

NORTHERN TERRITORY OF AUSTRALIA

SENTENCING REGULATIONS

As in force at 1 July 2011

Table of provisions

| | | |
|-----|---|---|
| 1 | Citation | 1 |
| 2 | Form of undertaking | 1 |
| 3 | Proper officer | 1 |
| 4 | Prescribed persons..... | 1 |
| 5 | Breach of order for release on bond | 2 |
| 10 | Breach of Community Work Order..... | 2 |
| 11 | Breach of order suspending sentence | 2 |
| 11A | Breach of Home Detention Order | 2 |
| 12 | Hospital orders | 2 |
| 12A | Breach of hospital order | 2 |
| 13 | Disposal of other pending charges | 2 |

Schedule

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 July 2011

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

The proper officer, for each provision of the Act in which the term is used, is the following officer:

- (a) for the Local Court – a Registrar within the meaning of the *Local Court Act*;
- (b) for the Court of Summary Jurisdiction – a Clerk within the meaning of the *Justices Act*;
- (c) for the SMART Court – a Registrar of the Court mentioned in section 9 of the *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act*.

4 Prescribed persons

- (1) For the purposes of sections 14(3)(b), 15(1), 42(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.

10 Breach of Community Work 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 Work 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.

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 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:

*APPLICATION UNDER SECTION 43(2)

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

GROUPS OF APPLICATION

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

Dated 19 .

Prescribed person

* Delete whichever is inapplicable.

FORM 5

regulation 12

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act

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 19 .

Chief Health Officer

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.

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- (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 (<i>with particulars</i>) |
|--------|-------------------------------|-----------------|--|
|--------|-------------------------------|-----------------|--|

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 | 1 May 1997 (Gaz 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 (Gaz G23, 8 June 2011, p 6) |

3 LIST OF AMENDMENTS

| | |
|----------|---|
| r 3 | sub No. 21, 2006, r 3 amd Act No. 19, 2011, s 46 |
| r 4 | amd Act No. 17, 1997, s 18; No. 1, 2006, r 3 |
| rr 6 – 9 | rep No. 1, 2006, r 4 |
| r 10 | amd Act No. 56, 2001, s 6 |
| 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; No. 1, 2006, r 5 |