

To be inserted by Court

Case Number:

Date Signed:

FDN:

ORDER – CONFIRMATION, VARIATION OR REVISION OF PART 8A DIVISION 3A CRIMINAL LAW CONSOLIDATION ACT ORDER

[SUPREME/DISTRICT/MAGISTRATES/YOUTH/ENVIRONMENT RESOURCES AND DEVELOPMENT] Select one
COURT OF SOUTH AUSTRALIA
CRIMINAL JURISDICTION

[FULL NAME]
Applicant

v

[FULL NAME]
Respondent

Introduction

Hearing

Hearing Location: [suburb]
[Hearing date]

Hearing type:

Supreme and District Court only

[Actual hearing start time] - [Actual hearing end time]

[Presiding Officer]

Appearances

[Applicant Appearance Information]
[Respondent Appearance Information]

Remarks

- (a) On [date] an order was made releasing [full name] [('the Defendant')/('the Youth')] on licence under section 269NB(2)(c) of the *Criminal Law Consolidation Act 1935* for a term of [term] ('the licence term').
- (b) On [date] an order was made varying the terms of licence under section 269ND of the *Criminal Law Consolidation Act 1935* in case [number].
- (c) An application has been made to the Court for [variation/revocation/review] of the Division 3A order under section [269ND/269NDA] of the *Criminal Law Consolidation Act 1935*.
- (d) [Other] provision for multiple

Order**Date of Order:** [date]**Terms of Order**

The Court orders that:

1. The application to [vary/revoke] the Division 3A Order is dismissed under section 269ND of the *Criminal Law Consolidation Act 1935*.
2. The present conditions of the Division 3A Order are confirmed under section 269NDA(3)(a) of the *Criminal Law Consolidation Act 1935*.
3. The application to [vary/revoke] the Division 3A Order is granted under section 269ND of the *Criminal Law Consolidation Act 1935*. The conditions of the Division 3A Order are varied. The amended conditions are set out below.
4. The conditions of the Division 3A Order are varied under section 269NDA(3)(b) of the *Criminal Law Consolidation Act 1935*. The amended conditions are set out below.
5. If the Clinical Director (“the Director”) of the South Australian Forensic Mental Health Services (“FHMS”), or a consultant psychiatrist nominated by him or her (“the nominee”), or the Presiding Member of the [Parole Board/Training Centre Review Board] or the Presiding Member’s nominee is of the opinion that the [Defendant/Youth] has contravened or is likely to contravene a condition of this order, that person is immediately to notify the prosecution of that opinion.
- If the prosecution is notified, the prosecution may immediately make an Application to this Court for review of this order under section 269NDA of the *Criminal Law Consolidation Act 1935* which application, in cases of urgency, may be made at short notice.
6. The [Defendant/Youth], the prosecution, the Presiding Member of the [Parole Board/Training Centre Review Board] or his or her nominee, the Public Advocate and a person with a proper interest in the matter are at liberty to apply at any time at short notice to the other party to vary or revoke this order or to seek any other order under section 269ND of the *Criminal Law Consolidation Act 1935*.
7. [Other] option to enter free text, provision for multiple entries

Conditions of Licence**General**

1. The [Defendant/Youth] must be of good behaviour and obey the conditions of this Order.

Supervision

2. **Adult Only** The [Defendant/Youth] be under the care of a responsible person (‘the Supervising Officer’) nominated by the Parole Board and the [Defendant/Youth] must obey their reasonable directions.
3. **Adult Only** The [Defendant/Youth] be supervised by a Department for Correctional Services Community Corrections Officer (‘the Supervising Officer’) and the [Defendant/Youth] must obey their reasonable directions about non-medical matters.
4. **Youth Only** The [Defendant/Youth] be supervised by a Women’s and Children’s Health Network – Child and Adolescent Mental Health Service Officer [and a Department of Human Services Youth Justice Officer] (‘the Supervising Officer’) and the [Defendant/Youth] must obey their reasonable directions about non-medical matters.
5. **Adult Only** The [Defendant/Youth] be under the care of the Clinical Director (‘the Director’) of the South Australian Forensic Mental Health Service (‘the Service’) or a consultant psychiatrist nominated by the Director (‘the nominee’), and obey their reasonable directions about medical and psychiatric treatment and

medication; and further that the [Defendant/Youth] be psychiatrically reviewed on a regular basis as directed by the Director or the nominee.

6. ^{Youth only} The [Defendant/Youth] be under the care of the Clinical Director ('the Director') of the Women's and Children's Health Network – Child and Adolescent Mental Health Service ('the Service') or a consultant psychiatrist nominated by the Director ('the nominee'), and obey their reasonable directions about medical and psychiatric treatment and medication; and further that the [Defendant/Youth] be psychiatrically reviewed on a regular basis as directed by the Director or the nominee.
7. If the Director or nominee thinks it appropriate, management of the treatment and monitoring of the [Defendant/Youth]'s mental health can be transferred to a key worker at one of the regional mental health teams closest to their place of residence, or any other designated service provider ('the nominee'), and they must obey their reasonable directions about the treatment and monitoring of their mental health.
8. If the Director or nominee thinks it appropriate, management of the treatment and monitoring of the [Defendant/Youth]'s mental health can be transferred to a local Community Mental Health Team, who shall case manage them in conjunction with the NDIS funded service provider [*and a NDIS Aboriginal Cultural Advisor* delete if not applicable] and they must obey their reasonable directions about the treatment and monitoring of their mental health.

Residence (place of living)

9. The [Defendant/Youth] must reside at an address nominated or approved by the Supervising Officer and must not change residence without prior approval from the Supervising Officer.
10. The [Defendant/Youth] must live at [*name of facility and address*] and must not to leave that facility unless authorised by the Director or the nominee. While they live at [*name of facility*], they must cooperate with the rehabilitation program.
11. The [Defendant/Youth] is allowed, at the discretion of the Director or nominee, periods of leave away from [*name of facility*] for medical treatment [*or rehabilitation*] approved by the Director or the nominee, but only if they are escorted at all times during such periods of leave by at least [*number*] staff member(s) employed or nominated by the Service.
12. The [Defendant/Youth] is allowed periods of accompanied and unaccompanied day and overnight leave away from [*name of facility*] for rehabilitation reasons, as approved by the Director or nominee.
13. After a period of successful overnight leave, the [Defendant/Youth], or the Director or the nominee may apply to the Court for a variation of these conditions so that they are discharged from [*name of facility*] to reside in the community. Such application may not be made for at least 6 months from the date of this Order.
14. The [Defendant/Youth] must stay at the required address [*between the hours of [time] and [time]*] and the Defendant must be at an entrance to that address if asked to by the Supervising Officer or a Police Officer, unless absent:
- a. for emergency medical or dental treatment, to avoid or reduce a serious risk of death or injury to the [Defendant/Youth] or another; or
 - b. for any other reason approved by the Supervising Officer.
15. For a period of [*no. of years/months/days*] from the date of this Order the [Defendant/Youth] must stay at the approved place of residence [*between the hours of [time] and [time]*] and be at an entrance to that address if asked to by the Supervising Officer or a Police Officer, or any other person authorised to carry out a curfew check, unless absent:
- a. for emergency medical or dental treatment; or
 - b. to avoid or reduce serious risk of death or injury to themselves or another; or
 - c. for any other reason approved by the Supervising Officer.
16. If an emergency requires the [Defendant/Youth] to move to another facility or address, they must not move until they have obtained the permission of a senior officer from the NDIS funded service provider; and the senior officer of the NDIS funded service provider must advise the Court immediately of any change of residential address.

17. The [Defendant/Youth] must wear an electronic transmitter and obey the [Department for Correctional Services/Department of Human Services] rules of electronic monitoring, including charging the transmitter daily and any other lawful directions given to them by the Supervising Officer [or Parole Board].

Programs

18. The [Defendant/Youth]'s case be managed by the [name of unit/team] at [name of facility] and the [Defendant/Youth] must obey the reasonable directions of that team or any person authorised by that team to give such directions, particularly for going to appointments nominated by that team or the authorised person.
19. The [Defendant/Youth]'s case be managed by the Forensic Community Mental Health Team, [in conjunction with the NDIS funded service provider ~~delete if not applicable~~] [and a NDIS Aboriginal Cultural Advisor ~~delete if not applicable~~] and the [Defendant/Youth] must obey the reasonable directions of that team, particularly for going to appointments nominated by the team[s] [or advisor].
20. The [Defendant/Youth] must attend for assessment and, if assessed as suitable, go to and complete any:
- a. psychiatric, psychological or medical assessment, treatment, counselling, or therapy programs, including for drug abuse;
 - b. educational, vocational or recreational programs;
 - c. intervention program;
 - d. programs and projects,
- that the Supervising Officer [or Parole Board] reasonably directs.
21. The [Defendant/Youth] must obey the reasonable directions of the Supervising Officer and as recommended by the NDIS funded service provider with respect to:
- a. counselling;
 - b. psychological treatment;
 - c. going to rehabilitation assessments;
 - d. vocational or occupational programs;
 - e. drug and alcohol rehabilitation programs.
22. The [Defendant/Youth] must be referred to a clinical psychologist for cognitive-behavioural therapy to assist, particularly in the area of anxiety management and treatment.
23. The [Defendant/Youth] must obey in every respect any treatment plan prepared or directed by the Supervising Officer [or the Director or nominee].
24. The [Defendant/Youth] must continue to receive their medication current at the date of this Order. No alteration or reduction of that medication is allowed without the prior approval of the Director or the nominee.
25. The [Defendant/Youth] must submit to random blood screening at the direction of the Director or the nominee, to ensure that medication is taken as prescribed.

Drugs and Alcohol

26. The [Defendant/Youth] must not use, possess (have), or consume:
- a. alcohol
 - b. any drug, including any narcotic or psychotropic drug, that is not prescribed by a medical doctor registered in South Australia or legally available in another way, and then only at the prescribed or recommended dosage
 - c. [other]

and the [Defendant/Youth] must have any tests that are needed to check if they are obeying these orders as directed by the Supervising Officer [or Parole Board].

The [Defendant/Youth] must sign all needed forms and obey all of the testing procedures.

Firearms

27. The [*Defendant/Youth*] is prohibited from possessing a firearm (gun of any sort), ammunition (both within the meaning of the *Firearms Act 2015*) or any part of a firearm.
28. The [*Defendant/Youth*] must submit to such tests (including testing without notice) for gunshot residue as may be reasonably required by the Supervising Officer or a member of the South Australian Police.
29. The [*Defendant/Youth*] must hand in any firearm, ammunition or any part of a firearm owned or possessed by them as soon as possible at a Police Station.

Offensive Weapons

30. The [*Defendant/Youth*] must not possess an offensive weapon unless the Court permits them to possess such a weapon and they comply with the terms and conditions of the permission.

Association

31. The [*Defendant/Youth*] must not go to or stay within [*description of location or area, including boundaries*] unless they:
- a. are with a person approved by the Supervising Officer or
 - b. have permission beforehand from the Supervising Officer.

32. The [*Defendant/Youth*] must not go to or stay within [*the following locations or areas/the locations or areas delineated on Map(s) [x] annexed and bordered by the following roads*]:

- [*description of location(s) or area(s), including boundaries/roads*]

other than for the reasons of:

- attending educational, recreational or therapeutic programs as directed by the Defendant's Supervising Officer;
- passing through continuously on public or private transport;
- visiting [*insert place/address*].

33. The [*Defendant/Youth*] must not go to or stay within the [*the following locations or areas/the locations or areas delineated on Map(s) [x] annexed and bordered by the following roads*]:

- [*description of location(s) or area(s), including boundaries/roads*]

- a. on any day other than one specific day per [*week/fortnight/month/year*] that day being [*i.e. first day of each month*]; and

- b. other than for the reasons of:

- attending educational, recreational or therapeutic programs as directed by the Defendant's Supervising Officer;
- passing through continuously on public or private transport;
- visiting [*insert place/address*].

34. Despite the terms of this Order, the Defendant is allowed to:
- a. travel on but not stop on [*list roads*];
 - b. enter or stop on [*insert place/address*] to catch public transport.

35. The [*Defendant/Youth*] must not directly or indirectly approach, communicate with, contact, or go or stay within [*number*] metres of [*person(s) and/or class(es) of persons*].

36. The [*Defendant/Youth*] must not directly or indirectly contact, attempt to contact, associate with, go near or stay near a child or person under the age of [*number*] years unless they are with a person approved by the Supervising Officer.

The [*Defendant/Youth*] must sign all required forms and obey the directions of the Supervising Officer about the choice and approval of the approved person.

For the avoidance of doubt, this condition does not prohibit contact where it is necessary and incidental to the [*Defendant/Youth*] performing essential activities of daily living, for example, shopping at a supermarket.

- 37. The [Defendant/Youth] must not go or stay within [500 metres (half a kilometre)/other distance] of any school, kindergarten, childcare centre, playground, public toilet or other places where children are regularly present.
- 38. The [Defendant/Youth] must not go or stay within [number] metres of the boundary of any place where [name] may live or work.
- 39. The [Defendant/Youth] must not do any child related work, including paid or voluntary work with people under 18 years old or participation in organisations which provide recreational, social, educational or other services to people of that age, and must not apply for child related work except [specify exception(s)].
- 40. The [Defendant/Youth] must not assault, harass, threaten or intimidate [name].
- 41. The [Defendant/Youth] must obey the terms of any active Intervention Order.

Internet and Communication

- 42. The [Defendant/Youth] must not possess (have) any telephone, mobile phone, computer or other telecommunication device that lets them communicate with any other person, including on the internet, or freely browse or search on the internet except [specify device(s)] and providing they have permission beforehand from the Supervising Officer.

Transitional Plan

- 43. For the initial period of release on licence the [Defendant/Youth] must obey stages [x] and [x] of the transitional plan set out in the report and attachment of [name of report writer] dated [date] attached and marked "[x]".
- 44. At the end of stage [x] of the transitional plan a report must be prepared for the Court by [name of report writer] to advise the Court as to the success or otherwise of the transition plan. At that point, an application may be made to vary the Supervision Order to implement further stages of the transition plan.
- 45. At any point, the transitional plan can be suspended by the Director or the nominee and the matter be brought back to Court for further consideration.
- 46. An activity plan must be prepared each week detailing the [Defendant/Youth]'s proposed leave arrangement. A copy of this plan is then to be emailed each week to the nominated South Australian Police liaison officer.
- 47. The [Defendant/Youth] must obey every part of any NDIS Accommodation and/or Support Plan prepared for the Defendant.

Travel

- 48. The [Defendant/Youth] must not leave or attempt to leave South Australia for any reason without obtaining the written approval of the Supervising Officer at least seven (7) days prior to travel.
- 49. The [Defendant/Youth] must not drive, purchase, possess (have) or sit in the driver's seat of a motor vehicle [for a period of no. of years/months/weeks/days].
- 50. The [Defendant/Youth] must tell the Supervising Officer in advance of an intention to travel in any motor vehicle, including private or public transport.
- 51. The [Defendant/Youth] must give up any passport they have to the Registrar of the [Court] at [location] and must not apply for a new passport.
- 52. The [Defendant/Youth] must not enter any point of international departure such as an airport or seaport.
selecting this option will tell the Australian Federal Police

Other Conditions

- 53. [Other conditions] option to enter free text, provision for multiple entries

To the Defendant: WARNING

If you fail to obey the conditions of this order, **the order may be revoked and you may be ordered to serve the balance of the licence term in custody.**

You have a right under section 269ND of the *Criminal Law Consolidation Act 1935* to apply to vary or revoke the order.

Nothing in this licence affects other powers of treatment or detention including powers under the *Mental Health Act 2009*.

To the Responsible Person

If you consider that these conditions need variation or upon becoming aware of any breach of these licence conditions by the [Defendant/Youth], the [Defendant/Youth] needs to be arrested, the responsible person must immediately inform the South Australian Police (prosecution section) and apply to the Court for an order as the circumstances require.

Authentication

.....
Signature of Court Officer
[title and name]

Acknowledgement by Defendant

I acknowledge that I have received a copy of this order.

I understand its conditions and I understand what will happen if I fail to comply with these conditions.

.....
Signature of [*Defendant/Youth*]

.....
Name printed

Witness

.....
Signature of authorised witness

witness must be the Judicial Officer making order, the registrar or deputy registrar of a Court, a justice of the peace, a police officer of or above the rank of sergeant or the responsible officer for a police station, the manager of a training centre if the [*Defendant/Youth*] is in a training centre, the person in charge of a prison if the [*Defendant/Youth*] is in a prison, or a delegate of any of these persons or any other person or class of persons specified by the Court

next item not displayed if witness is Judicial Officer making order

.....
Printed name and title of witness stamp here if applicable

.....
Date