional Services (Related and Consequential Amendments) Act 2014 (Act No. 27, 2014)

Assent date	4 September 2014
Commenced	9 September 2014 (Gaz S80, 9 September 2014, p 2)

Local Court (Repeals and Related Amendments) Act 2016 (Act No. 9, 2016)

Assent date	6 April 2016
Commenced	1 April 2016 (Gaz S34, 29 April 2016)

Sentencing and Other Legislation Amendment Act 2022 (Act No. 28, 2022)

Assent date	9 December 2022
Commenced	25 March 2024 (Gaz S19, 22 March 2024)

Amending Legislation**Justice Legislation Amendment (Domestic and Family Violence) Act 2023 (Act No. 33, 2023)**

Assent date	6 December 2023
Commenced	25 March 2024 (Gaz S18, 22 March 2024)

Justice and Other Legislation Amendment Act 2024 (Act No. 4, 2024)

Assent date	14 March 2024
Commenced	pt 5, div 1: 30 October 2023 (s 2(2)); pt 3, div 2: 25 March 2024 (s 2(3), s 2 <i>Sentencing and Other Legislation Amendment Act 2022</i> (Act No. 28, 2022) and Gaz S19, 22 March 2024); pt 4: 25 March 2024 (s 2(4), s 2 <i>Criminal Justice Legislation Amendment (Sexual Offences) Act 2023</i> (Act No. 20, 2023) and Gaz S20, 22 March 2024); rem: 15 March 2024 (s 2(1))

Sentencing Amendment Regulations 2023 (No. 23, 2023)

Date made	30 November 2023
Commenced	1 December 2023 (r 2, s 2, <i>Sentencing Legislation Amendment Act 2023</i> (Act No. 11, 2023) and Gaz S81, 30 November 2023)

Justice and Other Legislation Further Amendment Act 2024 (Act No. 9, 2024)

Assent date	24 May 2024
Commenced	pt 4: 1 July 2024 (s 2(2)), s 2 <i>Health Care Decision Making Act 2023</i> (Act No. 19, 2023) and <i>Gaz G13, 20 June 2024</i> , p 2); pts 9 and 10: 1 July 2024 (s 2(3)); pt 8: nc; rem: 25 May 2024 (s 2(1))

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: rr 1, 3, 4 and 4A and Sch.

4 LIST OF AMENDMENTS

pt 1 hdg	ins Act No. 28, 2022, s 30
pt 2 hdg	ins Act No. 28, 2022, s 31
r 2	sub No. 53, 2011, r 42 amd Act No. 28, 2022, s 32
r 3	sub No. 21, 2006, r 3 amd Act No. 19, 2011, s 46; Act No. 17, 2013, s 178 sub Act No. 9, 2016, s 142
r 4	amd Act No. 17, 1997, s 18; No. 1, 2006, r 3; Act No. 27, 2014, s 57; Act No. 28, 2022, s 33
r 4A	ins No. 53, 2011, r 43 amd Act No. 27, 2014, s 57 rep Act No. 28, 2022, s 34
r 5	sub Act No. 28, 2022, s 34
rr 6 – 9	rep No. 1, 2006, r 4
r 10	amd Act No. 56, 2001, s 6 rep No. 53, 2011, r 44
r 11A	ins No. 9, 1997 rep No. 53, 2011, r 44
r 12A	ins No. 57, 1996, r 1
r 12B	ins No. 24, 2014, r 4
r 13	amd No. 23, 2014, r 4
pt 3 hdg	ins Act No. 28, 2022, s 35
rr 14 – 18	ins Act No. 28, 2022, s 35
pt 4 hdg	ins No. 23, 2023, r 4 rep Act No. 9, 2024, s 37
r 19	ins No. 23, 2023, r 4 rep Act No. 9, 2024, s 37
sch	amd No. 57, 1996, r 2; Act No. 17, 1997, s 18; No. 1, 2006, r 5; No. 23, 2014, r 5; No. 24, 2014, r 5; Act No. 9, 2016, s 143; Act No. 28, 2022, s 36