

**1998**

**LEGISLATIVE ASSEMBLY FOR  
THE AUSTRALIAN CAPITAL TERRITORY**

**CUSTODIAL ESCORTS BILL 1998  
EXPLANATORY MEMORANDUM**

**Circulated by authority of  
Gary Humphries MLA  
Minister for Justice and Community Safety**

## **Custodial Escorts Bill 1998**

### **Explanatory Memorandum**

#### **Outline**

The Custodial Escorts Bill 1998 provides authority for escort officers, appointed in accordance with its provisions to have custody of persons for the purpose of bringing them before a court and provide court security and escort services.

The Bill provides legislative authority for persons appointed as escort officers to escort detainees and prisoners to and from the Courts, Belconnen Remand Centre (BRC), Quamby Youth Detention Centre, and other places in the Territory and interstate. In addition escorts can ensure that persons escorted to appear in court do not hinder the proceedings.

The Australian Federal Police (ACT Region) will retain responsibility for ensuring that persons held consequent to arrest and refused police bail are brought before a Magistrate. However, the Bill will enable the police to authorise an escort to carry out the physical task of bringing such persons before a court.

#### **Financial implications**

The cost of providing escort services for the purposes of the Custodial Escorts Act will be met from within existing resources.

#### **Details of Bill**

##### **Clauses 1 and 2 - Short title and commencement**

**Clauses 1 and 2** are formal clauses dealing with the title of the Bill, once enacted, and the commencement arrangements. The substantive provisions of the Bill will commence on a day, or days, fixed by the Minister by notice in the *Gazette*.

### **Clause 3 - Interpretation**

This clause contains definitions of terms which are used in the Bill

### **Clause 4 - Escorts - appointment**

Clause 4 enables the Administrator, appointed under the *Remand Centres Act 1976*, to appoint a person to be an escort officer. Subclause 4(1) prohibits the appointment of a police officer, unless the Administrator has the approval of the Chief Police Officer for the appointment.

### **Clause 5 - Escorting arrested persons to court**

This clause applies where an arrested person has not been released on bail, is in police custody and is required by law to be brought before a Court. This clause enables a police officer to give custody of such a person to an escort for the purpose of bringing the person before a court. For the purpose of bringing the detained person before the court the escort may detain the person in custody. The escort into whose custody the person is given must bring the person before the Court as soon as is practicable.

### **Clause 6 - Custody etc. during proceedings**

This clause enables an escorting officer, unless directed otherwise by a court, to act so as to maintain the safe custody and welfare of a person whom he or she brings to court during the court proceedings and to prevent the proceedings being hindered or obstructed by the person.

### **Clause 7 - Execution of warrants of remand or commitment etc.**

This clause enables the Administrator to make escorts available to a court for the purpose of taking custody of, detaining, transferring or otherwise dealing with a person as the court directs. Orders or directions provided by the court to escorts are addressed to escorts collectively and may be carried out by any escort.

### **Clause 8 - Functions and powers under other laws**

Other Acts including the *Prisoners Interstate Leave Act 1997*, the *Prisoners (Interstate Transfer) Act 1993*, the *Children's Services Act 1986* and the *Removal of Prisoners Act 1968*, contain provisions enabling certain escort functions to be performed. This clause is to make clear that it is not intended that this Bill be taken to limit any other legislation which provides authority or powers for escort purposes or any powers an escort may also have as a police officer or custodial officer

### **Clause 9 - Use of force**

This clause authorises escort officers to use necessary and reasonable force (such as, the use of handcuffs or the locking up of a detainee) to ensure the security of those escorted

### **Clause 10 - Personal searches**

This clause provides that Regulations may be made to enable an escort to search a person in his or her custody.

### **Clause 11 - Regulations**

This clause enables regulations to be made for the purposes of the proposed Act