

# **NORTHERN TERRITORY OF AUSTRALIA**

## **ADVANCE PERSONAL PLANNING REGULATIONS 2014**

As in force at 5 August 2020

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 5 August 2020

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## ADVANCE PERSONAL PLANNING REGULATIONS 2014

### Regulations under the *Advance Personal Planning Act 2013*

#### **1 Citation**

These Regulations may be cited as the *Advance Personal Planning Regulations 2014*.

#### **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 2015*.

**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.

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## **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 1992*.

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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

regulation 8

| 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              |



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|                   |                                                          |                                                                                         |
|-------------------|----------------------------------------------------------|-----------------------------------------------------------------------------------------|
| Victoria          | <i>Powers of Attorney Act 2014</i>                       | Enduring power of attorney                                                              |
|                   | <i>Medical Treatment Act 1988 (repealed)</i>             | Refusal of treatment certificate                                                        |
|                   | <i>Medical Treatment Planning and Decisions Act 2016</i> | Advance care directive<br><br>Appointment of appointed medical treatment decision maker |
| Western Australia | <i>Guardianship and Administration Act 1990</i>          | Enduring power of attorney                                                              |
|                   |                                                          | Enduring power of guardianship                                                          |
|                   |                                                          | Advance Health Directives                                                               |

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## ENDNOTES

### 1 KEY

Key to abbreviations

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

### 2 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;<br>rem: 1 January 2016 (s 2) |

***Advance Personal Planning Amendment Regulations 2016 (SL No. 8, 2016 )***

|           |               |
|-----------|---------------|
| Notified  | 27 April 2016 |
| Commenced | 27 April 2016 |

***Advance Personal Planning Amendment Regulations 2020 (SL No. 26, 2020 )***

|           |               |
|-----------|---------------|
| Notified  | 5 August 2020 |
| Commenced | 5 August 2020 |

### 3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: rr 1, 3 and 10.

### 4 LIST OF AMENDMENTS

|     |                                                    |
|-----|----------------------------------------------------|
| r 3 | amd Act No. 38, 2014, s 2; Act No. 28, 2015, s 195 |
| sch | amd No. 8, 2016, r 3; No. 26, 2020, r 4            |