



Australian Capital Territory

Custodial Escorts Act 1998

A1998-66

Republication No 2

Effective: 25 August 2004 – 1 June 2006

Republication date: 25 August 2004

Last amendment made by A2004-42

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Custodial Escorts Act 1998* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 25 August 2004. It also includes any amendment, repeal or expiry affecting the republished law to 25 August 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Custodial Escorts Act 1998

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R2
25/08/04

Custodial Escorts Act 1998
Effective: 25/08/04-01/06/06

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Australian Capital Territory

Custodial Escorts Act 1998

An Act relating to the escort of persons in lawful custody

1 Name of Act

This Act is the *Custodial Escorts Act 1998*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

4 Escorts—appointment

- (1) The administrator may appoint a person to be an escort.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) The administrator must not appoint a police officer to be an escort without the chief police officer's approval.

5 Escorting arrested persons to court

- (1) This section applies where an arrested person—
- (a) has not been released on bail; and
 - (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).
- (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, lockup 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; or
 - (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 under other laws

- (1) The functions of an escort under this Act are additional to those provided under any other Territory law.
- (2) This Act does not 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; and
 - (b) the class or classes of escorts who may conduct the search; and
 - (c) the circumstances in which the search may be conducted; and
 - (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 the *Crimes Act 1900*, part 10.

11 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- chief police officer
- entity
- function
- judge
- law, of the Territory
- magistrate
- police officer
- sentence administration board
- under.

administrator means the administrator under the *Remand Centres Act 1976*.

arrested person means—

- (a) a person who has been arrested by a police officer, whether under a warrant or otherwise; or
- (b) a person who is in the custody of a police officer after being arrested by someone else for an offence; or
- (c) a person who has been arrested or apprehended under a warrant, direction or order to secure the person's attendance at a court.

court includes—

- (a) a judge, magistrate or coroner (including a deputy coroner); and
- (b) the sentence administration board; and

(c) any other entity having power to compel the attendance of witnesses.

custodial officer means a custodial officer under the *Remand Centres Act 1976*.

escort means a person appointed under section 4.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Custodial Escorts Act 1998 No 66

notified 23 December 1998 (Gaz 1998 No S212)
s 1, s 2 commenced 23 December 1998 (s 2 (1))
remainder commenced 23 December 1998 (s 2 (2) and Gaz 1998 No 51)

as amended by

Legislation (Consequential Amendments) Act 2001 No 44 pt 96

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 96 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Rehabilitation of Offenders (Interim) Act 2001 No 82 sch 1 pt 1.1

notified 10 September 2001 (Gaz 2001 No S66)
s 1, s 2 commenced 10 September 2001 (IA s 10B)
sch 1 pt 1.1 commenced 24 September 2001 (s 2 and CN 2001 No 4)

Statute Law Amendment Act 2004 A2004-42 sch 3 pt 3.7

notified LR 11 August 2004
s 1, s 2 commenced 11 August 2004 (LA s 75 (1))
sch 3 pt 3.7 commenced 25 August 2004 (s 2 (1))

4 Amendment history

Name of Act

s 1 sub A2004-42 amdt 3.26

Dictionary

s 2 om 2001 No 44 amdt 1.1018
ins A2004-42 amdt 3.27

Notes

s 3 sub A2004-42 amdt 3.27
def **administrator** om A2004-42 amdt 3.27
def **arrested person** am 2001 No 82 amdt 1.1
om A2004-42 amdt 3.27
def **chief police officer** om A2004-42 amdt 3.27
def **court** sub 2001 No 82 amdt 1.2
om A2004-42 amdt 3.27
def **custodial officer** om A2004-42 amdt 3.27
def **escort** om A2004-42 amdt 3.27

Escorts—appointment

s 4 sub A2004-42 amdt 3.28

Functions under other laws

s 8 sub A2004-42 amdt 3.29

Regulation-making power

s 11 sub 2001 No 44 amdt 1.1019

Dictionary

dict ins A2004-42 amdt 3.30
 def **administrator** ins A2004-42 amdt 3.30
 def **arrested person** ins A2004-42 amdt 3.30
 def **court** ins A2004-42 amdt 3.30
 def **custodial officer** ins A2004-42 amdt 3.30
 def **escort** ins A2004-42 amdt 3.30

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 18 Feb 2002	24 Sep 2001– 24 Aug 2004	A2001-82	new Act and amendments by A2001-44 and A2001-82

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