

# NORTHERN TERRITORY OF AUSTRALIA

## CARE AND PROTECTION OF CHILDREN (SCREENING) REGULATIONS

As in force at 18 July 2016

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 18 July 2016

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## CARE AND PROTECTION OF CHILDREN (SCREENING) REGULATIONS

### Regulations under the *Care and Protection of Children Act*

#### Part 1 Preliminary matters

##### 1 Citation

These Regulations may be cited as the *Care and Protection of Children (Screening) Regulations*.

##### 2 Definitions

In these Regulations:

***candidate***, for a clearance application, means the individual to whom the application relates.

***certified copy*** means a copy of an original document that has been certified as a true copy of the original by a qualified person who has signed and written his or her full name and qualification on the copy.

***clearance application*** means an application under section 188 of the Act for the issue of a clearance notice.

***disqualifying offence***, see regulation 7(2).

***qualified person*** means a person specified in Schedule 1.

#### Part 2 Matters relating to child-related employment

##### 3 Child-related work

For section 185(2)(q) of the Act, child-related work includes any work that involves or may potentially involve contact with children in connection with any of the following services or activities:

- (a) sports coaching or sports lessons for children;

- (b) accommodation services for children in private residential premises.

*Examples for regulation 3*

- 1 *Swimming lessons.*
- 2 *Billeting foreign exchange students.*

#### **4 Limitation on work by non-resident volunteers**

For section 186(c)(iii) of the Act, the limit is 14 days (whether or not consecutive) in a 12 month period.

#### **5 Exempt individuals**

For section 186(d) of the Act, an individual is exempt if:

- (a) the individual is engaged:
  - (i) to provide child minding services but does not provide the services as part of a commercial enterprise; or
  - (ii) as an emergency carer under a placement arrangement made under section 77 of the Act; or
  - (iii) to provide or assist with provision of equipment, catering services or a venue in connection with entertainment or party services provided or arranged for children, but in doing so will have no contact with children; or
  - (iv) to provide accommodation for a child in the individual's private residential premises for not more than 7 consecutive days; and
- (b) the individual is not otherwise engaged in child-related employment.

### **Part 3 Clearance notices**

#### **6 Proof of identity for clearance application**

- (1) A clearance application for a candidate who is at least 18 years of age must be accompanied by identification documents in relation to the candidate that:
  - (a) have a total value of at least 100 points; and
  - (b) include at least one primary document.

- (2) A clearance application for a candidate who is less than 18 years of age must be accompanied by one of the following:
- (a) a primary document in relation to the candidate;
  - (b) an original statutory declaration confirming the candidate's identity that:
    - (i) is in the approved form; and
    - (ii) has a photograph of the candidate attached; and
    - (iii) is made no more than 3 months before the date of the clearance application by the principal (however described) of an Australian educational facility at which the candidate is enrolled.
- (3) Despite subregulations (1) and (2), the Authority may accept a clearance application that is not accompanied by the documents mentioned in those subregulations if it considers it appropriate to do so.
- (4) An identification document has the value specified in Schedule 2 opposite the description of the document.
- (5) In this regulation:

**identification document** means:

- (a) a primary document; or
- (b) a document specified in Schedule 2, item 3 or 4.

**primary document** means a document specified in Schedule 2, item 1 or 2.

## **7 Disqualifying offences**

- (1) For section 189(1) of the Act, each disqualifying offence is prescribed.
- (2) A **disqualifying offence** is:
- (a) an offence against a provision of an Act or Act of the Commonwealth specified in Schedule 3, subject to any qualification relating to the provision specified opposite the provision; or
  - (b) an offence of counselling or procuring the commission of an offence mentioned in paragraph (a); or

- (c) an offence of attempting, or of conspiracy or incitement, to commit an offence mentioned in paragraph (a); or
- (d) an offence that has, as an element, intention to commit an offence mentioned in paragraph (a); or
- (e) an offence committed before the commencement of a provision of an Act or Act of the Commonwealth mentioned in paragraph (a) that would, if committed after that commencement, have constituted an offence mentioned in paragraph (a); or
- (f) an offence under a law of a State, other Territory or foreign country that, if it had been committed in the Territory, would have constituted an offence mentioned in paragraphs (a) to (e).

## **8 Change of circumstances**

For section 193(1) of the Act, each of the following changes in the circumstances of an individual holding a clearance notice are prescribed:

- (a) the individual is charged with a disqualifying offence;
- (b) the individual attends a court proceeding in relation to a disqualifying offence for which the individual has been charged;
- (c) the individual is convicted of a disqualifying offence.

## **9 Issue of replacement clearance notice**

- (1) This regulation applies if a clearance notice is damaged, destroyed or lost.
- (2) The Authority may issue a replacement clearance notice on application by the individual to whom the clearance notice was issued.
- (3) The application must be made while the clearance notice is in force and must be:
  - (a) in the approved form; and
  - (b) if the clearance notice is damaged – accompanied by the clearance notice.

**10            Fees**

- (1) A person who makes an application specified in Schedule 4 must pay the fee specified opposite the application.
- (2) The Authority may, wholly or partly, waive or refund a fee payable or paid under these Regulations if it considers it appropriate to do so.

**Part 4            Screening Authority**

**11            Term of appointment**

A member of the Authority is appointed for 5 years and is eligible for re-appointment.

**12            Vacation of office**

A member of the Authority vacates his or her office if:

- (a) the member resigns the office in writing given to the Minister;  
or
- (b) the appointment of the member is terminated by the Minister;  
or
- (c) the member dies.

**13            Meetings**

- (1) The Authority must meet as often as is necessary for the exercise of its powers and the performance of its functions.
- (2) If the Authority has more than one member, at a meeting of the Authority:
  - (a) 2 members constitute a quorum; and
  - (b) the members present must elect a member to preside at the meeting; and
  - (c) a question arising must be decided by a majority of the votes of the members present and voting and, in the event of an equality of votes, the member presiding at the meeting has a casting vote.
- (3) The Authority must keep proper minutes of its proceedings and decisions.

- (4) Subject to the Act and this Part, the Authority may decide its own procedures.

#### **14 Delegation**

- (1) The Authority may delegate to a person any of its powers or functions.
- (2) However, the Authority may do so only if satisfied the person has the appropriate qualifications or experience.
- (3) A delegation under subregulation (1) must be in writing signed by:
  - (a) if the Authority has only one member – the member; or
  - (b) otherwise – 2 members.

#### **15 Disclosure of interest**

- (1) A member of the Authority who has a direct or indirect interest in a matter to be considered by the Authority must disclose the interest to the Authority.
- (2) The disclosure must be recorded in the Authority's minutes.
- (3) The member:
  - (a) must not take part in any deliberation or decision of the Authority about the matter; and
  - (b) must be disregarded for the purposes of constituting the quorum of the Authority for the deliberation or decision.
- (4) The Authority may decide subregulation (3) does not apply to the matter.
- (5) However, the decision mentioned in subregulation (4) must be deliberated and voted on in the absence of the member.



## **Schedule 1 Qualified persons**

regulation 2, definition ***qualified person***

Justice of the peace

Legal practitioner

A judge or magistrate appointed to an Australian court

Commissioner for Oaths

Notary public

Police officer

Member of the police force of a State or another Territory who is of or above the rank of sergeant

Member of the police force of a State or another Territory who is the highest ranking member at the police station at which he or she serves

A public sector employee employed at a Territory Business Centre

Medical practitioner

Chief executive officer or member of a local government council

Principal (however described) of an Australian educational facility

General Manager, Schools Manager or Branch Head of the Agency responsible for administering the *Education Act*

Area Service Manager or Health Centre Manager of the Agency responsible for administering Part 3.1 of the Act

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## Schedule 2 Identification documents

regulation 6(4) and (5)

Item	Document	Value (Points)
1	The original or a certified copy of:	
	(a) any of the following documents that are in force and contain a photograph of the candidate:	
	(i) an Australian passport or other passport containing an Australian visa that is in force;	70
	(ii) another document evidencing entitlement to Australian residency;	70
	(iii) a licence or permit issued under a law of the Commonwealth or a State or Territory that specifies the candidate's date of birth;	40
	(iv) a proof of age card issued by a State or Territory;	40
	(v) an identity document issued by an Aboriginal Land Council established by or under the <i>Aboriginal Land Rights (Northern Territory) Act 1976</i> (Cth); or	40
	(b) any of the following documents:	
	(i) a birth certificate;	70
	(ii) an Australian citizenship certificate or notice of Australian citizenship.	70
2	An original statutory declaration confirming the candidate's identity that:	40
	(a) is in the approved form; and	
	(b) has a photograph of the candidate attached; and	
	(c) is made no more than 3 months before the date of the clearance application by a person who:	
	(i) is an Australian resident; and	

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- (ii) is not related to the candidate; and
  - (iii) has known the candidate for at least 12 months.
- 3 The original or a certified copy of any of the following documents that are in force:
- (a) an employee identification card issued by the Commonwealth, a State or Territory or a local government council that contains a photograph of the candidate; 40
  - (b) a clearance notice; 40
  - (c) an identity document issued by the Commonwealth or Territory as evidence of entitlement to a financial benefit (including, for example, Medicare card and health care card); 25
  - (d) a credit or debit card or financial institution passbook (one per institution); 25
  - (e) a residential lease that specifies the candidate's name and current residential address; 25
  - (f) a driver's licence issued by a foreign government. 25
- 4 The original or a certified copy of any of the following documents that specify the candidate's name and current residential address and were issued no more than 3 months before the date of the clearance application:
- (a) a council rates notice; 25
  - (b) a utilities notice (one per utility); 25
  - (c) a document issued by financial institution (one per institution). 25
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## Schedule 3 Disqualifying offences

regulation 7(2)(a)

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### 1 Criminal Code

Provision of Act	Qualification
Sections 125E, 127 and 128	
Section 130	If the victim is a child
Section 131A	
Sections 134, 156, 192 and 192B	If the victim is a child
Section 194	If the person kidnapped is a child
Sections 195 and 202B	If the victim is a child
Section 202C	If the business involves the sexual servitude of a child
Section 202D	If the victim is a child

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### 2 *Misuse of Drugs Act*

Provision of Act	Qualification
Section 5B(1)	

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### 3 *Criminal Code (Cth)*

Provision of Act	Qualification
Sections 268.8 to 268.68 and 268.70 to 268.101	
Section 270.6(1)	If the victim is a child
Section 270.6(2)	If the business involves the sexual servitude of a child
Section 270.7	If the victim is a child

Sections 271.4, 271.7, 272.8 to 272.14, 272.19, 273.5, 273.6, 309.2 to 309.4, 309.7, 309.8, 309.10 to 309.15, 471.16, 471.17, 471.19, 471.20, 471.24, 474.19, 474.20, 474.22, 474.23, 474.25A, 474.25B and 474.26

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**4 Customs Act 1901 (Cth)**

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<b>Provision of Act</b>	<b>Qualification</b>
Section 233BAB	If the tier 2 goods were items of child pornography or child abuse material

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**Schedule 4 Fees**

regulation 10(1)

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<b>Item</b>	<b>Application</b>	<b>Fee (Revenue units)</b>
1	Application for a clearance notice:	
	(a) if the clearance notice is required by the candidate for voluntary work only	5
	(b) otherwise	50
2	Application under regulation 9(1) for a replacement clearance notice:	
	(a) if the clearance notice is required by the candidate for voluntary work only	5
	(b) otherwise	20

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**ENDNOTES**
**1****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**

**2****LIST OF LEGISLATION*****Care and Protection of Children (Screening) Regulations (SL No. 20, 2010)***

Notified	1 September 2010
Commenced	1 September 2010

***Local Government Amendment Act 2014 (Act No. 19, 2014)***

Assent date	2 June 2014
Commenced	s 16: 1 July 2014; s 18: 1 December 2014; rem: 2 June 2014, (s 2)

***Justice Legislation Amendment (Drug Offences) Act 2016 (Act No. 17, 2016)***

Assent date	8 June 2016
Commenced	s 17 (to ext ins new s 15): 10 October 2016; rem: 18 July 2016 (Gaz S67, 18 July 2016)

**3****LIST OF AMENDMENTS**

sch 1 – 2	amd Act No. 19, 2014, s 26
sch 3	amd Act No. 17, 2016, s 46