Western Australia

Prohibited Behaviour Orders Act 2010

Prohibited Behaviour Orders Regulations 2011

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Western Australia

Prohibited Behaviour Orders Act 2010

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.

##### 8. Registrar to provide publication information to CEO

(1) In this regulation —

CEO has the meaning given in section 34(1).

(2) After a court makes a PBO under section 6(2) or 24(2)(b), a registrar must cause to be given to the CEO written notice of the following information relating to the PBO —

(a) the name of the constrained person;

(b) the town or suburb where the constrained person lives;

(c) the constraints imposed by the PBO on the activities and behaviour of the constrained person.

(3) After a court makes an order under section 24(2)(a) varying a PBO, a registrar must cause to be given to the CEO written notice of any changes to information referred to in subregulation (2) relating to the PBO.

(4) After a court makes an order under section 24 cancelling a PBO, a registrar must cause to be given to the CEO written notice of that fact.

[Regulation 8 inserted: Gazette 1 Jul 2011 p. 2725‑6.]

Schedule 1 — Offences to be taken to involve anti‑social behaviour

[r. 4]

| ***Bush Fires Act 1954*** | |
| --- | --- |
| **Provision** | **Description of offence** |
| s. 32 | Offences of lighting or attempting to light fire likely to injure |

| ***The Criminal Code*** | |
| --- | --- |
| **Provision** | **Description of offence** |
| 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 |
| 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 *The Criminal Code* section 426(3) |
| 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 *The Criminal Code* 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 *The Criminal Code* section 401 |
| s. 444 | Criminal damage |
| s. 445A | Breaching a duty under s. 444A |
| s. 445 | Damaging property |

| ***Criminal Investigation Act 2006*** | |
| --- | --- |
| **Provision** | **Description of offence** |
| s. 153 | Failure to comply with an officer’s order under the *Criminal Investigation Act 2006* |

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

| ***Misuse of Drugs Act 1981*** | |
| --- | --- |
| **Provision** | **Description of offence** |
| 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 |

| ***Prostitution Act 2000*** | |
| --- | --- |
| **Provision** | **Description of offence** |
| 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 |

| ***Public Transport Authority Act 2003*** | |
| --- | --- |
| **Provision** | **Description of offence** |
| s. 64B | Contravention of a prohibition order |

| ***Public Transport Authority Regulations 2003*** | |
| --- | --- |
| **Provision** | **Description of offence** |
| r. 7 | Interfering with Authority property |
| r. 13 | Causing nuisance or annoyance to persons in or an a conveyance or facility |
| r. 15 | Damaging a conveyance or facility |
| r. 40 | Obstructing an authorised person |

| ***Road Traffic Act 1974*** | |
| --- | --- |
| **Provision** | **Description of offence** |
| 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 |

| ***Weapons Act 1999*** | |
| --- | --- |
| **Provision** | **Description of offence** |
| s. 6 | Prohibited weapons |
| s. 7 | Controlled weapons |
| s. 8 | Other articles carried or possessed as weapons |

Notes

1 This is a compilation of the *Prohibited Behaviour Orders Regulations 2011* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

| **Citation** | **Gazettal** | **Commencement** |
| --- | --- | --- |
| *Prohibited Behaviour Orders Regulations 2011* | 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 *Gazette* 23 Feb 2011 p. 633) |
| *Prohibited Behaviour Orders Amendment Regulations 2011* | 1 Jul 2011 p. 2725‑6 | r. 1 and 2: 1 Jul 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 2 Jul 2011 (see r. 2(b)) |

Defined terms

*[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]*

**Defined term Provision(s)**

Act 3

CEO 8(1)

co‑licensee 3

Commissioner 3

prescribed period 5(1)

section 3