

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