

NORTHERN TERRITORY OF AUSTRALIA

VOLATILE SUBSTANCE ABUSE PREVENTION REGULATIONS

As in force at 22 February 2010

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 22 February 2010

VOLATILE SUBSTANCE ABUSE PREVENTION REGULATIONS

Regulations under the *Volatile Substance Abuse Prevention Act*

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Volatile Substance Abuse Prevention Regulations*.

2 Commencement

These Regulations come into operation on the commencement of the *Volatile Substance Abuse Prevention Act*.

3 Definitions

In these Regulations:

apprehended child means a child taken to a police station under section 22(3) of the Act to be held in protective custody.

approved carer, see regulation 9.

emergency response plan, see regulation 10.

local board means a local board established under section 49 of the *Local Government Act*.

4 Forms

A reference in these Regulations to a form by number is a reference to the form of that number in the Schedule.

Part 2 Preventing inhalation and protecting health and safety

Division 1 Records of searches, seizures and apprehensions

5 Application of Division

This Division applies to the keeping of records of actions taken under Part 2, Division 2 or 3 of the Act, as required by section 12 of the Act.

6 Records of search and seizure

- (1) The records of actions in relation to a person referred to in section 13(1) of the Act must include the following information:
 - (a) a brief description of the actions;
 - (b) if the actions are taken by a police officer – the officer's name, rank and number;
 - (c) if the actions are taken by an authorised person – the authorised person's name;
 - (d) the date, time and place of the actions;
 - (e) the age (or approximate age) of the person;
 - (f) the gender of the person;
 - (g) the details of any volatile substance given to or seized by the police officer or authorised person.
- (2) The records may include other information relevant to the actions.

7 Records of apprehension

- (1) The records of actions in relation to an apprehended person must include the following information:
 - (a) a brief description of the actions;
 - (b) if the actions are taken by a police officer – the officer's name, rank and number;
 - (c) if the actions are taken by an authorised person – the authorised person's name;
 - (d) the date, time and place of the apprehension;

- (e) the name (if given) and age (or approximate age) of the apprehended person;
 - (f) the gender of the apprehended person;
 - (g) if the apprehended person is released under section 21(1)(a) of the Act into the care of a person (the **carer**) at a place of safety – the name of the carer and the address of the place;
 - (h) if the apprehended person is released under section 21(1)(b) of the Act into a responsible adult's care – the name, address and other relevant particulars of the responsible adult;
 - (i) if section 21(2) of the Act applies – whether a parent or guardian of the apprehended person has been informed and, if not, the efforts made to inform a parent or guardian;
 - (j) if the apprehended person is released under section 22(2) of the Act – the time and place of the release;
 - (k) if section 22(4) of the Act applies – whether a parent or guardian of the apprehended person has been informed and, if not, the efforts made to inform a parent or guardian.
- (2) The records may include other information relevant to the actions.

Division 2 Holding apprehended child in police cell

8 When apprehended child may be held in police cell

- (1) For section 24 of the Act, an apprehended child may be held in protective custody inside a cell at a police station only if all of the following circumstances apply:
- (a) the police station is in a council area;
 - (b) the apprehended child resides in the council area;
 - (c) a member of the community council for the council area has been consulted by the responsible officer for the apprehended child and has approved the child being held inside a cell at the police station;
 - (d) the apprehended child is under the direct care and supervision of an approved carer while being held inside the cell;
 - (e) there is an emergency response plan for the police station in relation to an apprehended child being held in a cell.

- (2) If the apprehended child resides in a part of the council area for which there is a local board, the reference in subregulation (1)(c) to a member of the community council includes a reference to a member of the local board.

9 Approved carer

- (1) For regulation 8(1)(d), an **approved carer** for a police station in a council area is a person approved by:
- (a) the community council for the council area; and
 - (b) the police officers stationed at the police station.
- (2) A person who is an approved carer must:
- (a) be a fit and proper person to care for and supervise an apprehended child; and
 - (b) have the necessary knowledge or qualifications required to care for an apprehended child; and
 - (c) have the ability to take action under an emergency response plan if required to do so.

10 Emergency response plan

For regulation 8(1)(e), an **emergency response plan** for a police station in a council area is a plan of the actions to be taken by a responsible officer and an approved carer at the police station if there is a medical, psychological or other type of emergency affecting an apprehended child.

Part 3 Treatment warrants

11 Form of application for treatment warrant

For section 41A(2) of the Act, an application for a treatment warrant must be in accordance with Form 1.

12 Making application for treatment warrant by telephone

For section 41A(3)(b) of the Act, a person who applies to a magistrate by telephone for a treatment warrant must do so by telephoning the Registry at the office of the Local Court nearest to the person.

13 Form of treatment warrant

For section 41B(2) of the Act, a treatment warrant must be in accordance with Form 2.

14 Issuing treatment warrant on application by telephone

- (1) If a magistrate issues a treatment warrant on application made by telephone:
 - (a) the magistrate must complete and sign the warrant (the **original warrant**), inform the applicant for the warrant by telephone of its terms, and record on the original warrant the reasons for issuing it; and
 - (b) the applicant for the warrant must:
 - (i) complete 2 copies of a form of treatment warrant in the terms provided by the magistrate; and
 - (ii) write on each copy the name of the magistrate and the date and time of issue of the original warrant; and
 - (iii) forward one copy to the magistrate.
- (2) On receiving the copy, the magistrate must:
 - (a) compare it with the original warrant; and
 - (b) if the copy is in substance identical to the original warrant, the copy has the same authority as the original warrant.

Schedule

regulation 4

FORM 1

regulation 11

NORTHERN TERRITORY OF AUSTRALIA

Volatile Substance Abuse Prevention Act

section 41A(2)

APPLICATION FOR TREATMENT WARRANT

I, (*name*) ,
*an assessor *an authorised officer *the Chief Health Officer *a delegate of
the Chief Health Officer *a legal practitioner, apply for a treatment warrant in
relation to the person at risk specified in paragraph (a), and *say on oath
*do solemnly, sincerely and truly affirm the following:

- (a) on (*date*) the Court made a treatment order in
relation to (*name*)(the **person at risk**);
- (b) the treatment order will be in force until (*date*) ;
- (c) a true copy of the treatment order is attached to this application;
- (d) I believe the person at risk has not participated in the following
component(s) of the treatment program in accordance with the
treatment order:

- (e) I formed the belief mentioned in paragraph (d) on the following
grounds:

SWORN/AFFIRMED before me:

at:

on:

Magistrate

* *Delete if not applicable*

FORM 2

regulation 13

NORTHERN TERRITORY OF AUSTRALIA

Volatile Substance Abuse Prevention Act

section 41B(2)

TREATMENT WARRANT

TO: AN AUTHORISED OFFICER

I, , a magistrate,
am satisfied by *information on oath given by *a declaration made by
(*name*) on (*date*) , that:

- (1) a treatment order is in force in relation to (*name*)
..... (the **person at risk**); and
- (2) the person at risk has failed to participate in the following component(s)
of the treatment program in accordance with the treatment order:

You are authorised to do the following, using reasonable force and, if necessary, reasonable assistance:

- (a) enter, at any reasonable time, a place where you reasonably believe the person at risk may be found;
- (b) search the place in order to find the person;
- (c) remain at the place for as long as you consider reasonably necessary to find the person;
- (d) if the person is found – apprehend the person and take the person to the following place to participate in the following component of the treatment program:

This warrant remains in force for the lesser of the following periods:

- 30 days after the day on which it is issued;
- until the treatment order ceases to be in force.

You must produce this warrant (or a copy of the warrant) to a person at the place where the warrant is executed.

Dated:

Magistrate

** Delete if not applicable*

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***Volatile Substance Abuse Prevention Regulations (SL No. 7, 2006)***

Notified	9 February 2006
Commenced	9 February 2006 (r 2, s 2 <i>Volatile Substance Abuse Prevention Act 2005</i> (Act No. 22, 2005) and Gaz S2, 9 February 2006)

Volatile Substance Abuse Prevention Amendment Regulations 2009 (SL No. 37, 2009)

Notified	14 December 2009
Commenced	22 February 2010 (r 2, s 2 <i>Volatile Substance Abuse Prevention Amendment Act 2009</i> (Act No. 37, 2009) and (Gaz G7, 17 February 2010, p 2)

3 LIST OF AMENDMENT

r 3	sub No. 37, 2009, r 4
pt 2	
div 2 hdg	sub No. 37, 2009, r 5
rr 8 – 10	sub No. 37, 2009, r 5
pt 3 hdg	sub No. 37, 2009, r 6
rr 11 – 14	sub No. 37, 2009, r 6
sch	amd No. 37, 2009, r 7