

NORTHERN TERRITORY OF AUSTRALIA

CHILD PROTECTION (OFFENDER REPORTING AND REGISTRATION) REGULATIONS

As in force at 28 July 2016

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CHILD PROTECTION (OFFENDER REPORTING AND REGISTRATION) REGULATIONS

Regulations under the *Child Protection (Offender Reporting and Registration) Act*

1 Citation

These Regulations may be cited as the *Child Protection (Offender Reporting and Registration) Regulations*.

2 Commencement

These Regulations come into operation on the commencement of section 14 of the *Child Protection (Offender Reporting and Registration) Act*.

3 Interpretation

(1) In these Regulations:

business hours means between 8 am and 4 pm, Monday to Friday (except public holidays).

support person, in relation to a reportable offender, means:

- (a) a person nominated by the reportable offender for this regulation; or
- (b) if no such person is nominated:
 - (i) a parent, guardian, decision maker (as defined in section 3 of the *Advance Personal Planning Act*) or carer of the reportable offender; or
 - (ii) a public authority that provides support, or supervises the provision of support, to the reportable offender.

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- (2) For these Regulations, a reportable offender has a special need if he or she:
- (a) has impaired intellectual functioning as follows:
 - (i) total or partial loss of the person's mental functions;
 - (ii) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction;
 - (iii) a disorder, illness or disease that affects the person's thought processes, perceptions of reality, emotions or judgment, or that results in disturbed behaviour; or
 - (b) is subject to a guardianship order under the *Guardianship of Adults Act* or the *Guardianship of Infants Act*; or
 - (c) is illiterate, or is not literate in the English language; or
 - (d) is visually impaired to the extent that the person is unable to read a written notice; or
 - (e) is subject to some other condition that may prevent the person from being able to understand a written notice.

4 Supervising authorities

- (1) The Chief Executive Officer (within the meaning of the *Public Sector Employment and Management Act*) of the Agency responsible for mental health is the authority having control of a reportable offender who is subject to a custodial supervision order under Part IIA of the Criminal Code.
- (2) The Commissioner of Correctional Services is the authority having control of a reportable offender:
 - (a) in respect of whom a court has made an offender reporting order under section 13(1) of the Act;
 - (b) who is a child and in respect of whom a court has made an offender reporting order under section 13(2) of the Act;
 - (c) who has been sentenced by a court, whether before, on or after the commencement date, to a supervised sentence;
 - (d) who has been sentenced by a court, whether before, on or after the commencement date, to a term of government custody; or

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- (e) who has been sentenced by a court, whether before, on or after the commencement date, and who is not in government custody or under a supervised sentence but is on parole or under a suspended sentence.
- (3) The Commissioner is the authority having control of a reportable offender entering the Territory who has not reported in the Territory.

5 Corresponding Acts

For paragraph (b) of the definition of **corresponding Act** in section 3 of the Act, the following are corresponding Acts:

- (a) *Child Protection (Offenders Registration) Act 2000* (NSW);
- (b) *Child Protection (Offender Reporting) Act 2004* (Qld);
- (c) *Community Protection (Offender Reporting) Act 2004* (WA);
- (d) *Sex Offenders Registration Act 2004* (Vic);
- (e) *Community Protection (Offender Reporting) Act 2005* (Tas);
- (f) *Crimes (Child Sex Offenders) Act 2005* (ACT);
- (g) *Child Sex Offenders Registration Act 2006* (SA).

6 Persons required to report under corresponding Act

For section 17(3) of the Act, a person may make contact by telephoning (08) 8922 1560 at any time.

6A Circumstances in which travel within Territory need not be reported

For section 20(4) of the Act, travel within the Territory need not be reported under section 20(1A) of the Act if either or both of the following circumstances apply:

- (a) the reportable offender travels less than 200 km from his or her place of residence;
- (b) the reportable offender is absent from his or her place or residence for less than 14 consecutive days.

7 Change of travel plans

A reportable offender may make a report under section 21 of the Act in any of the following manners:

- (a) by telephoning (08) 8922 1560 at any time;

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- (b) by facsimile transmission to (08) 8922 3229 (from within Australia) or 61 8 8922 3229 (from outside Australia);
 - (c) by email to ancor@pfes.nt.gov.au;
 - (d) by post to:

NT Child Protection Offender Registrar
Criminal Intelligence Section
PO Box 39764
Winnellie NT (Australia) 0821.

8 Documents to verify identity

- (1) For section 29(1)(a) of the Act, if the reportable offender making a report cannot produce a driver's licence, he or she can verify his or her identity by producing 2 items from the following list, at least one of which must be an item listed in paragraph (a), (b), (c) or (d):
 - (a) his or her birth certificate;
 - (b) an Australian passport, or document of identity issued by the Australian Passport Office, that is current or has been expired for less than 2 years;
 - (c) a current overseas passport;
 - (d) an Australian naturalisation or citizenship document, or immigration papers issued by the Commonwealth Department of Immigration and Multicultural Affairs;
 - (e) a current Medicare card, pensioner concession card, Department of Veteran's Affairs entitlement card or other entitlement card issued by the Commonwealth, a State or another Territory;
 - (f) a current credit card or account from a bank, building society or credit union, or a passbook or statement of account, up to one year old;
 - (g) a telephone, gas or electricity bill up to one year old;
 - (h) a notice of council rates, water service charges or land valuation up to 2 years old;
 - (i) an electoral enrolment card, or other evidence of enrolment as an elector, up to 2 years old;
 - (j) a current student card, or a certificate or statement of enrolment from an educational institution, up to 2 years old.

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- (2) For section 29(1)(c) of the Act, if another person is making a report on behalf of the reportable offender, he or she must, in addition to producing documents referred to in subregulation (1) to verify the identity of the reportable offender, produce documents to verify his or her own identity.
 - (3) If the person making a report on behalf of the reportable offender cannot produce a driver's licence, he or she can verify his or her identity by producing 2 items from the list in subregulation (1), at least one of which must be an item listed in paragraph (a), (b), (c) or (d) of that subregulation.
 - (4) For section 29(5) of the Act, if a reportable offender is making a report other than in person, the reportable offender must provide, by mail or facsimile, copies of documents to verify his or her identity and location.
 - (5) For subregulation (4), the reportable offender must provide:
 - (a) a copy of his or her driver's licence and copies of at least 2 items from the list in subregulation (1); or
 - (b) copies of at least 2 items from the list in subregulation (1), at least one of which must be an item listed in paragraph (a), (b), (c) or (d) of that subregulation.
 - (6) If another person makes a report referred to in subregulation (4) on behalf of a reportable offender, he or she must, in addition to producing documents to verify the identity of the reportable offender, produce the documents referred to in subregulation (5)(a) or (b) to verify his or her own identity.
 - (7) The police officer receiving a report referred to in section 29(5) of the Act may waive any or all of the requirements of subregulation (4), (5) and (6) (as applicable) if the officer is otherwise satisfied as to the identity of the reportable offender or the person making the report, as the case may be.

9 Who must give reportable offender notice of reporting obligations

For section 52(4) of the Act, a notice must be given to a reportable offender:

- (a) who is in government custody in the Territory – by the Commissioner or a correctional officer (as defined in section 4 of the *Correctional Services Act*); or
- (b) who is the subject of a supervision order under Part IIA of the Criminal Code – by the Chief Health Officer; or

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- (c) who is entering the Territory – by the Commissioner; or
 - (d) who is in the Territory and becomes a corresponding, foreign or deemed reportable offender – by the Commissioner.

10 Supervising authority to notify Commissioner

For section 55(3) of the Act, the notice must include the following:

- (a) the reportable offender's name and his or her identification number for the IJIS database;
- (b) the date on which the reportable offender:
 - (i) is due to be released from custody or to cease to be subject to a supervised sentence or be on parole; or
 - (ii) was released from custody or ceased to be subject to a supervised sentence or be on parole;
- (c) the residential address of the reportable offender (or proposed address), if known;
- (d) if the reportable offender is to be or has been released on parole – what the parole conditions are;
- (e) if the reportable offender has been subject to a supervision order under Part IIA of the Criminal Code – any mental impairment suffered by the reportable offender and any special needs of the reportable offender.

11 Notices given to reportable offender

- (1) A notice given to a reportable offender must include the following:
 - (a) the name of the reportable offender;
 - (b) the date on which and the place at which the notice is given;
 - (c) the name and signature of the person giving the notice;
 - (d) a space for the reportable offender to provide his or her signature on a copy of the notice.
- (2) The person giving a notice to a reportable offender must ask the reportable offender to acknowledge receipt of the notice by providing his or her signature on a copy of the notice.
- (3) If a reportable offender refuses to provide his or her signature, the person giving the notice must record that fact on the copy of the notice.

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- (4) If a notice is given by a sentencing court or a supervising authority, a copy of the notice must be provided to the Commissioner.

12 Circumstances in which Commissioner may disclose information from Register

- (1) For section 66(1)(e) of the Act, the Commissioner may disclose personal information from the Register in relation to a reportable offender to the police commissioner (however described) of another jurisdiction if the reportable offender has reported an intention to travel to that other jurisdiction.
- (2) Without limiting subregulation (1), the information that may be disclosed includes whether the reportable offender is the subject of a prohibition order, and the terms of the order.
- (3) The Commissioner may also disclose information from the Register to the Chief Executive Officer of an Agency if:
 - (a) the Agency has responsibilities in relation to the reportable offender or children (whether specifically or generally); and
 - (b) the Commissioner considers the disclosure is appropriate to assist the Agency in meeting a duty of care in relation to those responsibilities.

13 Corresponding prohibition orders

For Part 5 of the Act, a corresponding prohibition order is an order under a corresponding Act prohibiting a reportable offender from engaging in conduct specified in the order, including any of the following:

- (a) associating with or other contact with specified persons or kinds of persons;
- (b) being in specified locations or kinds of locations;
- (c) engaging in specified behaviour;
- (d) being in specified employment or employment of a specified kind.

14 Recognition of corresponding prohibition orders

- (1) If the Commissioner is satisfied that a person:
 - (a) is a reportable offender for the Act; and
 - (b) is in the Territory or intends to visit the Territory; and

(c) is the subject of a corresponding prohibition order;

the Commissioner may cause the details of the corresponding prohibition order to be entered on the Register in relation to the person.

- (2) If the Commissioner considers it is necessary or desirable for the terms of the corresponding prohibition order to be varied in the Territory, he or she may make application to the Supreme Court.
- (3) The Supreme Court has jurisdiction to vary the terms of the corresponding prohibition order in its effect in the Territory as if the corresponding prohibition order was an order of the court.
- (4) The Commissioner must ensure that the varied terms of the prohibition order are entered in the Register.
- (5) The Commissioner must serve on the reportable offender a copy of the court order varying the corresponding prohibition order.
- (6) A corresponding prohibition order (as varied, if applicable) that is entered in the Register in relation to a reportable offender is enforceable in the Territory as if it were an order under Part 5 of the Act.

15 Reportable offender is child or person with special need

- (1) This regulation applies in relation to any reportable offender who:
 - (a) is a child; or
 - (b) in the opinion of the Commissioner, a supervising authority or a sentencing court has a special need;and who, in the opinion of the Commissioner, authority or court is incapable of understanding a notice under the Act.
- (2) The Commissioner or supervising authority must take measures that are reasonably practicable to assist the reportable offender to understand:
 - (a) the person's reporting obligations; and
 - (b) the consequences that may arise if the person fails to comply with those obligations.
- (3) The measures may include, but are not limited to, the following:
 - (a) providing an oral explanation to the reportable offender of those obligations and consequences;

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- (b) providing an audio or video recorded explanation to the reportable offender of those obligations and consequences;
 - (c) providing the reportable offender with a translation of a notice under the Act in a language with which the reportable offender is familiar;
 - (d) making available an interpreter to provide the reportable offender with an oral explanation of a notice under the Act in a language with which the reportable offender is familiar;
 - (e) making available a person (who has experience in communicating with persons who have similar special needs) to communicate those obligations and consequences to the reportable offender in a manner with which the reportable offender is familiar;
 - (f) providing additional written notice to the reportable offender in a form that can be more readily understood by persons who have similar special needs;
 - (g) arranging for a support person to be present when a notice under the Act is being given to the reportable offender or when any other measure is being taken to communicate those obligations and consequences to the reportable offender.
- (4) The Commissioner must keep a record of any measures in relation to the reportable offender:
- (a) taken by the Commissioner as a result of forming the opinion in subregulation (1); or
 - (b) of which the Commissioner is informed under subregulation (5).
- (5) If a supervising authority forms the opinion referred to in subregulation (1), the authority:
- (a) must inform the Commissioner of its opinion and of the reasons for its opinion; and
 - (b) must keep a record of any measures taken by the authority under this regulation in relation to the reportable offender; and
 - (c) must inform the Commissioner as to each occasion on which any such measures are taken and the nature of the measures taken.

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- (6) If a sentencing court forms the opinion referred to in subregulation (1), the court must inform the Commissioner and each relevant supervising authority of its opinion and of the reasons for its opinion.
 - (7) The Commissioner and each supervising authority must keep a record of any information received from the court under subregulation (6).

16 Reportable offender incapable of understanding obligations

- (1) This regulation applies in relation to any reportable offender who:
 - (a) is a child; or
 - (b) in the opinion of the Commissioner, has a disability,and who, in the opinion of the Commissioner, is incapable of understanding:
 - (c) the reportable offender's reporting obligations; or
 - (d) the consequences that may arise if the reportable offender fails to comply with those obligations.
- (2) The Commissioner may, if he or she is of the opinion that a support person is likely to provide the assistance, inform the support person of those obligations and consequences to enable the support person to assist the reportable offender to comply with the obligations.
- (3) The information must be given to the support person personally or by means of "person-to-person" registered post unless the support person is a public authority that provides support, or supervises the provision of support, to the reportable offender.

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*****Child Protection (Offender Reporting and Registration) Regulations (SL No. 40, 2004)***

Notified	12 January 2005
Commenced	12 January 2005 (r 2, s 2 <i>Child Protection (Offender Reporting and Registration) Act 2004</i> (Act No. 60, 2004) and Gaz G2, 12 January 2005, p 2)

Statute Law Revision Act 2005 (Act No. 44, 2005)

Assent date	14 December 2005
Commenced	14 December 2005

Child Protection (Offender Reporting and Registration) Amendment Regulations 2006 (SL No. 27, 2006)

Notified	26 July 2006
Commenced	26 July 2006

Child Protection (Offender Reporting and Registration) Legislation Amendment Act 2010 (Act No. 43, 2010)

Assent date	13 December 2010
Commenced	30 March 2011 (Gaz G13, 30 March 2011, p 13)

Public and Environmental Health Act 2011 (Act No. 7, 2011)

Assent date	16 March 2011
Commenced	1 July 2011 (Gaz S28, 3 June 2011)

Advance Personal Planning (Consequential Amendments) Act 2013 (Act No. 36, 2013)

Assent date	19 December 2013
Commenced	pt 3: 5 February 2014 (Gaz G5, 5 February 2014, p 2); rem: 17 March 2014 (Gaz S14, 17 March 2014)

Correctional Services (Related and Consequential Amendments) Act 2014 (Act No. 27, 2014)

Assent date	4 September 2014
Commenced	9 September 2014 (Gaz S80, 9 September 2014, p 2)

Guardianship of Adults Act 2016 (Act No. 15, 2016)

Assent date 7 June 2016
Commenced 28 July 2016 (*Gaz S74*, 27 July 2016, p 1)

3 LIST OF AMENDMENTS

r 3 amd Act No. 43, 2010, s 23; Act No. 36, 2013, s 139; Act No. 15, 2016, s 117
r 4 amd Act No. 27, 2014, s 57
r 5 sub No. 27, 2006, r 3
 amd Act No. 43, 2010, s 18
r 6 amd Act No. 43, 2010, s 19
r 6A ins Act No. 43, 2010, s 20
r 7 amd Act No. 44, 2005, s 35; Act No. 43, 2010, s 21
r 8 amd Act No. 43, 2010, s 23
r 9 amd Act No. 43, 2010, s 23; Act No. 7, 2011, s 147; Act No. 27, 2014, s 57
r 12 amd Act No. 43, 2010, s 22
rr 14 – 15 amd Act No. 43, 2010, s 23