

NORTHERN TERRITORY OF AUSTRALIA

SENTENCING (PUNITIVE WORK ORDERS) REGULATIONS

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SCHEDULE

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1998, No. 8*

Regulations under the *Sentencing Act*

I, NEIL RAYMOND CONN, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Sentencing Act*.

Dated 27 February 1998.

N R CONN
Administrator

SENTENCING (PUNITIVE WORK ORDERS) REGULATIONS

1. CITATION

These Regulations may be cited as the Sentencing (Punitive Work Orders) Regulations.

2. COMMENCEMENT

These Regulations come into operation on the date fixed by the Administrator by notice in the Gazette.

3. DEFINITIONS

In these Regulations, unless the contrary intention appears -

"offender" means an offender who is subject to a punitive work order;

"punitive work order officer", in relation to an offender, means -

* Notified in the *Northern Territory Government Gazette* on 11 March 1998.

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- (a) a supervising officer;
- (b) a probation officer; or
- (c) an officer within the meaning of the *Prisons (Correctional Services) Act*,

who is directed by the Director to supervise the offender while performing work under a punitive work order.

4. DUTIES OF PUNITIVE WORK ORDER OFFICERS

A punitive work order officer must —

- (a) supervise offenders as directed by the Director;
- (b) report to the Director on the matters the Director requires, including —
 - (i) the attendance record;
 - (ii) the work attitude; and
 - (iii) the conduct,

of an offender on a day on which work was performed by the offender under a punitive work order;

- (c) satisfy himself or herself on the day on which an offender is to perform work under a punitive work order that the person who attends is the offender named in the order; and
- (d) attend at a court when required by the Director or the court for the purpose of giving evidence or providing a report in proceedings against an offender for a breach of a punitive work order.

5. CONFLICT OF INTERESTS

A punitive work order officer must not personally benefit, directly or indirectly, from work performed by an offender under a punitive work order, otherwise than as a member of and in common with other members of the community.

6. OFFENDER TO ATTEND

(1) An offender must not absent himself or herself from a place at which he or she is required to perform work under a punitive work order, except with the approval of his or her punitive work order officer.

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(2) The Director may exempt an offender from attending at a place to perform work under a punitive work order for all or part of a day if the Director is satisfied that reasonable grounds exist for excusing the offender from performing that work.

(3) An offender may apply to the Director for an exemption under subregulation (2) not less than 24 hours before the day on which he or she is to perform work under the punitive work order or a lesser period determined by the Director in a particular case.

(4) The Director may require an offender to provide the information or evidence in support of the offender's application under subregulation (3) as the Director thinks fit.

7. OFFENDER TO SUPPLY MEDICAL CERTIFICATE

An offender who is not serving a term of imprisonment in a prison and who does not present himself or herself to perform work under a punitive work order at the time appointed for the work to be performed on the grounds of sickness must -

- (a) within 72 hours after the time at which the offender was required to present to perform that work; or
- (b) within the further time allowed by the Director,

supply the Director with a certificate, signed by a medical practitioner, stating the facts on which the offender relies.

8. ABSENCE FROM WORK NOT TO COUNT AS WORK TIME

A period during which -

- (a) an offender is exempt under regulation 6(2) from attending a place to perform work under a punitive work order; or
- (b) an offender is absent because of sickness from a place the offender is required to present himself or herself to perform work under a punitive work order,

is not to be included in the calculation of the 224 hours of work required to be performed under the order.

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9. BEHAVIOUR OF OFFENDER

- (1) An offender must not -
 - (a) report to work while under the influence of alcohol or a dangerous drug within the meaning of the *Misuse of Drugs Act*;
 - (b) use or consume alcohol or a dangerous drug within the meaning of the *Misuse of Drugs Act* while at a place of work or during a rest break under regulation 17; or
 - (c) damage, deface or otherwise injure (normal wear and tear excepted) any equipment, material or other matter supplied to him or her or on which he or she is performing work under a punitive work order.
- (2) While at a place of work under a punitive work order, an offender must -
 - (a) take appropriate care for his or her own health and safety and for the health and safety of all persons who may be affected by his or her acts or omissions;
 - (b) as far as is practicable, follow all reasonable directions given to him or her by a punitive work order officer in relation to his or her own and any other person's health and safety; and
 - (c) use relevant safety equipment when provided or made available for his or her use.

10. PUNITIVE WORK ORDER OFFICER MAY ORDER OFFENDER TO CEASE WORK

(1) A punitive work order officer may order an offender who is, in the opinion of the punitive work order officer, under the influence of or who has used or consumed alcohol or a dangerous drug within the meaning of the *Misuse of Drugs Act* to cease work.

(2) A punitive work order officer may order an offender to cease work where, in the opinion of the punitive work order officer, the offender is in breach under section 78G of the Act of his or her punitive work order.

(3) Where an offender (other than an offender who is serving a term of imprisonment in a prison) is ordered to cease work, the offender must -

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- (a) leave the place of work; and
- (b) at the discretion of the punitive work order officer, be responsible for his or her own means of transport from that place.

11. DIRECTOR MAY HOLD INQUIRY

(1) Where under regulation 10 an offender is ordered to cease work, the Director may inquire into the circumstances in relation to which the order to cease work was made.

(2) For the purposes of carrying out an inquiry under subregulation (1), the Director may require the punitive work order officer or the offender to provide him or her with the information the Director requires regarding the circumstances in relation to which the offender was ordered to cease work.

12. OFFENDER MAY BE SUSPENDED

(1) Where the Director is satisfied that an offender is in breach of a punitive work order, the Director may, by notice served on the offender, suspend him or her from attending at a place to perform work under the order.

(2) A suspension under subregulation (1) remains in force until the offender is dealt with under section 78G of the Act in respect of the breach.

(3) A notice under subregulation (1) is to be in accordance with Form 1 in the Schedule.

(4) A notice under subregulation (1) may be served on the offender by -

- (a) delivering it to him or her personally; or
- (b) posting it to him or her at his or her last known place of residence or business.

13. CIRCUMSTANCES IN WHICH WORK TAKEN TO BE PERFORMED

Unless alternative arrangements are earlier made by a punitive work order officer, where an offender attends at a place at which he or she is directed to attend to perform work under a punitive work order and his or her punitive work order officer is not present at the place within one hour after the time directed for the commencement of the work to be performed, the offender is to be taken to have performed work under the punitive work order for 8 hours.

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14. PROTECTIVE AND IDENTIFYING CLOTHING, &c.

(1) An offender who is supplied with, and directed by a punitive work order officer to wear or use, protective or identifying clothing or equipment, must wear or use the clothing or equipment while performing work under a punitive work order.

(2) An offender must, when performing work under a punitive work order and directed to do so by a punitive work order officer -

- (a) wear protective footwear of the type supplied by the Director; or
- (b) wear footwear of a type approved by the Director and provided at the expense of the offender.

15. TRAVELLING TIME

If an offender is required by or under a punitive work order to report to a punitive work order officer at a particular place and on so reporting is transported, or directed to report, to another place to perform work under the punitive work order, the reasonable time spent in travelling to the other place is to be counted as time worked by him or her under the punitive work order.

16. INJURY TIME

Where an offender is, by reason of injury sustained in the course of or as a result of work performed by him or her under a punitive work order, unable to perform or complete work under a punitive work order that he or she would otherwise be required to perform, the time that he or she might reasonably have been expected to spend on that work had he or she not been injured is to be counted as time worked by him or her under the punitive work order.

17. REST BREAKS

(1) While performing work under a punitive work order, an offender is entitled to the following rest breaks:

- (a) a 15 minute rest break after the first period of 2 hours of work;
- (b) a 30 minute meal break after the second period of 2 hours of work;
- (c) a 15 minute rest break after the third period of 2 hours of work.

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(2) Time spent on a rest break under subregulation (1) by an offender is not to be counted as time worked by him or her under his or her punitive work order.

SCHEDULE

FORM 1

Regulation 12

CASE No

NORTHERN TERRITORY OF AUSTRALIA

Sentencing Act

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NOTICE OF SUSPENSION OF OFFENDER

TO

.....
.....

I am satisfied that you are in breach under section 78G of the *Sentencing Act* of the punitive work order made on

YOU ARE HEREBY NOTIFIED that you are suspended from attending at the place to perform work under the order.

The matter of the breach of the order will now be referred to the court and you are not to attend for further work under the punitive work order until the matter is resolved by the court.

Dated

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Director of Correctional Services
