

NORTHERN TERRITORY OF AUSTRALIA

ADVANCE PERSONAL PLANNING REGULATIONS

As in force at 1 January 2016

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 January 2016

ADVANCE PERSONAL PLANNING REGULATIONS

Regulations under the *Advance Personal Planning Act*

1 Citation

These Regulations may be cited as the *Advance Personal Planning Regulations*.

2 Requirements for advance personal plan

- (1) For section 9(2)(b) of the Act, an advance personal plan made by an adult must contain the information required by this regulation.
- (2) The advance personal plan must contain the adult's:
 - (a) full name; and
 - (b) date of birth; and
 - (c) residential address.
- (3) If the advance personal plan appoints one or more decision makers, it must contain each decision maker's:
 - (a) full name; and
 - (b) residential address; and
 - (c) phone number (if any); and
 - (d) email address (if any).

3 Authorised witnesses

- (1) For section 10(5)(b) of the Act, each of the following is an authorised witness:
 - (a) an accountant;
 - (b) the chief executive officer of a local government council;

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- (c) a health practitioner;
 - (d) a social worker;
 - (e) the principal of a Northern Territory school.

(2) In this regulation:

accountant means one of the following:

- (a) a member of the Institute of Chartered Accountants in Australia who holds a current Certificate of Public Practice issued by the Institute;
- (b) a member of the CPA Australia who holds a current Public Practice Certificate in accordance with the by-laws of CPA Australia;
- (ba) a member of the Institute of Public Accountants ACN 004 130 643 who holds a current Certificate of Professional Practice issued by the Institute;
- (c) a person who holds a current Public Practising Certificate issued by the Association of Taxation and Management Accountants;
- (d) a registered tax agent;
- (e) a person registered as an auditor under the Corporations Act 2001.

health practitioner, see section 5 of the Health Practitioner Regulation National Law.

principal, see section 5 of the *Education Act*.

social worker means a person who is eligible for full membership of the Australian Association of Social Workers.

4 Restricted health matters

- (1) For section 25(2)(d), each of the following is restricted health care action:
 - (a) special medical research or experimental health care;
 - (b) new health care of a kind that is not yet accepted as evidence-based, best practice health care by a substantial number of health care providers specialising in the relevant area of health care;

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- (c) electroconvulsive therapy;
 - (d) any treatment that involves the use of an aversive stimulus, whether mechanical, chemical, physical or otherwise.
- (2) In this regulation ***special medical research or experimental health care*** means medical research or experimental health care:
- (a) relating to a condition the adult has or to which the adult has a significant risk of being exposed; or
 - (b) intended to gain knowledge that can be used in the diagnosis, maintenance or treatment of a condition the adult has or has had.
- (3) However, psychological research or approved clinical research is not special medical research or experimental health care.

5 Record keeping requirements

- (1) For section 30(1)(b) of the Act, a decision maker must, at all times while the decision maker has authority to exercise financial management powers for the adult, keep complete and up-to-date records of the adult's assets and liabilities.
- (2) The records must include:
 - (a) sufficient information to identify each of the adult's assets and liabilities; and
 - (b) for each asset and liability, information related to:
 - (i) all dealings and transactions with the asset or liability; and
 - (ii) the condition and management of the asset or liability; and
 - (c) any other information reasonably necessary to demonstrate that the adult's property and financial affairs are being managed in accordance with the Act.

6 Advance Personal Planning (Part 4A) Register

For section 55C of the Act, the Registrar-General may register a certified copy of the part of an advance personal plan that authorises a decision maker to enter into a dealing in relation to land.

7 Notices

A notice mentioned in section 55C(1)(c) or (d) of the Act must be:

- (a) in a form approved by the Registrar-General; or
- (b) if the Registrar-General has not approved a form, in writing.

8 Recognised interstate documents

- (1) For the definition ***corresponding law*** in section 88(6) of the Act, each law listed in the Schedule is a corresponding law.
- (2) For the definition ***recognised interstate document*** in section 88(6) of the Act, each document listed in the Schedule in respect of a corresponding law is a recognised interstate document.

9 Exercise of rights and powers under recognised interstate documents

For section 88(5) of the Act, a person appointed by a recognised interstate document to make decisions for the maker of the document cannot make a decision of a kind that a decision maker is prohibited from making by section 24 or 25 of the Act.

10 Certified copies of advance personal plans

- (1) A document purporting to be a copy of an advance personal plan is taken to be a true copy of the plan if it is certified in accordance with this regulation.
- (2) The last page of the document must be certified to the effect that the document is a true and complete copy of the original advance personal plan.
- (3) Each other page must be certified to the effect that it is a true and complete copy of the corresponding page of the original advance personal plan.
- (4) Certification must be made by one of the following:
 - (a) the adult who made the plan;
 - (b) a commissioner for oaths;
 - (c) a justice of the peace;
 - (d) a public notary within the meaning of the *Public Notaries Act*.

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- (5) A document purporting to be a copy of a certified copy of an advance personal plan is also taken to be a true copy of the plan if the document is certified under this regulation.

Schedule Recognition of interstate documents

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Jurisdiction	Corresponding law	Recognised interstate document
Australian Capital Territory	<i>Medical Treatment (Health Directions) Act 2006</i>	Health direction
	<i>Powers of Attorney Act 2006</i>	Enduring power of attorney
New South Wales	<i>Guardianship Act 1987</i>	Appointment of enduring guardian
	<i>Powers of Attorney Act 2003</i>	Enduring power of attorney
Queensland	<i>Powers of Attorney Act 1998</i>	Advance health directive
		Enduring power of attorney
South Australia	<i>Advance Care Directives Act 2013</i>	Advance care directive
	<i>Consent to Medical Treatment and Palliative Care Act 1995</i>	Anticipatory direction
		Medical power of attorney
	<i>Guardianship and Administration Act 1993</i>	Instrument appointing enduring guardian
Tasmania	<i>Powers of Attorney and Agency Act 1984</i>	Enduring power of attorney
	<i>Guardianship and Administration Act 1995</i>	Appointment of enduring guardian
	<i>Powers of Attorney Act 2000</i>	Enduring power of attorney

Victoria	<i>Guardianship and Administration Act 1986</i>	Appointment of enduring guardian
	<i>Instruments Act 1958</i>	Enduring power of attorney
	<i>Medical Treatment Act 1988</i>	Enduring power of attorney (medical treatment)
		Refusal of treatment certificate
Western Australia	<i>Guardianship and Administration Act 1990</i>	Enduring power of attorney
		Enduring power of guardianship
		Advance Health Directives

ENDNOTES

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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

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LIST OF LEGISLATION

***Advance Personal Planning Regulations*(SL No. 4, 2014)**

Notified	17 March 2014
Commenced	17 March 2014

***Statute Law Revision Act 2014* (Act No. 38, 2014)**

Assent date	13 November 2014
Commenced	13 November 2014

***Education Act 2015* (Act No. 28, 2015)**

Assent date	10 December 2015
Commenced	pt 6, divs 2 and 4 and pt 7: 1 April 2016; pt 3: 1 July 2016; rem: 1 January 2016 (s 2)

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LIST OF AMENDMENTS

r 3	amd Act No. 38, 2014, s 2; Act No. 28, 2015, s 195
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