

# **NORTHERN TERRITORY OF AUSTRALIA**

## **COMMUNITY WELFARE REGULATIONS**

As in force at 22 December 1999

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 22 December 1999

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## COMMUNITY WELFARE REGULATIONS

### Regulations under the *Community Welfare Act*

#### **1 Citation**

These Regulations may be cited as the *Community Welfare Regulations*.

#### **2 Commencement**

These Regulations shall come into operation on the commencement of the *Community Welfare Act 1983*.

#### **3 Forms**

In these Regulations a reference to a form by number is a reference to a form so numbered in the Schedule.

#### **4 Application for holding order in person or in writing**

An application under section 11A of the Act that is made in person or by facsimile, electronic mail or writing may be in accordance with Part A of Form 1.

#### **5 Written record of application for holding order**

The written record required under section 11A(4) of the Act to be kept of an application under section 11 or 15 of the Act that is made by telephone, radio, audiolink or other facility (other than by facsimile, electronic mail or in writing) may be kept in accordance with Part A of Form 2.

#### **5A Form of holding order**

- (1) An order under section 11A(2) of the Act may, if the application for the order was made in person, by facsimile, electronic mail or writing, be in accordance with Part B of Form 1.

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- (2) An order under section 11A(2) of the Act may, if the application for the order was made by telephone, radio or other facility (other than by facsimile, electronic mail or writing), be in accordance with Part B of Form 2.

**6 Application for order that child in need of care**

An application referred to in section 35(1) of the Act that a child be found to be in need of care shall be in accordance with Form 3.

**7 Warrant to bring parents, &c., before Court**

A warrant referred to in section 37(2) of the Act shall be in accordance with Form 4.

**8 Orders and directions**

An order or direction made or given under or referred to in sections 35(3), 39(3), 41, 43(4), 43(5), 44, 45, 46, 47, 48, 49(1), 49(3) or 61(1) of the Act shall be in accordance with Form 5.

**9 Application for variation of order under section 43**

An application under section 48(1) of the Act for a variation of an order under section 43 shall be in accordance with Form 6.

**10 Notice of proposed, review, &c., of order**

A notice under section 49(4) of the Act of a proposal to review, vary or revoke an order referred to in that section shall be in accordance with Form 7.

**11 Appeal against order to Supreme Court**

An appeal under section 50(1) of the Act to the Supreme Court shall be in accordance with Form 8.

**12 Application under part vi or section 60**

An application under Part VI or referred to in section 60(1) of the Act shall be in accordance with Form 9.

**13 Direction under section 60(1)**

A direction under section 60(1) of the Act shall be in accordance with Form 10.

**14 Application under section 61(1)**

An application referred to in section 61(1) shall be in accordance with Form 11.

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**15      Affidavit of service**

An affidavit of service of a document required or permitted by the Act to be served on a person shall be in accordance with Form 12.

**16      Agreement under section 79(1)**

An agreement referred to in section 79(1) shall be in accordance with Form 13.

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## Schedule

regulation 4 or 5A

### FORM 1

#### NORTHERN TERRITORY OF AUSTRALIA

#### *Community Welfare Act*

section 11 or 15

#### APPLICATION FOR HOLDING ORDER AND HOLDING ORDER

#### PART A – APPLICATION IN PERSON OR IN WRITING FOR HOLDING ORDER

I, [name], an authorised person/a delegate of the Minister/a member of the Police Force/a person in charge of a hospital\* state that [name and date of birth of child] of [address] is in need of care and that it is necessary for the adequate care of him/her\* that he/she\* be taken into custody. I therefore apply for a holding order on the following grounds:

Sworn before me [name] at [place] on this .... day of [month], [year].

.....  
Signature of person before whom oath taken\*\*

.....  
Signature of applicant\*\*

#### PART B

I, [name], a Magistrate/Registrar\* of the Local Court am/am not\* satisfied on the oath of the applicant that there are reasonable grounds for believing that the child is in need of care and that a holding order is required.

I have formed my opinion on the following grounds:

This application is made to me in person on this ..... day of [month] of [year].

#### ORDER

I make the following order/orders\* under section 11A of the *Community Welfare Act*.

---

An order authorising the holding of [*name of child*] in a place of safety for a period beginning on the day on which he/she\* was taken into custody or detained under section 11 or 15 of the Act, until:

- (a) the ..... day of [month] of [year] [ a day less than 14 days after this order begins]; or
- (b) 14 days after he/she\* was taken into custody or detained under section 11 or 15 of the Act.\*

Dated this..... day of [*month*] of [*year*]

.....  
Magistrate/Registrar\*

\* Delete where inapplicable

\*\* If application is made by a facility that cannot display a signature, fill in name instead.

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FORM 2

regulation 5 or 5A

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

section 11A

WRITTEN RECORD OF APPLICATION FOR HOLDING ORDER AND  
HOLDING ORDER

PART A – WRITTEN RECORD OF APPLICATION FOR HOLDING ORDER  
OTHER THAN IN PERSON OR WRITING

The applicant [*name*], an authorised person/a delegate of the Minister/a member of the Police Force/a person in charge of a hospital\* has stated, on an oath taken before [*name of person administering oath to applicant*] to me, [*name*], a Magistrate/Registrar of the Local Court \* today, this ..... day of [*month*] of [*year*] that [*name of child*] of [*address*], [*date of birth*] is in need of care and it is necessary for the adequate care of him/her\* that he/she\* be held in a place of safety.

The following information was provided to me by the applicant on oath:

PART B

I am/am not\* satisfied on the oath of the applicant that there are reasonable grounds for believing that the child is in need of care and that a holding order is required. I have formed my opinion on the following grounds:

This application is made to me by telephone, radio, facsimile/other facility\* on this ..... day of [*month*] of [*year*]

ORDER

I make the following order/orders\* under section 11A of the *Community Welfare Act*.

An order authorising the holding of [*name*] in a place of safety for a period beginning on the day on which he/she\* was taken into custody or detained under section 11 or 15 of the Act, until:

- (a) the ..... day of [*month*] of [*year*] [ a day less than 14 days after this order begins]; OR

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(b) 14 days after he/she\* was taken into custody or detained under section 11 or 15 of the Act.\*

Dated this..... day of [*month*] of [*year*]

.....  
Magistrate/Registrar\*

\* Delete where inapplicable

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FORM 3

regulation 6

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

section 35(1)

APPLICATION THAT CHILD BE FOUND IN NEED OF CARE

Applicant's name and address:

Child's name and address:

The applicant, .....,  
of .....,  
applies to the Family Matters Court at .....  
for an order that .....

*(name of child)*

be found to be in need of care.

*(Particulars of application)*

Dated this ..... day of ....., 19.....

.....  
Applicant

---

This application is to be heard on .....,  
the ..... day of ..... 19....., at  
..... o'clock in the ..... noon, at .....  
in the Northern Territory.

Dated this ..... day of ....., 19.....

.....  
Magistrate/Registrar\*

\*Delete where inapplicable

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FORM 4

regulation 7

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

section 37(2)

WARRANT

TO: .....,  
and each and all of the Constables and Peace Officers of the Northern Territory of Australia.

WHEREAS .....  
of .....  
having the custody of .....  
(*name of child*)  
was duly summoned to appear before the Family Matters Court sitting at ..... on ....., the ..... day of ..... 19....., at the hour of ..... o'clock, and did fail, without reasonable excuse, to attend the hearing/remain in attendance at the hearing\*.

You are therefore hereby commanded to apprehend the said ..... and bring him/her\* before me, the undersigned, a Magistrate/Registrar\* for the Northern Territory of Australia at ..... forthwith, or on ....., the ..... day of ..... 19....., at the hour of ..... o'clock in the ..... noon, to appear in this matter.

Dated this ..... day of ....., 19.....  
in the said Territory.

.....  
Magistrate/Registrar\*

\*Delete where inapplicable.

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FORM 5

regulation 8

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

section 35(3), 39(3), 41(1), 43(4), 43(5), 44,  
45, 46, 47, 48, 49(1), 49(3) or 61(1)

ORDER/DIRECTION

Name of child:

On the ..... day of ..... 19 .....,  
.....,  
sitting in the Family Matters Court at .....  
made the following order/direction:

Dated this ..... day of ....., 19.....

.....  
Magistrate/Registrar\*

\*Delete where inapplicable

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FORM 6

regulation 9

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

section 48(1)

APPLICATION FOR VARIATION/FURTHER VARIATION OF ORDER MADE  
UNDER SECTION 43

Applicant's name and address:    Child's name and address:

The applicant, .....,  
of .....,  
being .....,  
applies for the variation/further variation\* of an order made pursuant to  
section 43 of the *Community Welfare Act*.

The circumstances that resulted in the making of the order have changed  
significantly since the order sought to be varied was made, as follows:

Dated this ..... day of ....., 19.....

.....  
Applicant

---

This application is to be heard on ....., the ..... day of  
..... 19....., at ..... o'clock in the ..... noon,  
at ..... in the Northern Territory.

Dated this ..... day of ....., 19.....

.....  
Magistrate/Registrar\*

\*Delete where inapplicable.

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FORM 7

regulation 10

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

section 49(4)

NOTICE OF PROPOSED REVIEW OF ORDER

Name and address of child:

On the ..... day of ..... 19..... the Court made the following order:

A review of the said order is to take place at the ..... Court on ....., the ..... day of ....., 19....., at ..... o'clock in the ..... noon, by the Court, and you are invited/requested\* to be present.

Dated this ..... day of ....., 19.....

.....  
Magistrate/Registrar\*

\*Delete where inapplicable.

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FORM 8

regulation 11

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

section 50(1)

NOTICE OF APPEAL

Applicant's name and address:    Name and address of child:

In the matter of an order made on the ..... day of ..... 19.....  
by the Family Matters Court at ..... in the  
Northern Territory of Australia, as follows:

Take notice that .....  
of .....  
intends to institute and duly prosecute an appeal and hereby appeals to the  
Supreme Court of the Northern Territory of Australia against the said order  
made.

And take notice that the appellant intends to institute and duly prosecute the  
appeal at the next available sittings of the said Supreme Court.

And take notice that the grounds of such appeal are:

Dated this ..... day of ....., 19.....

.....  
Appellant

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FORM 9

regulation 12

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

Part VI or section 60

APPLICATION FOR DIRECTIONS

Applicant's name and address:    Child's name and address:

The applicant, .....,  
of .....,  
being .....,  
applies for an order directing the Minister, in relation to the exercise of his  
duties under an order made pursuant to section 43(4) of the  
*Community Welfare Act*, as follows:

Dated this ..... day of ....., 19.....

.....  
Applicant

---

This application is to be heard on .....,  
the ..... day of ..... 19....., at ..... o'clock  
in the ..... noon, at ..... in the Northern Territory.

Dated this ..... day of ....., 19.....

.....  
Magistrate/Registrar\*

\*Delete where inapplicable

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FORM 10

regulation 13

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

section 60(1)

DIRECTION TO MINISTER

Pursuant to section 60 of the *Community Welfare Act* the Court ..... on  
its own motion/on the application of \*.....,  
being .....,  
makes the following direction:

Dated this ..... day of ....., 19.....

.....  
Magistrate/Registrar\*

\*Delete where inapplicable.

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FORM 11

regulation 14

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

section 61(1)

APPLICATION BY MINISTER FOR ORDER EMPOWERING PUBLIC  
TRUSTEE TO MANAGE, CONTROL OR DEAL WITH PROPERTY OF CHILD

Applicant's name and address:    Child's name and address:

The applicant, .....,  
of .....,  
being .....,  
applies for an order, pursuant to section 61(1) of the *Community Welfare Act*,  
empowering the Public Trustee of the Northern Territory to manage, control or  
deal with the property of the above child. Particulars of the application are as  
follows:

.....  
Applicant

---

This application is to be heard on ....., the  
..... day of ....., 19....., at ..... o'clock in the  
..... noon, at ..... in the Northern Territory.

Dated this ..... day of ....., 19.....

.....  
Magistrate/Registrar\*

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FORM 12

regulation 15

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

AFFIDAVIT OF SERVICE

I, .....,  
of .....,  
being duly sworn, make oath and say as follows:

I did, on ..... 19....., duly serve  
.....  
with a copy of the .....  
annexed hereto and marked with the letter "A".

*(Here give details of service)*

Sworn before me                    )  
at .....                            )  
the ..... day                    )  
of ..... 19.....)

.....  
Signature of Deponent

.....  
Justice of the Peace/Commissioner for Oaths\*

\*Delete where inapplicable

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FORM 13

regulation 16

NORTHERN TERRITORY OF AUSTRALIA

*Community Welfare Act*

section 79(1)

AGREEMENT

I/We\*, .....,  
(full name of parents, guardian or custodian of child)

being the father/mother/guardian(s)/custodian(s)\* of

.....  
(full name of child)

request the licensee of .....  
(name of children's home)

to accept custody of the said child for a period of .....  
days/months/years\* and, knowing the conditions of admission to the children's  
home, do hereby agree:

To observe and abide by all the rules or regulations applying to the conduct,  
control and management of the children's home where the child is placed.

To authorize the licensee to consent to the performance of any medical,  
surgical or dental procedures or treatment that in the opinion of the licensee  
may be required to safeguard the welfare of the child.

To maintain regular contact with the child and the licensee in regard to the  
continuing progress and development of the child and my/our\* family situation.

To provide the licensee with details of my/our\* normal address and contact  
arrangements for emergency purposes, including a telephone number if  
available, and to notify the licensee promptly of any change of those details.

To give at least twenty-four hours notice to the licensee prior to removing the  
child from the children's home.

I/We\* understand the terms of this agreement and that, where the child  
remains in a licensed children's home for a period of twelve months or more  
and I/We\* fail to maintain substantial contact with the child during that time,  
the child shall, in accordance with section 81 of the *Community Welfare Act*,

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be deemed to be abandoned, and he/she\* may be, as a result, the subject of an application to the Family Matters Court of the Northern Territory.

Dated this ..... day of ....., 19.....

Signature: .....

.....

Witness: .....

\*Delete where inapplicable.

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## ENDNOTES

### 1

#### KEY

Key to abbreviations

amd = amended  
app = appendix  
bl = by-law  
ch = Chapter  
cl = clause  
div = Division  
exp = expires/expired  
f = forms  
Gaz = Gazette  
hdg = heading  
ins = inserted  
lt = long title  
nc = not commenced

od = order  
om = omitted  
pt = Part  
r = regulation/rule  
rem = remainder  
renum = renumbered  
rep = repealed  
s = section  
sch = Schedule  
sdiv = Subdivision  
SL = Subordinate Legislation  
sub = substituted

### 2

#### LIST OF LEGISLATION

##### ***Community Welfare Regulations (Act No. 15, 1984)***

Notified	30 March 1984
Commenced	20 April 1984 (s 2, s 2 <i>Community Welfare Act 1983</i> (No. 76, 1983) and <i>Gaz S14</i> , 30 March 1984)

##### ***Amendments of Community Welfare Regulations (Act No. 40, 1999)***

Notified	22 December 1999
Commenced	22 December 1999 (r 2, s 2 <i>Community Welfare Amendment Act 1999</i> (Act No. 6, 1999) and <i>Gaz G50</i> , 22 December 1999, p 4)

### 3

#### LIST OF AMENDMENTS

rr 4 – 5	sub No. 40, 1999, r 3
r 5A	ins No. 40, 1999, r 3
r 8	amd No. 40, 1999, r 4
sch	amd No. 40, 1999, r 5