

Western Australia

Prohibited Behaviour Orders Act 2010

## **Prohibited Behaviour Orders Regulations 2011**

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As at 23 Feb 2011

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## Prohibited Behaviour Orders Regulations 2011

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## Prohibited Behaviour Orders Regulations 2011

### 1. Citation

These regulations are the *Prohibited Behaviour Orders Regulations 2011*.

### 2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Prohibited Behaviour Orders Act 2010*, other than sections 1 and 2, comes into operation.

### 3. Terms used

In these regulations, unless the contrary intention appears —

*Act* means the *Prohibited Behaviour Orders Act 2010*;

*co-licensee*, of a firearm in respect of which the constrained person holds a firearm licence, means another person who holds a firearm licence for that firearm;

*Commissioner* means the Commissioner of Police;

*section* means a section of the Act.

### 4. Offences to be taken to involve anti-social behaviour (Act s. 3(2))

Each offence —

- (a) under a provision listed in Schedule 1 column 1; and
- (b) committed in the circumstances, if any, specified in Schedule 1 column 2,

is a prescribed offence for the purposes of section 3(2).

**5. Firearms and firearm licences given up (Act s. 30(1))**

- (1) In this regulation —

***prescribed period*** means —

- (a) 24 hours; or
- (b) a shorter period, if any, ordered by the court under section 30(4).

- (2) This regulation applies for the purposes of section 30(1).

- (3) Within the prescribed period after he or she is given a PBO described in section 29, or an order varying a PBO so that it becomes a PBO described in section 29, the constrained person must —

- (a) if the constrained person holds a firearm licence, give it to a police officer at a police station; and
- (b) if the constrained person is in physical possession of a firearm, give it to —
  - (i) a police officer at a police station; or
  - (ii) a co-licensee of the firearm, if there is one.

**6. Dealing with firearms or firearm licences given up or seized (Act s. 30(2) and 31)**

- (1) This regulation applies for the purposes of sections 30(2) and 31.

- (2) The firearm or firearm licence must be held in safe custody by the Commissioner until —

- (a) in the case of the firearm —
  - (i) it is claimed under regulation 7(1) or (2); or

- (ii) it can be lawfully disposed of by the Commissioner;
- or
- (b) in the case of a firearm licence —
  - (i) it is claimed under regulation 7(2); or
  - (ii) it ceases to be in force under the *Firearms Act 1973*.
- (3) The *Firearms Regulations 1974* regulation 11(2) and (3) apply when the Commissioner is holding a firearm under subregulation (1).

**7. Claims for firearms and firearm licences**

- (1) A co-licensee may claim a firearm held by the Commissioner under regulation 6.
- (2) A constrained person may, after the PBO ceases to be in force, claim a firearm or firearm licence held by the Commissioner under regulation 6.
- (3) A claim made under subregulation (1) or (2) is to be made in a form approved by the Commissioner.
- (4) Subject to subregulation (5), the Commissioner must give the firearm or firearm licence to the claimant.
- (5) This regulation does not prevent the Commissioner from exercising a power under the *Firearms Act 1973* section 20.

**Schedule 1 — Offences to be taken to involve anti-social behaviour**

[r. 4]

<i>Bush Fires Act 1954</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 32	Offences of lighting or attempting to light fire likely to injure

<i>The Criminal Code</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 68B	Being armed in or near place of public entertainment
s. 68C	Being armed in public in company
s. 68	Being armed in a way that may cause fear
s. 69	Forcibly entering land
s. 70A	Trespass
s. 71	Fighting in public causing fear
s. 74	Threatening violence
s. 74A	Disorderly behaviour in public
s. 74B	Causing fear or alarm to people in conveyances and others
s. 77	Conduct intended to incite racial animosity or racist harassment



<i>The Criminal Code</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 78	Conduct likely to incite racial animosity or racist harassment
s. 80A	Conduct intended to racially harass
s. 80B	Conduct likely to racially harass
s. 171	Creating false belief
s. 172	Obstructing public officers
s. 202	Obscene acts in public
s. 203	Indecent acts in public
s. 204	Indecent act with intent to offend
s. 204A	Showing offensive material to children under 16 years of age
s. 313	Common assaults
s. 317	Assaults occasioning bodily harm
s. 318	Serious assaults
s. 338A	Threats with intent to influence
s. 338B	Threats
s. 338E	Stalking
s. 378	Stealing a motor vehicle on conviction for which a summary conviction penalty is imposed under <i>The Criminal Code</i> section 426(3)

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**Schedule 1** Offences to be taken to involve anti-social behaviour

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<i>The Criminal Code</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 378	Stealing a thing having a value that does not exceed \$1 000 on conviction for which a summary conviction penalty is imposed under <i>The Criminal Code</i> section 426(4)
s. 392	Robbery
s. 393	Assault with intent to rob
s. 401	Burglary on conviction for which a summary conviction penalty is imposed under <i>The Criminal Code</i> section 401
s. 444	Criminal damage
s. 445A	Breaching a duty under s. 444A
s. 445	Damaging property

<i>Criminal Investigation Act 2006</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 153	Failure to comply with an officer's order under the <i>Criminal Investigation Act 2006</i>

<i>Liquor Control Act 1988</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 115(6)	Remaining in an area adjacent to licensed premises after having been refused entry to, or required to leave, the premises

<i>Liquor Control Act 1988</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 115(7)	Re-entering licensed premises within 24 hours of being refused entry to, or required to leave, the premises
s. 119(1)	Consuming liquor in a place or premises without the consent of the occupier or person having control of the place or premises
s. 119(2)	Bringing liquor into, or possessing or consuming liquor in, a sports ground or stadium
s. 119(4)	Consuming liquor in a public place except under an exemption, licence or permit
s. 121(3)	Purchasing or obtaining liquor on licensed premises on behalf of a juvenile
s. 123(1)	Juvenile purchasing, obtaining or consuming liquor on, or bringing liquor onto, licensed or regulated premises
s. 123(2)	Juvenile possessing liquor in a public place
s. 124	Sending a juvenile to licensed or regulated premises for the purpose of obtaining liquor
s. 126(4)	Re-entering licensed or regulated premises within 24 hours of being required to leave, or removed from, the premises under section 126
s. 126(5)	Remaining in an area adjacent to licensed premises after having been required to leave, or being removed from, the premises

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**Schedule 1** Offences to be taken to involve anti-social behaviour

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<i>Misuse of Drugs Act 1981</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 5	Offences concerned with prohibited drugs and prohibited plants in relation to premises and utensils
s. 6	Offences concerned with prohibited drugs generally
s. 7	Offences concerned with prohibited plants generally

<i>Prostitution Act 2000</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 5	Seeking prostitute in or in view or within hearing of public place
s. 6	Seeking client in or in view or within hearing of public place

<i>Public Transport Authority Act 2003</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 64B	Contravention of a prohibition order

<i>Public Transport Authority Regulations 2003</i>	
<b>Provision</b>	<b>Description of offence</b>
r. 7	Interfering with Authority property
r. 13	Causing nuisance or annoyance to persons in or an a conveyance or facility

<i>Public Transport Authority Regulations 2003</i>	
<b>Provision</b>	<b>Description of offence</b>
r. 15	Damaging a conveyance or facility
r. 40	Obstructing an authorised person

<i>Road Traffic Act 1974</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 59	Dangerous driving causing death, injury etc.
s. 59A	Dangerous driving causing bodily harm
s. 60	Reckless driving
s. 61	Dangerous driving
s. 62	Careless driving
s. 62A	Causing excessive noise, smoke
s. 63	Driving under the influence of alcohol etc.
s. 64	Driving with blood alcohol content of or above 0.08
s. 64AA	Driving with blood alcohol content of or above 0.05

<i>Weapons Act 1999</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 6	Prohibited weapons
s. 7	Controlled weapons

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**Schedule 1**      Offences to be taken to involve anti-social behaviour

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<i>Weapons Act 1999</i>	
<b>Provision</b>	<b>Description of offence</b>
s. 8	Other articles carried or possessed as weapons

**Notes**

<sup>1</sup> This is a compilation of the *Prohibited Behaviour Orders Regulations 2011*. The following table contains information about those regulations.

**Compilation table**

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<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Prohibited Behaviour Orders Regulations 2011</i>	23 Feb 2011 p. 635-48	r. 1 and 2; 23 Feb 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 23 Feb 2011 (see r. 2(b) and <i>Gazette</i> 23 Feb 2011 p. 633)

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