NORTHERN TERRITORY OF AUSTRALIA

COMMUNITY WELFARE REGULATIONS

As in force at 31 March 2004

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 31 March 2004

COMMUNITY WELFARE REGULATIONS

Regulations under the *Community Welfare Act*

1 Citation

These Regulations may be cited as the *Community Welfare Regulations*.

2 Commencement

These Regulations shall come into operation on the commencement of the *Community Welfare Act 1983*.

3 Forms

In these Regulations a reference to a form by number is a reference to a form so numbered in the Schedule.

4 Application for holding order in person or in writing

An application under section 11A of the Act that is made in person or by facsimile, electronic mail or writing may be in accordance with Part A of Form 1.

5 Written record of application for holding order

The written record required under section 11A(4) of the Act to be kept of an application under section 11 or 15 of the Act that is made by telephone, radio, audiolink or other facility (other than by facsimile, electronic mail or in writing) may be kept in accordance with Part A of Form 2.

5A Form of holding order

 An order under section 11A(2) of the Act may, if the application for the order was made in person, by facsimile, electronic mail or writing, be in accordance with Part B of Form 1. (2) An order under section 11A(2) of the Act may, if the application for the order was made by telephone, radio or other facility (other than by facsimile, electronic mail or writing), be in accordance with Part B of Form 2.

6 Application for order that child in need of care

An application referred to in section 35(1) of the Act that a child be found to be in need of care shall be in accordance with Form 3.

7 Warrant to bring parents, &c., before Court

A warrant referred to in section 37(2) of the Act shall be in accordance with Form 4.

8 Orders and directions

An order or direction made or given by the Family Matters Court under Part VI, VII or VIIA of the Act shall be in accordance with Form 5.

9 Application for variation of order under section 43

An application under section 48(1) of the Act for a variation of an order under section 43 shall be in accordance with Form 6.

10 Notice of proposed, review, &c., of order

A notice under section 49(4) of the Act of a proposal to review, vary or revoke an order referred to in that section shall be in accordance with Form 7.

11 Appeal against order to Supreme Court

An appeal under section 50(1) of the Act to the Supreme Court shall be in accordance with Form 8.

12 Application under part vi or section 60

An application under Part VI or referred to in section 60(1) of the Act shall be in accordance with Form 9.

12A Warrants under section 50C of Act

(1) An application under section 50C of the Act for a warrant to apprehend and return a child who is out of the Territory without the Minister's consent must be in accordance with Form 9A.

(2) A warrant referred to in subregulation (1) that is issued to an officer of a police force of a State or another Territory, to the Sheriff or a Sheriff's officer of a State or another Territory or to a member or special member of the Australian Federal Police must be in accordance with Form 9B.

13 Direction under section 60(1)

A direction under section 60(1) of the Act shall be in accordance with Form 10.

14 Application under section 61(1)

An application referred to in section 61(1) shall be in accordance with Form 11.

14A Form of consent to transfer of home order

A person who consents, or refuses to consent, to the transfer of a home order under section 62E of the Act must do so in a form that is in accordance with Form 11A.

14B Notice of Minister's decision to transfer home order to State

Notice under section 62F of the Act of the Minister's decision to transfer a home order to a State must be in accordance with Form 11B.

14C Application for review of decision to transfer home order

An application under section 62G of the Act for review of the Minister's decision to transfer a home order must be in accordance with Form 11C.

14D Application under section 62H or 62M of Act to transfer home order or child protection proceeding from Territory

An application to the Family Matters Court under section 62H or 62M of the Act must be in accordance with Form 11D.

14E Application under section 62W of Act to register interstate order or proceeding transferred to Territory

A copy of an interstate order filed for registration under section 62W of the Act must be accompanied by an application in accordance with Form 11E.

14F Application for revocation of registration of interstate order

An application to the Family Matters Court under section 62Y of the Act for the revocation of the registration of an interstate order must be in accordance with Form 11F.

14G Notification of registration of interstate order transferred to Territory

Notification by a Clerk under section 62Z(1) of the Act of the registration of an interstate order must be in accordance with Form 11G.

14H Notification of revocation of registration of interstate order

Notification by a Clerk under section 62Z(2) of the Act of the revocation of the registration of an interstate order must be in accordance with Form 11H.

15 Affidavit of service

An affidavit of service of a document required or permitted by the Act to be served on a person shall be in accordance with Form 12.

16 Agreement under section 79(1)

An agreement referred to in section 79(1) shall be in accordance with Form 13.

17 Filing of applications

An application under the Act must be filed in the Registry of the Court by filing the application and a copy of it for each party to the application.

Schedule

regulation 4 or 5A

FORM 1

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 11 or 15

APPLICATION FOR HOLDING ORDER AND HOLDING ORDER

PART A – APPLICATION IN PERSON OR IN WRITING FOR HOLDING ORDER

I, [*name*], an authorised person/a delegate of the Minister/a member of the Police Force/a person in charge of a hospital* state that [*name and date of birth of child*] of [*address*] is in need of care and that it is necessary for the adequate care of him/her* that he/she* be taken into custody. I therefore apply for a holding order on the following grounds:

Sworn before me [name] at [place] on this day of [month], [year].

Signature of person before whom oath taken** Signature of applicant**

PART B

I, [*name*], a Magistrate/Registrar* of the Local Court am/am not* satisfied on the oath of the applicant that there are reasonable grounds for believing that the child is in need of care and that a holding order is required.

I have formed my opinion on the following grounds:

This application is made to me in person on this day of [month] of [year].

ORDER

I make the following order/orders* under section 11A of the *Community Welfare Act*:

An order authorising the holding of [*name of child*] in a place of safety for a period beginning on the day on which he/she* was taken into custody or detained under section 11 or 15 of the Act, until:

- (a) the day of [month] of [year] [a day less than 14 days after this order begins]; or
- (b) 14 days after he/she* was taken into custody or detained under section 11 or 15 of the Act.*

Dated this..... day of [month] of [year]

- * Delete where inapplicable
- ** If application is made by a facility that cannot display a signature, fill in name instead.

regulation 5 or 5A

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 11A

WRITTEN RECORD OF APPLICATION FOR HOLDING ORDER AND HOLDING ORDER

PART A – WRITTEN RECORD OF APPLICATION FOR HOLDING ORDER OTHER THAN IN PERSON OR WRITING

The applicant [*name*], an authorised person/a delegate of the Minister/a member of the Police Force/a person in charge of a hospital* has stated, on an oath taken before [*name of person administering oath to applicant*] to me, [*name*], a Magistrate/Registrar of the Local Court * today, this day of [*month*] of [*year*] that [*name of child*] of [*address*], [*date of birth*] is in need of care and it is necessary for the adequate care of him/her* that he/she* be held in a place of safety.

The following information was provided to me by the applicant on oath:

PART B

I am/am not* satisfied on the oath of the applicant that there are reasonable grounds for believing that the child is in need of care and that a holding order is required. I have formed my opinion on the following grounds:

This application is made to me by telephone, radio, facsimile/other facility* on this day of [month] of [year]

ORDER

I make the following order/orders* under section 11A of the *Community Welfare Act*:

An order authorising the holding of [*name*] in a place of safety for a period beginning on the day on which he/she* was taken into custody or detained under section 11 or 15 of the Act, until:

(a) the day of [month] of [year] [a day less than 14 days after this order begins]; OR

(b) 14 days after he/she* was taken into custody or detained under section 11 or 15 of the Act.*

Dated this..... day of [month] of [year]

regulation 6

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 35(1)

APPLICATION THAT CHILD BE FOUND IN NEED OF CARE

Applicant's name and address:	Child's name and address:
The applicant,	,
of	,
applies to the Family Matters Court at	
for an order that	
(name of ch	nild

be found to be in need of care.

(Particulars of application)

Dated this, 19.....

Applicant

This application is to be heard on, the day of 19....., at o'clock in the noon, at in the Northern Territory.

Dated this, 19.....

Magistrate/Registrar*

regulation 7

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 37(2)

WARRANT

TO: and each and all of the Constables and Peace Officers of the Northern Territory of Australia.

WHEREAS, of, having the custody of,

(name of child)

Dated this, 19....., 19.....

Magistrate/Registrar*

regulation 8

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 35(3), 39(3), 41(1), 43(4), 43(5), 44, 45, 46, 47, 48, 49(1), 49(3) or 61(1)

ORDER/DIRECTION

Name of child:

On the	day of	
	·	
		,
sitting in the Family Matters C	ourt at	
made the following order/dired	ction:	

Dated this, 19.....

..... Magistrate/Registrar*

regulation 9

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 48(1)

APPLICATION FOR VARIATION/FURTHER VARIATION OF ORDER MADE UNDER SECTION 43

Applicant's name and address: Child's name and address:

The	ар	plica	ant,								,
of.											,
being	g										,
appli	ies	for	the	variation/further	variation*	of	an	order	made	pursuant	to
secti	on	43 o	of the	Community We	lfare Act.						

The circumstances that resulted in the making of the order have changed significantly since the order sought to be varied was made, as follows:

Dated this, 19.....

Applicant

Dated this, 19.....

Magistrate/Registrar*

regulation 10

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 49(4)

NOTICE OF PROPOSED REVIEW OF ORDER

Name and address of child:

On the the Court made the following order:

A review of the said order is to take place at the Court on, the day of, 19....., at o'clock in the noon, by the Court, and you are invited/requested* to be present.

Dated this, 19.....

Magistrate/Registrar*

regulation 11

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 50(1)

NOTICE OF APPEAL

Applicant's name and address: Name and address of child:

In the matter of an order made on the day of 19...... by the Family Matters Court at in the Northern Territory of Australia, as follows:

Take notice that of intends to institute and duly prosecute an appeal and hereby appeals to the Supreme Court of the Northern Territory of Australia against the said order made.

And take notice that the appellant intends to institute and duly prosecute the appeal at the next available sittings of the said Supreme Court.

And take notice that the grounds of such appeal are:

Dated this, 19......

Appellant

regulation 12

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

Part VI or section 60

APPLICATION FOR DIRECTIONS

Applicant's name and address: Child's name and address:

The applicant,, of,
being, applies for an order directing the Minister, in relation to the exercise of his duties under an order made pursuant to section 43(4) of the <i>Community Welfare Act</i> , as follows:
Dated this, 19 day of
Applicant
This application is to be heard on, the day of 19, at o'clock in the noon, at
Dated this, 19 day of

..... Magistrate/Registrar*

FORM 9A

regulation 12A(1)

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 50C APPLICATION FOR WARRANT TO APPREHEND AND RETURN CHILD WHO IS OUT OF TERRITORY WITHOUT MINISTER'S CONSENT

FAMILY MATTERS COURT AT

MINISTER FOR FAMILY AND COMMUNITY SERVICES

Applicant

AND

(Name of child)

(DOB)

Protected Child

I, [*name*], the Minister for Family and Community Services/the delegate of the Minister for Family and Community Services*, state that [*name and DOB of child*] of [*address*] under a child protection order dated [*date*] is outside the Territory without my consent. I therefore apply for a warrant to apprehend and return the child to the Territory. (particulars of application)

Sworn before me [name] at [place] at [place]

Signature of person before whom oath taken:

Signature of applicant:

Dated

20.

Magistrate/Registrar*

FORM 9B

regulation 12A(2)

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 50C

INTERSTATE WARRANT

TO:, an officer of the police force of [*State or Territory*] of Australia/the Sheriff or a Sheriff's officer of [*State or Territory*]/a member or special member of the Australian Federal Police*.

WHEREAS The Minister for Family and Community Services of the Northern Territory of Australia, having the guardianship, custody or supervision of

[Child's name and DOB]

under a Child Protection Order dated

You are therefore commanded to apprehend the saidand return him/her* to the care of the Minister for Family and Community Services of the Northern Territory of Australia or a delegate of the Minister.

Dated in the Territory.

20

Magistrate/Registrar*

regulation 13

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 60(1)

DIRECTION TO MINISTER

Pursuant to section 60 of the Community Welfare Act the Court on
its own motion/on the application of *,
being,
makes the following direction:

Dated this, 19.....

Magistrate/Registrar*

regulation 14

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 61(1)

APPLICATION BY MINISTER FOR ORDER EMPOWERING PUBLIC TRUSTEE TO MANAGE, CONTROL OR DEAL WITH PROPERTY OF CHILD

Applicant's name and address: Child's name and address:

The applicant,
of,
being
applies for an order, pursuant to section 61(1) of the Community Welfare Act,
empowering the Public Trustee of the Northern Territory to manage, control of
deal with the property of the above child. Particulars of the application are as
ollows:

Applicant

This	application	is	to	be	heard	on			,	the
	d	lay (of				19,	at	. o'clock in	the
noon, at in the Northern Territory.										

Dated this, 19......

Magistrate/Registrar*

FORM 11A

regulation 14A

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 62E

CONSENT/REFUSAL TO CONSENT* TO TRANSFER HOME ORDER

Name and address of child:

I, [*name of parent or person who has access to the child under the home order*], consent/do not consent* to the transfer of the following order:

[Details of order]

I have been informed of the effect of consenting to the transfer and of the effect of refusing to consent to the transfer, including the Minister's right to apply to the Court for an order for the transfer of the home order, the right of review under section 62G of the *Community Welfare Act* and the right of appeal to the Supreme Court under section 62S of that Act.

(signature)		(print name)
Date:	20 .	
Witnessed by		
(signature)		(print name)
Date:	20 .	
*Delete where inapplicable		

FORM 11B

regulation 14B

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 62F

NOTICE OF MINISTER'S DECISION TO TRANSFER HOME ORDER INTERSTATE UNDER PART VIIA

[name of person to whom notice is being given]

You are hereby advised that, in accordance with Part VIIA of *the Community Welfare Act*, the Minister for Family and Community Services has made the decision to transfer the following home order:

which applies to: [Name, DOB and address of child]

to: [State/Territory/New Zealand]

Under section 62G of the *Community Welfare Act* you may apply, within 10 working days after the date of the notice, to the Family Matters Court for review of the Minister's decision to transfer the home order. Under section 62S of the *Community Welfare Act* there is also a right of appeal to the Supreme Court.

Signed:

Dated

20 .

FORM 11C

regulation 14C

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 62G

APPLICATION FOR REVIEW OF DECISION TO TRANSFER HOME ORDER

FAMILY MATTERS COURT AT

[person given notice under section 62F]

Applicant

AND

MINISTER FOR FAMILY AND COMMUNITY SERVICES

Respondent

The applicant.	,of,
••	, applies for the review of the Minister's
0	ng home order, dated [date], to
[State/Territory/New Zealand] made	pursuant to section 62C of the
Community Welfare Act.	

Details of Order: [Child's Name and DOB, Details of transfer]

Dated

20.

Applicant

This application is to be heard on, at, at, am/pm*, at, in the Northern Territory.

Dated

20.

..... Magistrate/Registrar*

FORM 11D

regulation 14D

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 62H or 62M

APPLICATION TO FAMILY MATTERS COURT FOR TRANSFER OF ORDER/PROCEEDING*

FAMILY MATTERS COURT AT

THE MINISTER FOR FAMILY AND COMMUNITY SERVICES

Applicant

AND

(name of child)

(DOB)

Protected Child

I, [*name*], the Minister for Family and Community Services/the delegate of the Minister for Family and Community Services^{*}, state that [*name and date of birth of child*] of [*address*] is under a child protection order dated [*date*].

The circumstances have changed since the order/proceedings sought to be transferred was commenced. See attached Court Report at Attachment A/Court Report to be provided prior to Hearing [*State Particulars*]*.

I therefore apply for the order/proceeding* to be transferred to [*State/Territory/New Zealand*], pursuant to section 62H/62M* of the *Community Welfare Act*.

I hereby state that I am entitled to make the application pursuant to section 62H/62M* of the *Community Welfare Act* and that the interstate officer of [*State/Territory/New Zealand*] has consented to the transfer. See Attachment B.

If the Court makes an order for the transfer of the proceeding pursuant to section 62Q, I apply for the following interim order pursuant to section 62R*:

Sworn before me	[name]	at	[place]	on	[date]
Signature of person b	before whom o	ath taken		ure of A	

Dated 20.

This application pursuant to section 62R is to be heard on at am/pm*, at in the Northern Territory.*

Dated

20.

..... Magistrate/Registrar*

*Delete where inapplicable

Attachment A: Court Report Attachment B: Interstate Officer's Consent

FORM 11E

regulation 14E

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 62W

APPLICATION TO REGISTER INTERSTATE ORDER/PROCEEDING* TRANSFERRED TO TERRITORY

I, [*name*], the Minister for Family and Community Services/the delegate of the Minister for Family and Community Services*, hereby file a copy of the interstate order in the Family Matters Court for registration of an interstate order/proceeding* transferred to the Northern Territory of Australia pursuant to section 62W of the *Community Welfare Act*.

A copy of the transferred order/proceeding* for [*child's name, DOB*] is attached. This order/proceeding* is current and is not subject or liable to be subject to appeal, review or stay.

Pursuant to section 62W of *Community Welfare Act*, application is made for registration of the transferred order as an order under section 43(5)(a), (b), (c) or (d)*/Part VI* of that Act.*

OR

Pursuant to section 62W of the *Community Welfare Act*, application is made for registration of the transferred proceeding as a proceeding under Part VI of that Act.*

Dated

20.

Applicant

FORM 11F

regulation 14F

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 62Y

APPLICATION FOR REVOCATION OF REGISTRATION OF INTERSTATE ORDER/PROCEEDING* TRANSFERRED TO TERRITORY

FAMILY MATTERS COURT AT

Applicant

AND

Respondent

The applicant,, of...., being, pursuant to section 62Y of the *Community Welfare Act*, applies for the revocation of the registration in the Territory of the following interstate order:

[child's name, address, DOB/Details of Order/Date of registration in the Territory] [attach interstate order]

Dated

20 .

Applicant

This application is to be heard on in the Northern Territory.

Dated 20.

Magistrate/Registrar*

FORM 11G

regulation 14G

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 62Z(1)

NOTICE OF REGISTRATION OF INTERSTATE ORDER/PROCEEDING* TRANSFERRED TO TERRITORY

Name, DOB and address of child:

The attached transferred order was registered in the Family Matters Court and may be dealt with under the *Community Welfare Act* or any other law of the Territory as if it were an order under section 43(5)(a), (b), (c) or (d)/Part VI* of the *Community Welfare Act*. [attach copy of transferred order]

OR

The attached transferred proceeding was registered in the Family Matters Court as a proceeding under Part VI of the *Community Welfare Act* that is commenced in the Family Matters Court on this day of registration.* [attach documents files in Family Matters Court in relation to transferred proceeding]

Dated

20.

Clerk of the Family Matters Court

FORM 11H

regulation 14H

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 62Z(2)

NOTICE OF REVOCATION OF REGISTRATION OF INTERSTATE ORDER/PROCEEDING* TRANSFERRED TO TERRITORY

To: [Court in State/Territory/New Zealand]

Name, DOB and address of child:

The following interstate order was registered in the Family Matters Court of the Northern Territory on [*date*]. This registration was revoked pursuant to section 62Y of the *Community Welfare Act* on [*date*].

Details of Order:

All documents filed in the Family Matters Court of the Northern Territory in relation to the registration of the interstate order are being returned pursuant to section 62Z(2)(b) of the *Community Welfare Act*.

Dated

20.

Clerk of the Family Matters Court

regulation 15

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

AFFIDAVIT OF SERVICE

I,	,
of	
being duly sworn, make oath and say as follows:	,

I	did,	on		19,	duly	serve
			of the			
annexed hereto and marked with the letter "A".						

(Here give details of service)

Sworn before me)
at)
the day)
of 19)

Signature of Deponent

Justice of the Peace/Commissioner for Oaths*

regulation 16

NORTHERN TERRITORY OF AUSTRALIA

Community Welfare Act

section 79(1)

AGREEMENT

I/We*,, (full name of parents, guardian or custodian of child)

being the father/mother/guardian(s)/custodian(s)* of (full name of child)

to accept custody of the said child for a period ofdays/months/years* and, knowing the conditions of admission to the children's home, do hereby agree:

To observe and abide by all the rules or regulations applying to the conduct, control and management of the children's home where the child is placed.

To authorize the licensee to consent to the performance of any medical, surgical or dental procedures or treatment that in the opinion of the licensee may be required to safeguard the welfare of the child.

To maintain regular contact with the child and the licensee in regard to the continuing progress and development of the child and my/our* family situation.

To provide the licensee with details of my/our* normal address and contact arrangements for emergency purposes, including a telephone number if available, and to notify the licensee promptly of any change of those details.

To give at least twenty-four hours notice to the licensee prior to removing the child from the children's home.

I/We* understand the terms of this agreement and that, where the child remains in a licensed children's home for a period of twelve months or more and I/We* fail to maintain substantial contact with the child during that time, the child shall, in accordance with section 81 of the *Community Welfare Act*,

be deemed to be abandoned, and he/she* may be, as a result, the subject of an application to the Family Matters Court of the Northern Territory.

Dated this, 19.....

Signature:

.....

Witness:

1

ENDNOTES

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
It = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION

KEY

Community Welfare Regulations (Act No. 15, 1984)Notified30 March 1984

Notified Commenced

30 March 1984 20 April 1984 (s 2, s 2 *Community Welfare Act 1983* (No. 76, 1983) and *Gaz* S14, 30 March 1984)

Amendments of Community Welfare Regulations (Act No. 40, 1999)

Notified Commenced

3

22 December 1999 22 December 1999 (r 2, s 2 *Community Welfare Amendment Act 1999* (Act No. 6, 1999) and *Gaz* G50, 22 December 1999, p 4)

Amendments of Community Welfare Regulations (Act No. 8, 2004)

Notified	31 March 2004
Commenced	31 March 2004

LIST OF AMENDMENTS

r 4	sub No. 40, 1999, r 3
r 5	sub No. 40, 1999, r 3
r 5A	ins No. 40, 1999, r 3
r 8	amd No. 40, 1999, r 4; No. 8, 2004, r 2
r 12A	ins No. 8, 2004, r 3
r 14A – 14H	ins No. 8, 2004, r 4
r 17	ins No. 8, 2004, r 5
sch	amd No. 40, 1999, r 5; No. 8, 2004, r 6