



AUSTRALIAN CAPITAL TERRITORY

Remand Centres (Amendment) Act 1997

No. 100 of 1997

An Act to amend the *Remand Centres Act 1976*

[Notified in ACT Gazette S420: 24 December 1997]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Remand Centres (Amendment) Act 1997*.

Commencement

2. (1) Sections 1, 2, 3 and 4 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, “Principal Act” means the *Remand Centres Act 1976*.¹

Insertion

4. After section 7A of the Principal Act the following section is inserted:

Delegations by Administrator

“7B. (1) Subject to this section, the Administrator may, in writing, delegate all or any of his or her powers under this Act or the *Prisoners’ Interstate Leave Act 1997* to an officer or employee of the Australian Capital Territory Public Service performing functions in a prescribed office in the administrative unit in which the Administrator holds office.

“(2) Subsection (1) does not apply to the power under subsection 7 (2) to transfer a person remanded into the Administrator’s custody to a remand centre or institution outside the Territory.

“(3) A delegated power shall not be exercised except in circumstances ascertained in accordance with the regulations.”.

Persons who may be detained

5. Section 15 of the Principal Act is amended—

(a) by adding at the end of subsection (1) the following paragraphs:

- “(p) a prisoner who is in the Territory under an interstate permit and requires overnight accommodation;
- (q) a person who is to be detained in custody under an order under subsection 16 (4) of the *Prisoners’ Interstate Leave Act 1997*.”.

(b) by inserting after subsection (2) the following subsection:

“(2A) A person detained in a remand centre pursuant to paragraph (1) (p) shall not be detained for longer than is reasonably necessary for the purpose of providing him or her with overnight accommodation.”; and

(c) by adding at the end the following subsection:

“(5) In paragraph (1) (p), ‘interstate permit’ and ‘prisoner’ have the same respective meanings as they have in Part IV of the *Prisoners’ Interstate Leave Act 1997*.”.

Offences by detainees

6. Section 17 of the Principal Act is amended by omitting the penalty provision and substituting the following penalty provision:

“Penalty:

- (a) for a breach of paragraph (a), (b) or (d)—50 penalty units or imprisonment for 6 months, or both;
- (b) for a breach of paragraph (c)—imprisonment for 5 years.”.

Offences by persons other than detainees

7. Section 18 of the Principal Act is amended by omitting the penalty provision and substituting the following penalty provision:

“Penalty:

- (a) for a breach of paragraph (a) or (b)—100 penalty units or imprisonment for 1 year, or both;
- (b) for a breach of paragraph (c) or (d)—50 penalty units or imprisonment for 6 months, or both.”.

Withdrawal of entitlements by Superintendent

8. Section 21 of the Principal Act is amended—

- (a) by inserting after subsection (1) the following subsections:

“(1A) Where the Superintendent believes on reasonable grounds that a detainee, while on leave of absence from a remand centre by virtue of a permit under Part III of the *Prisoners’ Interstate Leave Act 1997*, has disobeyed a direction under subsection 13 (1) of that Act, the Superintendent may, on the detainee’s return to a remand centre, cause him or her to be deprived of 1 or more of his or her entitlements.

“(1B) Subsection (1A) applies whether or not the detainee has been charged with, or convicted of, an offence against subsection 13 (2) of the *Prisoners’ Interstate Leave Act 1997*.”; and

- (b) by omitting subsection (3) and substituting the following subsection:

“(3) Notwithstanding the provisions of subsections (1) and (1A), a detainee is entitled to 2 hours’ recreation in the open air on each day.”.

Complaints by detainees

9. Section 25 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) Where a detainee is not satisfied with—

- (a) his or her treatment at a remand centre;
- (b) the manner in which a remand centre is conducted;
- (c) a refusal to release him or her temporarily under section 28;
- (d) a refusal to grant to him or her a permit under Part III of the *Prisoners’ Interstate Leave Act 1997*;
- (e) a condition or restriction to which such a permit is subject; or
- (f) the variation or revocation of such a permit or a condition or restriction to which it is subject;

the detainee, or a person acting on his or her behalf and at his or her request, may make a complaint to the Official Visitor.”.

Insertion

10. After section 27 of the Principal Act the following section is inserted:

Temporary release of detainees for interstate visits

“27A. The Superintendent shall release into the custody of the assigned escort or escorts a detainee to whom a permit under Part III of the *Prisoners’ Interstate Leave Act 1997* has been granted for the purpose of enabling the detainee to undertake travel in accordance with that Act for the purpose specified in the permit.”.

Temporary release of detainees within the Territory

11. Section 28 of the Principal Act is amended—

- (a) by omitting from subsection (1) “Minister” and substituting “Administrator”;
- (b) by omitting from paragraph (1) (d) “Minister” and substituting “Administrator”;
- (c) by inserting after subsection (1) the following subsection:

“(1A) The Administrator may not release a detainee under this section for a purpose that would involve the detainee in travel outside the Territory.”; and

(d) by adding at the end the following subsection:

“(3) In this section—

‘detainee’ does not include a person detained under paragraph 15 (1) (p) or (q).”.

Regulations

12. Section 29 of the Principal Act is amended by omitting from paragraph (e) “\$1,000” and substituting “10 penalty units”.

NOTES

Principal Act

1. Reprinted as at 1 January 1997. See also Act No. 41, 1997.

Penalty units

See section 33AA of the *Interpretation Act 1967*.

[Presentation speech made in Assembly on 13 November 1997]