

NORTHERN TERRITORY OF AUSTRALIA

VOLATILE SUBSTANCE ABUSE PREVENTION AMENDMENT REGULATIONS 2009

Subordinate Legislation No. 37 of 2009

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 37 of 2009*

Volatile Substance Abuse Prevention Amendment Regulations 2009

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 *Volatile Substance Abuse Prevention Act*.

Dated 11 December 2009

T. I. Pauling
Administrator

By His Honour's Command

K. Vatskalis
Minister for Health

* Notified in the *Northern Territory Government Gazette* on 14 December 2009.

1 Citation

These Regulations may be cited as the *Volatile Substance Abuse Prevention Amendment Regulations 2009*.

2 Commencement

These Regulations commence on the commencement of the *Volatile Substance Abuse Prevention Amendment Act 2009*.

3 Regulations amended

These Regulations amend the *Volatile Substance Abuse Prevention Regulations*.

4 Repeal and substitution of regulation 3

Regulation 3

repeal, substitute

3 Definitions

In these Regulations:

apprehended child means a child taken to a police station under section 22(3) of the Act to be held in protective custody.

approved carer, see regulation 9.

emergency response plan, see regulation 10.

local board means a local board established under section 49 of the *Local Government Act*.

5 Repeal and substitution of Part 2, Division 2

Part 2, Division 2

repeal, substitute

Division 2 Holding apprehended child in police cell

8 When apprehended child may be held in police cell

- (1) For section 24 of the Act, an apprehended child may be held in protective custody inside a cell at a police station only if all of the following circumstances apply:

- (a) the police station is in a council area;

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- (b) the apprehended child resides in the council area;
 - (c) a member of the community council for the council area has been consulted by the responsible officer for the apprehended child and has approved the child being held inside a cell at the police station;
 - (d) the apprehended child is under the direct care and supervision of an approved carer while being held inside the cell;
 - (e) there is an emergency response plan for the police station in relation to an apprehended child being held in a cell.
- (2) If the apprehended child resides in a part of the council area for which there is a local board, the reference in subregulation (1)(c) to a member of the community council includes a reference to a member of the local board.

9 Approved carer

- (1) For regulation 8(1)(d), an **approved carer** for a police station in a council area is a person approved by:
- (a) the community council for the council area; and
 - (b) the police officers stationed at the police station.
- (2) A person who is an approved carer must:
- (a) be a fit and proper person to care for and supervise an apprehended child; and
 - (b) have the necessary knowledge or qualifications required to care for an apprehended child; and
 - (c) have the ability to take action under an emergency response plan if required to do so.

10 Emergency response plan

For regulation 8(1)(e), an **emergency response plan** for a police station in a council area is a plan of the actions to be taken by a responsible officer and an approved carer at the police station if there is a medical, psychological or other type of emergency affecting an apprehended child.

6 Repeal and substitution of Part 3

Part 3

repeal, substitute

Part 3 Treatment warrants

11 Form of application for treatment warrant

For section 41A(2) of the Act, an application for a treatment warrant must be in accordance with Form 1.

12 Making application for treatment warrant by telephone

For section 41A(3)(b) of the Act, a person who applies to a magistrate by telephone for a treatment warrant must do so by telephoning the Registry at the office of the Local Court nearest to the person.

13 Form of treatment warrant

For section 41B(2) of the Act, a treatment warrant must be in accordance with Form 2.

14 Issuing treatment warrant on application by telephone

- (1) If a magistrate issues a treatment warrant on application made by telephone:
 - (a) the magistrate must complete and sign the warrant (the ***original warrant***), inform the applicant for the warrant by telephone of its terms, and record on the original warrant the reasons for issuing it; and
 - (b) the applicant for the warrant must:
 - (i) complete 2 copies of a form of treatment warrant in the terms provided by the magistrate; and
 - (ii) write on each copy the name of the magistrate and the date and time of issue of the original warrant; and
 - (iii) forward one copy to the magistrate.
- (2) On receiving the copy, the magistrate must:
 - (a) compare it with the original warrant; and

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- (b) if the copy is in substance identical to the original warrant, the copy has the same authority as the original warrant.

7 Amendment of Schedule

Schedule, Forms 1 to 4

omit, substitute

FORM 1

regulation 11

NORTHERN TERRITORY OF AUSTRALIA

Volatile Substance Abuse Prevention Act

section 41A(2)

APPLICATION FOR TREATMENT WARRANT

I, (*name*) ,
*an assessor *an authorised officer *the Chief Health Officer *a delegate of
the Chief Health Officer *a legal practitioner, apply for a treatment warrant in
relation to the person at risk specified in paragraph (a), and *say on oath
*do solemnly, sincerely and truly affirm the following:

- (a) on (*date*) the Court made a treatment order in
relation to (*name*)(the **person at risk**);
- (b) the treatment order will be in force until (*date*) ;
- (c) a true copy of the treatment order is attached to this application;
- (d) I believe the person at risk has not participated in the following
component(s) of the treatment program in accordance with the
treatment order:

- (e) I formed the belief mentioned in paragraph (d) on the following
grounds:

SWORN/AFFIRMED before me:

at:

on:

Magistrate

* *Delete if not applicable*

FORM 2

regulation 13

NORTHERN TERRITORY OF AUSTRALIA

Volatile Substance Abuse Prevention Act

section 41B(2)

TREATMENT WARRANT

TO: AN AUTHORISED OFFICER

I, , a magistrate,
am satisfied by *information on oath given by *a declaration made by
(*name*) on (*date*) , that:

- (1) a treatment order is in force in relation to (*name*)
..... (the ***person at risk***); and
- (2) the person at risk has failed to participate in the following component(s)
of the treatment program in accordance with the treatment order:

You are authorised to do the following, using reasonable force and, if necessary, reasonable assistance:

- (a) enter, at any reasonable time, a place where you reasonably believe the person at risk may be found;
- (b) search the place in order to find the person;
- (c) remain at the place for as long as you consider reasonably necessary to find the person;
- (d) if the person is found – apprehend the person and take the person to the following place to participate in the following component of the treatment program:

This warrant remains in force for the lesser of the following periods:

- 30 days after the day on which it is issued;
- until the treatment order ceases to be in force.

You must produce this warrant (or a copy of the warrant) to a person at the place where the warrant is executed.

Dated:

Magistrate

** Delete if not applicable*