

NORTHERN TERRITORY OF AUSTRALIA

PUBLIC INTEREST DISCLOSURE REGULATIONS

Subordinate Legislation No. 26 of 2009

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 26 of 2009*

Public Interest Disclosure Regulations

I, Thomas Ian Pauling, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Public Interest Disclosure Act*.

Dated 22 July 2009

T. I. PAULING
Administrator

By His Honour's Command

Minister for Children and Families
acting for the
Minister for Justice and Attorney-General

* Notified in the *Northern Territory Government Gazette* on 22 July 2009.

1 Citation

These Regulations may be cited as the *Public Interest Disclosure Regulations*.

2 Commencement

These Regulations commence on the commencement of the *Public Interest Disclosure Act 2008*.

3 Definitions

In these Regulations:

investigation means an investigation under Part 3 of the Act.

recipient means any of the following to whom a public interest disclosure is made:

- (a) the Speaker;
- (b) the Commissioner, including if a disclosure is referred;
- (c) a responsible chief executive.

referred means referred to the Commissioner under section 12 of the Act.

4 Making public interest disclosure whether orally or in writing

- (1) This regulation prescribes the procedure for making a public interest disclosure as mentioned in section 11 of the Act.
- (2) For a public interest disclosure to be made orally to a recipient, the discloser must:
 - (a) speak in person with the recipient (that is, both the discloser and recipient must be physically present for the disclosure); or
 - (b) speak to, or leave a message for, the recipient by telephone or using some other form of electronic communication (other than a form that is in writing).
- (3) For a public interest disclosure to be made in writing to a recipient, the discloser must address the disclosure to, or otherwise mark it for, the recipient's attention and:
 - (a) send the disclosure to a postal or email address for the recipient; or

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- (b) deliver the disclosure to, or leave it for, the recipient at an office used by the recipient for his or her official business.
 - (4) If a recipient reasonably suspects a public interest disclosure is about to be made, or is being made, the recipient must, with the discloser's agreement, take reasonable steps to ensure privacy during the disclosure.

5 Acknowledgment of receipt of disclosure

- (1) This regulation applies to a public interest disclosure made to a recipient but does not apply if the disclosure is made anonymously or a postal or email address was not given by the discloser as part of making the disclosure.
- (2) Within 14 days after the day of the receipt of the public interest disclosure by the recipient, the recipient must acknowledge its receipt by written notice to the discloser sent to a postal or email address given as part of making the disclosure.

Note for subregulation (2)

If the Speaker receives a public interest disclosure, the Speaker must acknowledge receipt within 14 days after the day of receipt by the Speaker. If the Speaker refers the disclosure and the Commissioner receives it, the Commissioner must acknowledge receipt within 14 days after the day of the receipt by the Commissioner.

- (3) If the recipient referred the public interest disclosure, the notice acknowledging receipt must state that fact and the date of the referral.
- (4) If a person giving information to the Speaker, the Commissioner or a responsible chief executive purports to be making a public interest disclosure but the information is not a public interest disclosure, the Speaker, Commissioner or chief executive must acknowledge its receipt by giving notice under this regulation to the person as if the information were a public interest disclosure.

6 Commissioner to keep contact with discloser

- (1) The Commissioner must keep contact with the discloser of a public interest disclosure, by giving information to the discloser about the status of the investigation relating to the disclosure, at times the Commissioner considers reasonable in the circumstances.
- (2) Subregulation (1) does not apply if the discloser has expressly stated he or she does not wish to have that contact.

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- (3) If the discloser asks the Commissioner for information about the investigation's status, the Commissioner must give information about the status to the discloser within 28 days after the day of the request.
 - (4) The Commissioner is not required to give information under subregulation (1) or (3) unless satisfied it is reasonable to do so.
 - (5) Without limiting subregulation (4), it is not reasonable to give information if:
 - (a) the information has already been given to the discloser or is publicly available; or
 - (b) giving the information requested would endanger the safety of any person or prejudice the conduct of an investigation.

7 Request for relocation

- (1) This regulation applies if, under section 18 of the Act, a public officer requests relocation but he or she is not relocated by agreement within 28 days after the day of the request.
- (2) The responsible chief executive must give the public officer a written notice stating:
 - (a) the reason why relocation has not taken place; and
 - (b) if the reason is that the chief executive is not satisfied there are reasonable grounds for the request – the following:
 - (i) the reasons why the chief executive is not satisfied;
 - (ii) a statement that the public officer may apply under section 19 of the Act for a review of the decision.
- (3) Despite subregulation (2), the responsible chief executive is not required to give information if giving it would prejudice the conduct of an investigation or endanger the safety of any person.

8 Prescription of person or body as referral body

- (1) For section 22(1)(d) of the Act, the following are prescribed:
 - (a) the Commissioner for Public Employment;
 - (b) the Work Health Authority.

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- (2) In this regulation:

Commissioner for Public Employment, means the person holding or occupying the position of the Commissioner for Public Employment under the *Public Sector Employment and Management Act*.

Work Health Authority means the Work Health Authority continued under section 7 of the *Workplace Health and Safety Act*.

9 Witness expenses

- (1) This regulation applies to a person required to attend for examination under section 27 of the Act except if he or she is:
- (a) a public officer under investigation; or
 - (b) a public officer who continues to receive his or her ordinary pay while attending for examination and whose leave entitlements are not affected by the attendance.
- (2) The person is entitled to be paid the actual expenses reasonably incurred by the person for each of the following:
- (a) travel to and from the place the person is required to attend;
 - (b) accommodation and sustenance while required to be absent from his or her usual place of residence.

10 Guideline for reasonable time

- (1) The purpose of this regulation is to provide a guideline for the Commissioner in relation to what is a reasonable time as mentioned in section 34 of the Act.
- (2) The Commissioner must consider that for a discloser a maximum period of 28 days is likely to be a reasonable time for doing something unless another period is agreed to as being a reasonable time in the circumstances.