

NORTHERN TERRITORY OF AUSTRALIA

SENTENCING REGULATIONS

As in force at 1 May 1997

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 1997

SENTENCING REGULATIONS

Regulations under the *Sentencing Act*

1 Citation

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

2 Form of undertaking

For the purposes of the definition of ***undertaking*** in section 3(1) of the Act, the prescribed form is Form 1 in the Schedule.

3 Proper officer

In relation to:

- (a) the Local Court, a Registrar within the meaning of the *Local Court Act*; and
- (b) the Court of Summary Jurisdiction, a Clerk within the meaning of the *Justices Act*,

is a proper officer for the purposes of each provision of the Act in which the term is used.

4 Prescribed persons

- (1) For the purposes of sections 14(3)(b), 15(1), 22(3)(b) and 43(1) and (2) of the Act, each person who is a probation officer and an employee of the Agency responsible under the Minister for the administration of the *Prisons (Correctional Services) Act* is a prescribed person.
- (2) In addition to subregulation (1), for the purposes of sections 15(1) and 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.

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- (4) For the purposes of section 86(1) of the Act, the Chief Health Officer and the Director are prescribed persons.

5 Breach of order for release on bond

For the purposes of section 15 of the Act, the prescribed form is Form 2 in the Schedule.

6 Application for time to pay, instalment order or variation of instalment order

- (1) An application under section 21 of the Act shall be made by the offender by:

(a) attending, in person, during normal business hours at the court and making an oral application to the proper officer; or

(b) if the offender is:

(i) resident outside the Territory;

(ii) held in a prison or police prison; or

(iii) unable to attend personally because of illness, infirmity or distance from the court,

by sending a completed form in accordance with Form 3 in the Schedule, by post, to the proper officer.

7 Consideration of application

- (1) The proper officer shall consider an application under section 21 of the Act as soon as practicable.

- (2) In considering an application under section 21 of the Act, the proper officer may:

(a) question the offender about his or her financial circumstances; and

(b) require the offender to produce any document concerning his or her financial circumstances that is reasonably accessible to the offender.

- (3) The proper officer may:

(a) adjourn an application for a total period of not longer than one month from the day on which the application is considered by the proper officer; and

(b) stay execution of the fine during the adjournment.

8 Determination of application

- (1) An order made under section 21(a) of the Act for time to pay a fine shall include the date by which the fine is to be paid.
- (2) An instalment order or variation of an instalment order made under section 21(b) or (c) of the Act shall include:
 - (a) the total amount to be paid;
 - (b) the amount of each instalment; and
 - (c) the date by which each instalment shall be paid.
- (3) The proper officer shall cause a copy of the order to be delivered to the applicant personally or sent to the applicant by post without delay.

9 Prescribed amount

For the purposes of section 27(9)(b) of the Act, the prescribed amount is \$50.

10 Breach of community service order

For the purposes of section 39(1)(g) of the Act, an offender commits a breach of these Regulations if the offender fails to comply with regulations 6, 7, 8, 9, and 13 of the *Prisons (Correctional Services) (Community Service Orders) Regulations*.

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.

11A Breach of Home Detention Order

For the purposes of section 48(1)(g) of the Act, an offender commits a breach of these Regulations if the offender fails to comply with regulation 4 of the *Prisons (Correctional Services) (Home Detention Orders) Regulations*.

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.

13 Disposal of other pending charges

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

Schedule

FORM 1

regulation 2

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act

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 19 .

Offender

FORM 2

regulation 5

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act

APPLICATION FOR BREACH OF ORDER FOR RELEASE ON BOND –
SECTION 15(1) AND (2)

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

Dated 19 .

*Clerk of the Court
*Sheriff or Registrar

This application is being made by

of

TO:

of

SENTENCING ORDER

On / / you were *convicted/*found guilty but not convicted of the following offence(s):

You were released on the conditions that you would appear before the Court if called on and be of good behaviour during the period specified in the order and observe the special condition(s) imposed by the Court.

APPLICATION

I apply to the Court for an order under section 15 of the *Sentencing Act* that you be dealt with for failure to comply with the following condition(s) of the order:

Dated 19 .

Prescribed person

* Delete whichever is inapplicable.

FORM 3

regulation 6

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act

File No(s):

APPLICATION FOR :

TIME TO PAY FINE
INSTALMENT ORDER
VARIATION OF INSTALMENT ORDER

(name of court)
at (venue)

Name of Informant (informant's name in full)

Name of Offender (offender's name in full)

I, (applicant's name in full)
of (applicant's address)

on (date order made) was ordered to pay \$

I was was not in court when the order was made.

I have already paid \$ off the amount owing.

I apply for an order that I be allowed to pay off the total owing

in another (enter the period sought)

by regular instalments of \$ per

on the following grounds:

1. I earn \$ per
2. my weekly expenses are \$
3. I have not made any payment as ordered because:

Signature
Dated:

Application granted not granted

The amount of \$ to be paid by
at the rate of \$ per
First payment on

Clerk/Registrar
Date:

FORM 4

regulation 11

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act

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 19 .

*Clerk of the Court

*Sheriff or Registrar

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*.

*APPLICATION UNDER SECTION 43(1)

I apply under section 43(1) of the *Sentencing Act* to the Court for an order under section 43 of the *Sentencing Act* 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:

FORM 5

regulation 12

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act

CERTIFICATE AND REPORT OF CHIEF MEDICAL 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 19 .

Chief Health Officer

FORM 5A

regulation 12A

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act

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 19 .

*Clerk of the Court
*Sheriff or Registrar

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* that you be dealt with for a breach of the order made under section 80 of the *Sentencing Act*.

GROUNDS OF APPLICATION

Dated 19 .

Prescribed person

* Delete whichever is inapplicable.

FORM 6

regulation 13

NORTHERN TERRITORY OF AUSTRALIA
Sentencing Act
DISPOSAL OF OTHER PENDING CHARGES
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 alleged offences with which you are charged.
- (2) If you are convicted on the charge(s) 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 sentence that may be imposed on you by the Court for each offence of which you have in fact been convicted cannot exceed the maximum that might have been imposed for it if there had been no taking into account of other offences listed on the back.
- (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(s) 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 19 .

Prosecutor

Dated 19 .

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 19 .

Judge/Magistrate

PART C

Number	Place where offence committed	Date of offence	Description of offence (with particulars)

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 = <i>Gazette</i>	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	1 May 1997 (<i>Gaz</i> G17, 30 April 1997, p 2)

3**LIST OF AMENDMENTS**

r 4	amd Act No. 17, 1997, s 18
r 11A	ins No. 9, 1997
r 12A	ins No. 57, 1996, r 1
sch	amd No. 57, 1996, r 2; Act No. 17, 1997, s 18