

**NORTHERN TERRITORY OF AUSTRALIA**

**SENTENCING REGULATIONS**

As in force at 1 July 2014

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 2014

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## SENTENCING REGULATIONS

### Regulations under the *Sentencing Act*

#### 1 Citation

These Regulations may be cited as the *Sentencing Regulations*.

#### 2 Prescribed program and undertaking

- (1) For the definition ***prescribed program*** in section 3(1) of the Act, each of the following is a prescribed program for a community based order or community custody order:
  - (a) an alcohol or other drug treatment program;
  - (b) an education or training program in driving;
  - (c) any other education or training program;
  - (d) treatment or counselling addressing personal factors.
- (2) For the definition ***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*.

#### 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.

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- (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.
  - (4) For the purposes of section 86(1) of the Act, the Chief Health Officer and the Director are prescribed persons.

**4A Requirement to comply with *Prisons (Correctional Services) (Community Orders) Regulations***

For sections 39(1)(g), 39E(1)(f)(i), 48E(1)(h)(i) and 48(1)(g) of the Act, an offender subject to a community work order, community based order, community custody order or home detention order must comply with the *Prisons (Correctional Services) (Community Orders) Regulations*.

**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.

**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.

**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.

**12B Certificate for victims of identity crime**

For section 97AB of the Act, the prescribed form is Form 5B in the Schedule.

**13 Other alleged offences taken into account**

For the purposes of section 107 of the Act, the prescribed form is Form 6 in the Schedule.

**Schedule**

FORM 1

regulation 2

NORTHERN TERRITORY OF AUSTRALIA

*Sentencing Act*

UNDERTAKING

WHEREAS, I (full name and address of offender) was before the Court in respect of the following offence/s:

NOW I give the following undertaking:

Dated

Offender

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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 .

\*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

Prescribed person

\* Delete whichever is inapplicable.

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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

\*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

Prescribed person

\* Delete whichever is inapplicable.



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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

Chief Health Officer

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FORM 5A

regulation 12A

NORTHERN TERRITORY OF AUSTRALIA

*Sentencing Act*

APPLICATION FOR ORDER FOR BREACH OF HOSPITAL ORDER –  
SECTION 86(1) AND (2)

This application will be dealt with by (name of court) at (venue) at (time) on  
(date)

Dated

\*Clerk of the Court  
\*Sheriff or Registrar

This application is being made by

of

TO:

of

HOSPITAL ORDER

On / / you were found guilty of the following offence(s):

and the Court pursuant to section 80:

\* sentenced you to and ordered that you be admitted to and  
detained in a hospital to enable you to be diagnosed, assessed and treated  
for a period, not exceeding 3 months, as determined by the Chief Health  
Officer.

\* instead of sentencing you, ordered that you be admitted to and  
detained in a hospital to enable you to be diagnosed, assessed and treated  
for the period of .

\* sentenced you to and ordered that you be admitted to and  
detained in a hospital to enable you to be treated for the period of .

The order was subject to the following condition(s):

APPLICATION

I apply to the Court for an order under section 86 of the *Sentencing Act* that you be dealt with for a breach of the order made under section 80 of the *Sentencing Act*.

GROUNDS OF APPLICATION

Dated

Prescribed person

\* Delete whichever is inapplicable.

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FORM 5B

regulation 12B

NORTHERN TERRITORY OF AUSTRALIA

*Sentencing Act*

CERTIFICATE FOR VICTIM OF IDENTITY CRIME

Name of Judge/Magistrate:

Place where certificate is being issued:

Full name or business  
name of victim:

Current address:

Date of birth or ABN:

Details of how identification information relating to the victim was used to  
commit an offence against section 228C, 228D or 228E of the Criminal Code:

Any other relevant information:

In issuing this certificate, I have had regard to section 97AB of the Act.

Dated

Judge/Magistrate

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FORM 6

regulation 13

NORTHERN TERRITORY OF AUSTRALIA

*Sentencing Act*

OTHER ALLEDGED OFFENCES THAT MAY BE TAKEN INTO ACCOUNT

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 offences you are alleged to have committed, but in respect of which you have not been found guilty.
- (2) If you are convicted on a charge 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 Court may not impose a sentence on you in respect of a charge set out above in excess of the maximum penalty for the offence with which you are charged.
- (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 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

Prosecutor/police officer

Dated

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

Judge/Magistrate

PART C

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Number	Place where offence committed	Date of offence	Description of offence ( <i>with particulars</i> )
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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**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)

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**Prisons (Correctional Services) (Community Orders) Regulations (SL No. 53, 2011)**

Notified 20 December 2011  
 Commenced 27 February 2012 (r 2, s 2 *Justice (Corrections) and Other Legislation Amendment Act 2011* (Act No. 24, 2011) and Gaz S9, 21 February 2012)

**Alcohol Mandatory Treatment Act 2013 (Act No. 17, 2013)**

Assent date 28 June 2013  
 Commenced 1 July 2013 (s 2)

**Sentencing Amendment Regulations 2014 (No. 23, 2014)**

Notified 1 July 2014  
 Commenced 1 July 2014 (r 2, s 2, *Justice and Other Legislation Amendment Act* (No. 11, 2014) and Gaz S54, 1 July 2014)

**Sentencing Amendment (Identity Crime) Regulations 2014 (No. 24, 2014)**

Notified 1 July 2014  
 Commenced 1 July 2014 (r 2, s 2 *Criminal Code Amendment (Identity Crime) Act 2014* (Act No. 9, 2014) and Gaz S52, 1 July 2014)

**3 LIST OF AMENDMENTS**

r 2 sub No. 53, 2011, r 42  
 r 3 sub No. 21, 2006, r 3  
 amd Act No. 19, 2011, s 46; Act No. 17, 2013, s 178  
 r 4 amd Act No. 17, 1997, s 18; No. 1, 2006, r 3  
 4A ins No. 53, 2011, r 43  
 rr 6 – 9 rep No. 1, 2006, r 4  
 r 10 amd Act No. 56, 2001, s 6  
 rep No. 53, 2011, r 44  
 r 11A ins No. 9, 1997  
 rep No. 53, 2011, r 44  
 r 12A ins No. 57, 1996, r 1  
 r 12B ins No. 24, 2014, r 4  
 r 13 amd No. 23, 2014, r 4  
 sch amd No. 57, 1996, r 2; Act No. 17, 1997, s 18; No. 1, 2006, r 5; No. 23, 2014, r 5; No. 24, 2014, r 5