

NORFOLK



ISLAND

CHILD WELFARE REGULATIONS 2010
Regulations No. 12 of 2010

I, Owen Edward John Walsh, Administrator of Norfolk Island, acting in accordance with the advice of the Executive Council of Norfolk Island, make the following Regulations under section 197 of the *Child Welfare Act 2009*.

Dated 17 November 2010

O.E.J. Walsh
Administrator

By His Honour's Command
T.J. Sheridan
Minister for Community Services

Short title

1. These Regulations may be cited as the *Child Welfare Regulations 2010*.

Definitions

2. (1) In these Regulations a reference to—
“the Act” means the *Child Welfare Act 2009*;
“the Court” means the Court of Petty Sessions;
“section” means a section of the Act.

(2) Words and expressions used in these Regulations have the same meaning as in the Act unless otherwise stated or the context otherwise requires.

Applications generally

3. Except as otherwise provided in these Regulations, the rules of the Court apply to applications and proceedings of the Court under the Act.

Application forms

4. (1) A care and protection application under section 60 must be in Form 1.
- (2) A proceedings attendance notice under subsection 64(2) must be in Form 2.
- (3) An application for an assessment order under section 83 must be in Form 3, but in the case of an urgent case under subsection 83(3) need not be made in writing but may be made by telephone, fax or other electronic means in which case it must be confirmed in writing within 2 days.
- (4) Notice of emergency action under section 94 must be in Form 4.

Additional details to accompany certain urgent applications

5. If an application is made for an interim care and protection order under section 68(1) the child welfare officer must by affidavit, by oral evidence or in any other manner approved by the Court, provide details of the reasons why he or she considers that the child or young person is in need of care and protection or would be in need of care and protection if the order was not made, or is at risk of serious harm, sufficient to warrant the Court making an interim care and protection order.

Commencement of proceedings regarding applications

6. (1) The Clerk with whom an application is filed must cause the application (including any accompanying copy) to be endorsed with a notice of the time, date and place set down for a hearing of the application.

(2) An application under these Regulations or the Act must be served on a party or other person required to be served and must be accompanied by a copy of any affidavit filed in support thereof.

Children and young persons as witnesses

7. (1) A child or young person to whom proceedings relate, and who has consented to give evidence in those proceedings, must not be called as a witness in those proceedings otherwise than by, or by leave of, the Court.

(2) The Court must not call, nor give leave for the calling of, such a child or young person unless the Court has taken into consideration—

- (a) the child's or young person's age, maturity and level of understanding; and
- (b) the nature of the evidence that the child or young person is likely to give; and
- (c) the importance of that evidence to the decision that the Court is required to make in respect of the proceedings; and
- (d) the likely reliability of that evidence; and
- (e) the effect that the giving of evidence generally, or the giving of evidence of the nature that the child or young person is likely to give, is likely to have —
 - (i) on the emotional well-being of the child or young person; and
 - (ii) on the child's or young person's relationships with other persons; and
- (f) any other matters that the Court considers appropriate.

(3) This clause does not apply where the child or young person is called to give evidence on his or her own behalf.

Evidence of school attendance

8. In any proceedings, the Court may admit evidence that a child or young person has failed to attend school regularly.

Record of proceedings

9. (1) The Court is to cause a record to be kept of any proceedings before it on a care and protection application.

(2) That record must include —

- (a) the deposition of any witness in the proceedings; and
- (b) particulars of any order made by the Court in the proceedings; and
- (c) any reasons given by the Court for the making of any such order.

(3) Without limiting subclause (2), the Clerk must maintain any other records, registers and indexes that the Court may direct.

Affidavit of service

10. (1) Service of a document under these Regulations or the *Child Welfare Act 2009* may be proved by an affidavit of service of the document filed in the court.

(2) The affidavit—

(a) for an affidavit of personal service—must be made by the person who served the document and include the following—

- (i) the person's full name;
- (ii) the time, day and date the document was served;
- (iii) the place of service;
- (iv) the name of the person served and how the person was identified; or

(b) otherwise—

- (i) must state the relevant dates and the facts showing service; and
- (ii) may be made on information given to, or the belief of, the person causing the service; and
- (iii) if made on information given to the person—must state the source of the information.

(3) The affidavit of service must—

- (a) have the document filed with it as an exhibit or be written on the document; or
- (b) if the document has been filed—mention the document in a way sufficient to enable the document to be identified.

(4) Nothing in this clause prevents the proving of service in another way.

Mandatory reporting

11. For the purposes of section 41, a report may be made in Form 5.

Search warrants

12. A search warrant issued under section 179 must be made in Form 6.

Effect of noncompliance with rules

13. A proceeding before the Court is not a nullity merely because of the failure of a party to the proceeding to comply with these Regulations.

Form 1**Care and protection application**

(Clause 4(1))
(Section 60)

Norfolk Island
Court of Petty Sessions

No. of 20...

Applicant:

Child/Young person:

The applicant applies to the court/seeks leave of the court* to make an application for a care and protection order in respect of the child/young person named.

The kind of order sought is—

The grounds for making the application are—

Signature of Applicant:

Date:

*Delete as appropriate

Form 2
Proceedings Attendance notice

(Clause 4(2))
(Section 64(2))

Norfolk Island
Court of Petty Sessions

No. of 20...

Applicant:

Child/Young person:

Hearing details

Date:

Time:

Place:

Order to attend court

Name:

Address:

The Court of Petty Sessions has ordered you to attend Court in relation to these care proceedings at the time, date and place specified in the hearing details.

If you are a respondent to these proceedings, failure to attend may result in the Children's Court dealing with the proceedings in your absence and a care and protection order that imposes an obligation upon you may be made.

Clerk

Signature:

Date:

Form 3
Application for Assessment Order

(Clause 4(3))
(Sections 83 and 85)

Norfolk Island
Court of Petty Sessions

No. of 20...

Applicant:

Child/Young person:

The applicant applies to the court to make an assessment order in respect of the child/young person named.

The kind of order sought is—

The grounds for making the application are—

Signature of Applicant:

Date:

Form 4
Notice of emergency action

(Clause 4(4))
(Section 94)

To:¹

And to the Clerk\
Court of Petty Sessions
Kingston

Take Notice that in accordance with section 90 of the *Child Protection Act 2009*, emergency action has been taken by me/a member of the police force² in respect of..... *[insert name of child or young person concerned]* a child or young person whom I, or a police officer, reasonably believed to be in immediate need of care and protection or would be so in need if immediate care and protection were not provided and accordingly arrangements for the care and protection of the child or young person have been made.

[Signed]

Child welfare officer

Date:

¹ Insert name of each person with parental responsibility for the child or young person who has not been told about the action by the person who took the action

² Delete as appropriate

Form 5

THE ADMINISTRATION OF NORFOLK ISLAND
CONFIDENTIAL

Child Welfare Act 2009

Except in limited circumstances described in section 45 of the *Child Welfare Act 2009*, this document is not admissible in evidence nor can any person be compelled to produce it or give evidence as to its contents.

Part I: Mandatory Report Form

Name of Child/Young Person: <i>(if name not known provide a description):</i>			
Date of birth <i>(if known):</i>		Age <i>(if known or approximate)</i>	
Gender:			

Mandatory Reporter

In what capacity is the reporter making this report? ¹	Mandatory <input type="checkbox"/>	Community Member <input type="checkbox"/>
Name of person making report:		
Occupation:		
Date:		
Tel No:	Mobile:	Email:
Signature:		

- NOTE:** (1) The obligation to make a mandatory report applies to a person who is —
- a medical practitioner; or
 - a teacher at a school; or
 - a police officer; or
 - a person employed to counsel children or young people at a school; or
 - a person caring for a child at a child-care centre; or
 - a public sector employee who, in the course of his or her employment, provides services related to the health or wellbeing of children, young people or families.
- (2) Providing this report is made in good faith, its making is not a breach of confidence, professional etiquette or ethics or a rule of professional conduct; and no civil or criminal liability is incurred by reason only of the making of the report.

S.41: Mandatory reporting

- This section applies to a person who is—
 - a medical practitioner; or
 - a teacher at a school; or
 - a police officer; or
 - a person employed to counsel children or young people at a school; or
 - a person caring for a child at a child-care centre; or
 - a public sector employee who, in the course of his or her employment, provides services related to the health or wellbeing of children, young people or families.

- (2) If— (a) an adult to whom this section applies reasonably suspects that a child or young person has suffered, or is suffering, sexual abuse or non-accidental physical injury; and
 (b) those grounds arise during the course of or from the person’s work (whether for remuneration or otherwise);
 the person must, as soon as practicable, report to the child welfare officer the name, or a description, of the child or young person and the grounds for the person’s suspicion.
 Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

S.42: Report other than in good faith
 A person must not make a report under section 40 or 41 other than in good faith.
 Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

FAMILY INFORMATION

Parents/Carers Names:.....
Address:.....
Contact Numbers: Home:..... Mobile: Email:.....

THE REPORT

1	This report is about <i>(please tick relevant box)</i>	A child (A child is a person who is under 12 years of age) <div style="text-align: center;"><input type="checkbox"/></div>	A young person (A young person is a person 12 years old or older but not yet 18 years of age) <div style="text-align: center;"><input type="checkbox"/></div>
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Please fill in all relevant details to all questions

2a	What are you reporting? <i>(tick all relevant)</i>
Sexual Abuse <div style="text-align: center;"><input type="checkbox"/></div>	Non-accidental Physical Abuse <div style="text-align: center;"><input type="checkbox"/></div>

2b	Do you consider that intervention/action by the child welfare officer or other authority is required urgently?	Yes <div style="text-align: center;"><input type="checkbox"/></div>	No <div style="text-align: center;"><input type="checkbox"/></div>	Not Known <div style="text-align: center;"><input type="checkbox"/></div>
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2c	Please state brief circumstances of your suspicion or belief:
----	---------------------------------------------------------------------------------------------------

REPORTS OF NON-ACCIDENTAL PHYSICAL ABUSE

3a	Has the child/young person stated that the injury was caused by a family member and that it was not accidental	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3b	If yes, please state brief circumstances		
.....			
.....			
.....			

4	Has another person reported this abuse to you, to furnish this report?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
---	------------------------------------------------------------------------	---------------------------------	--------------------------------

5	Does this person wish to remain anonymous?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
---	--------------------------------------------	---------------------------------	--------------------------------

5a	If no, please state following details		
Name of person:			
Contact details:			
Address:			
Tel No:		Mobile:	Email:

6	Are there any physical injuries?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
6a	Are they significant?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>

6b	If yes, please provide brief details			
.....				
.....				
.....				

7	Are there other indicators showing the child/young person has suffered as a result of the non-accidental physical abuse	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
---	-------------------------------------------------------------------------------------------------------------------------	---------------------------------	--------------------------------	---------------------------------------

7a	If yes, please provide brief details.....			
.....				
.....				

DOMESTIC VIOLENCE

8	Is the child/young person exposed to domestic or family violence?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
8a	If yes, please state brief details and/or circumstances			
.....				
9	Is there/has there been physical injury to the child/young person?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
9a	If yes, please state brief details and/or circumstances			
.....				
10	Is there/has there been a serious threat to harm the child/young person adult/self?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not known <input type="checkbox"/>
10a	If yes, please state brief details and/or circumstances			
.....				
11	Is there/has there been the use of weapons and/or attempts to strangle/suffocate/kill?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
11a	If yes, please state brief details and/or circumstances			
.....				
12	What impacts have been observed in the child/young person?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
12a	If yes, please state brief details and/or circumstances			
.....				

13	Is there a domestic violence order (or other court order) in effect in respect of an offender/s or alleged offender/s?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
13a	If yes, please state brief details and/or circumstances			
.....				
.....				
.....				

14	I am aware of recent /imminent divorce or separation?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
14a	If yes, please state brief details and/or circumstances			
.....				
.....				
.....				

15	Are there issues pertaining to child custody/child custody dispute?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
15a	If yes, please state brief details and/or circumstances			
.....				
.....				
.....				

SEXUAL ABUSE

16	Has another person reported this abuse to you, to furnish this report?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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17	Does this person wish to remain anonymous?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
17a	If no, please state following details			
Name of person:				
Contact details:				
Address:				
Tel No:		Mobile:		Email:

18	Has the child/young person made a clear, unambiguous statement of sexual abuse?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
18a	If yes, please state brief details and/or circumstances			
.....				
.....				
.....				
19	Is the child/young person pregnant?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
19a	If yes, please state brief details and/or circumstances			
.....				
.....				
.....				
20	Has the child/young person made an indirect statement of sexual abuse?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
20a	If yes, please state brief details and/or circumstances			
.....				
.....				
.....				
21	Does the child/young person display behaviour that causes you to have concerns?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
21a	If yes, please state brief details and/or circumstances			
.....				
.....				
.....				
22	Are you aware of the child/young person having significant contact with a known sexual offender?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
22a	If yes, please state brief details and/or circumstances			
.....				
.....				
.....				

23	Is the child/young person displaying behaviour that is consistent with sexual abuse?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
23a If yes, please state brief details and/or circumstances				
24	Are you aware that the child/young person has been exposed to sexually explicit material or acts including pornography and communication of sexual matters?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
24a If yes, please state brief details and/or circumstances				
25	Are you concerned that the child/young person has been exposed to grooming behaviour?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
25a If yes, please state brief details and/or circumstances				
26	Does the child/young person express fear, discomfort or exhibit symptoms of significant harm?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
26a If yes, please state brief details and/or circumstances				
27	Are you concerned that the child/young person is engaged in prostitution or pornography?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not Known <input type="checkbox"/>
27a If yes, please state brief details and/or circumstances				

OFFICIAL USE ONLY

**PART II: Child Welfare Officer Action Plan
CONFIDENTIAL**

Child welfare officer to complete:

Date Received:	/ /
Case No:	

Is this child/young person known to Authorities due to previous reports?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--------------------------------------------------------------------------	---------------------------------	--------------------------------

Previous reports			
Date:	/ /	Case No:	
Date:	/ /	Case No:	
Date:	/ /	Case No:	
Date:	/ /	Case No:	

POLICE

Have similar reports regarding this child/young person been made to police?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please state brief details and result (if known)		
.....		
.....		
.....		

MEDICAL PRACTITIONER

Have similar reports regarding this child/young person been made to a Medical Practitioner?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please state brief details and result (if known)		
.....		
.....		
.....		

OTHER

Have similar reports regarding this child/young person been made to any other mandatory reporting personnel (i.e. counsellor, teacher)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please state brief details and result (if known)		
.....		
.....		
.....		

Form 6
Search warrant

Norfolk Island
 Court of Petty Sessions

No. of 20...

To the Officer in Charge Norfolk Island Police, and to all other police officers in Norfolk Island and the Child Welfare Officer

WHEREAS an information on oath has this day been laid before the undersigned, a magistrate of Norfolk Island, alleging that there are reasonable grounds for suspecting that there may be on any land or on or in any premises, vessel or vehicle a thing of a particular kind (described in the Schedule) connected with a particular offence against a provision of the *Child Welfare Act 2009* the nature of which is.....

These are therefore to command you, in the Sovereign's name, forthwith with reasonable and necessary assistance and the force that is necessary and reasonable, to enter the land and premises [*or as the case may be*] of *AB* [at any time of the day or night/between the hours of.....in the day time/night time], and there diligently search for the goods; and if the same, or any part thereof, are found upon search, that you seize the goods so found and hold them until further order of the court.

This warrant expires on.....

Given under my hand, at Norfolk Island, this day of 20 .

[*Signature*]

Magistrate

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Commenced on gazettal (19 November 2010.)

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