

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Custodial Escorts Bill 1998

A BILL

FOR

An Act relating to the escort of persons in lawful custody

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

1. Short title

This Act may be cited as the *Custodial Escorts Act 1998*.

5 2. Commencement

(1) Section 1 and this section 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*.

10 (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.

88076 (1998/141) (T76/1998)

3. Interpretation

In this Act, unless the contrary intention appears—

“Administrator” means the Administrator under the *Remand Centres Act 1976*;

5 “arrested person” means—

(a) a person who—

(i) has been arrested by a police officer for an offence, whether pursuant to a warrant or otherwise; or

10 (ii) is in the custody of a police officer after being arrested by another person for an offence; or

(b) a person who has been arrested or apprehended pursuant to a warrant, direction or order to secure the person’s attendance at a court;

15 “chief police officer” means the police officer responsible for the day-to-day administration and control of police services in the Territory;

“court” includes—

(a) a Judge and a Magistrate; and

(b) a person or authority having power to compel the attendance of witnesses;

20 “custodial officer” means a custodial officer under the *Remand Centres Act 1976*;

“escort” means a person appointed under section 4.

4. Escorts—appointment

(1) The Administrator may, in writing, appoint a person to be an escort.

25 (2) The Administrator shall not appoint a police officer to be an escort without the approval of the chief police officer.

5. Escorting arrested persons to court

(1) This section applies where an arrested person—

(a) has not been released on bail;

30 (b) is in police custody; and

(c) is required by law to be brought before a court.

(2) A police officer may give custody of the person to an escort for the purpose of bringing the person before the court in accordance with subsection (3).

35 (3) An escort shall, where he or she is given custody of a person under subsection (2), bring the person before the court as soon as practicable and,

for that purpose may, in particular, detain the person in custody until the court orders otherwise.

(4) Without limiting the operation of subsection (3), the places in which the person may be so detained in custody include a cell, lock up and any other secure place.

6. Custody etc. during proceedings

Subject to any order or direction of a court, an escort who brings a person to court shall, so far as practicable—

- (a) ensure the safe custody and welfare of the person for the purposes of the proceedings; and
- (b) ensure that the person does not obstruct or hinder the proceedings.

7. Execution of warrants of remand or commitment etc.

(1) The Administrator may make escorts available to attend on a court—

- (a) to take custody of a person;
- (b) to detain a person in custody; or
- (c) to transfer or otherwise deal with a person;

in accordance with any order or direction of the court.

(2) An order or direction of the court addressed to all escorts—

- (a) shall be taken to be directed to each escort; and
- (b) may be executed by any escort.

8. Functions and powers under other laws

(1) The functions and powers of an escort under this Act are in addition to those provided for by or under any other law of the Territory.

(2) Nothing in this Act shall be taken to limit the powers of a police officer, or custodial officer, who is also an escort.

9. Use of force

An escort may use such force as is necessary and reasonable to perform any lawful function of an escort.

10. Personal searches

(1) The regulations may make provision in relation to the search of a person in custody by an escort, including provision in relation to—

- (a) the nature of the search;
- (b) the class or classes of escorts who may conduct the search;
- (c) the circumstances in which the search may be conducted;
- (d) the seizure of a thing found in the search; and

(e) the arrangements for safekeeping and disposal of a thing so seized.

(2) In subsection (1)—

“search” includes a frisk search, ordinary search and strip search within the meaning of Part X of the *Crimes Act 1900*.

5 **11. Regulations**

The Executive may make regulations for the purposes of this Act.