



AUSTRALIAN CAPITAL TERRITORY

# **Custodial Escorts (Consequential Provisions) Act 1998**

No. 67 of 1998

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## **An Act to amend certain Acts in consequence of the enactment of the *Custodial Escorts Act 1998***

*[Notified in ACT Gazette S212: 23 December 1998]*

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

### **PART I—PRELIMINARY**

#### **1. Short title**

This Act may be cited as the *Custodial Escorts (Consequential Provisions) Act 1998*.

#### **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*.

(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.

**PART II—AMENDMENT OF CHILDREN’S SERVICES ACT**

**3. Principal Act**

In this Part, “Principal Act” means the *Children’s Services Act 1986*.<sup>1</sup>

**4. Interpretation**

Section 29 of the Principal Act is amended—

- (a) by adding at the end of the definition of “police officer” in subsection (1) “but does not include a custodial escort”; and
- (b) by inserting in subsection (1) the following definition:

“ ‘custodial escort’ means an escort under the *Custodial Escorts Act 1998* other than an escort who is a police officer within the meaning of the *Interpretation Act 1967*;”.

**5. Arrested children: bringing before Court**

Section 39 of the Principal Act is amended by inserting in subsection (1) “or an escort under the *Custodial Escorts Act 1998*” after “officer”.

**6. Transfer directions**

Section 62A of the Principal Act is amended by inserting in subsection (6) “, an escort under the *Custodial Escorts Act 1998*” after “an officer”.

**7. Temporary custody prior to transfer between institutions**

Section 62C of the Principal Act is amended by inserting in subsection (4) “, an escort under the *Custodial Escorts Act 1998*” after “an officer”.

**8. Placing in shelter etc.**

Section 65 of the Principal Act is amended by inserting in subsection (3) “, an escort under the *Custodial Escorts Act 1998*” after “an officer”.

**9. Transfer order**

Section 69G of the Principal Act is amended by inserting after paragraph (2) (a) the following paragraph:

“(aa) an escort under the *Custodial Escorts Act 1998*;”.

**10. Temporary custody pending interstate transfer**

Section 69GA of the Principal Act is amended by inserting in subsection (4) “, an escort under the *Custodial Escorts Act 1998*” after “an officer”.

**PART III—AMENDMENT OF CORONERS ACT**

**11. Principal Act**

In this Part, “Principal Act” means the *Coroners Act 1997*.<sup>2</sup>

**12. Arrest of witness**

Section 45 of the Principal Act is amended by omitting from subsection (3) “take the person” and substituting “cause the person to be brought”.

**PART IV—AMENDMENT OF CRIMES ACT**

**13. Principal Act**

In this Part, “Principal Act” means the *Crimes Act 1900*.<sup>3</sup>

**14. Arrest without warrant in possession**

Section 349X of the Principal Act is amended by omitting from paragraph (2) (b) “take the person (and any property found in the person’s possession) before a Magistrate” and substituting “cause the person (and any property found in the person’s possession) to be brought before a Magistrate”.

**15. Arrest of prisoner unlawfully at large**

Section 349Y of the Principal Act is amended—

- (a) by omitting from subsection (2) “take the person” and substituting “cause the person to be brought”; and
- (b) by inserting in paragraph (3) (a) “or an escort under the *Custodial Escorts Act 1998*” after “police officer”.

**PART V—AMENDMENT OF FIREARMS ACT**

**16. Principal Act**

In this Part, “Principal Act” means the *Firearms Act 1996*.<sup>4</sup>

**17. General restrictions on issue of licences**

Section 21 of the Principal Act is amended by omitting paragraph (3) (d) and substituting the following paragraph:

“(d) the Registrar—

- (i) is satisfied that the person to whom the licence would be issued is, or is about to become, a resident of the Territory; or
- (ii) in accordance with section 23, is satisfied that it would be necessary for the person to possess or use the firearm in the lawful course of business or employment in the Territory.”.

**18. Carriage or use of firearm—improper manner**

Section 82 of the Principal Act is amended by inserting “, without reasonable excuse,” after “shall not”.

**PART VI—GAMES WAGERS AND BETTING-HOUSES ACT**

**19. Principal Act**

In this Part, “Principal Act” means the *Games Wagers and Betting-houses Act 1901*.<sup>5</sup>

**20. Search under special warrant**

Section 4 of the Principal Act is amended by omitting from subsection (1) “bring” and substituting “cause to be brought”.

**21. Search under special warrant**

Section 15 of the Principal Act is amended by omitting from subsection (1) “bring” and substituting “cause to be brought”.

**22. Second Schedule**

The Second Schedule to the Principal Act is amended by omitting from the special warrant form “bring” and substituting “cause to be brought”.

**PART VII—AMENDMENT OF JUDICIAL COMMISSIONS ACT**

**23. Principal Act**

In this Part, “Principal Act” means the *Judicial Commissions Act 1994*.<sup>6</sup>

**24. Apprehension of witnesses failing to appear**

Section 44 of the Principal Act is amended by adding at the end the following subsection:

“(6) Unless the warrant specifies otherwise, a police officer may cause the witness to be brought before the Commission by an escort acting on behalf of the officer under the *Custodial Escorts Act 1998*.”.

**PART VIII—AMENDMENT OF MAGISTRATES COURT ACT**

**25. Principal Act**

In this Part, “Principal Act” means the *Magistrates Court Act 1930*.<sup>7</sup>

**26. Interpretation**

Section 5 of the Principal Act is amended by inserting in subsection (1) the following definition:

“ ‘escort’ means an escort under the *Custodial Escorts Act 1998*;”.

**27. Form of arrest warrant**

Section 47 of the Principal Act is amended by omitting “bring him or her” and substituting “cause him or her to be brought”.

**28. Remand of defendant**

Section 70 of the Principal Act is amended by adding at the end the following subsections:

“(3) A warrant or order under subsection (1) in which a transfer direction is given to all police officers or all escorts—

- (a) shall be taken in that respect to be directed to each police officer, or each escort, respectively; and
- (b) may be executed in that respect by any police officer, or any escort, respectively.

“(4) In this section—

‘transfer direction’ means a direction to the effect that the remandee is to be taken, safely conveyed and delivered into the custody of the Administrator.”.

**29. Warrant of commitment to prison**

Section 152 of the Principal Act is amended—

- (a) by inserting in paragraph (1) (a) “or escort” after “police officer”; and

- (b) by inserting after subsection (1) the following subsection:
- “(1A) A warrant of commitment in which the direction referred to in paragraph (1) (a) is given to all police officers or all escorts—
- (a) shall be taken in that respect to be directed to each police officer, or each escort, respectively; and
  - (b) may be executed in that respect by any police officer, or any escort, respectively.”.

**30. First Schedule**

The First Schedule to the Principal Act is amended—

- (a) by omitting from Form 12 “to bring [him or her]” and substituting “cause [him or her] to be brought”;
- (b) by omitting from Form 14 “to bring [him or her]” and substituting “cause [him or her] to be brought”;
- (c) by omitting from Form 14A “to bring [him or her]” and substituting “cause [him or her] to be brought”;
- (d) by omitting from Form 16 “bring [him or her]” and substituting “cause [him or her] to be brought”;
- (e) by omitting from Form 17 “bring [him or her]” and substituting “cause [him or her] to be brought”;
- (f) by omitting from Form 18 “to bring [him or her]” and substituting “cause [him or her] to be brought”;
- (g) by omitting from Form 19 “To the Commissioner of Police and all other police officers” and substituting “To [*all police officers/all escorts*]\*”; and
- (h) by omitting from Form 76 “police officer,” and substituting “[*police officer/escort*]\*”.

**PART IX—AMENDMENT OF PRISONERS’ INTERSTATE LEAVE ACT**

**31. Principal Act**

In this Part, “Principal Act” means the *Prisoners’ Interstate Leave Act 1997*.<sup>8</sup>

**32. Interpretation**

Section 5 of the Principal Act is amended by omitting from subsection (1) the definition of “escort” and substituting the following definition:

“ ‘escort’ means an escort under the *Custodial Escorts Act 1998*;”.

**33. Assigned escorts**

Section 9 of the Principal Act is amended by omitting subsections (1), (2), (3) and (4).

**34. Powers of assigned escorts**

Section 13 of the Principal Act is amended by omitting from paragraphs (1) (a) and (b) “reasonable” and substituting “necessary and reasonable”.

**35. Escape from custody**

Section 16 of the Principal Act is amended by omitting from subsection (3) “take the prisoner” and substituting “cause the prisoner to be brought”.

**PART X—AMENDMENT OF PRISONERS (INTERSTATE TRANSFER) ACT**

**36. Principal Act**

In this Part, “Principal Act” means the *Prisoners (Interstate Transfer) Act 1993*.<sup>9</sup>

**37. Interpretation**

Section 3 of the Principal Act is amended by omitting from subsection (1) the definition of “prison officer” and substituting the following definition:

“ ‘prison officer’ means—

- (a) a person appointed or employed to assist in the management of a prison; or
- (b) an escort under the *Custodial Escorts Act 1998*;”.

**PART XI—AMENDMENT OF REMAND CENTRES ACT**

**38. Principal Act**

In this Part, “Principal Act” means the *Remand Centres Act 1976*.<sup>10</sup>

**39. Use of force**

Section 22 of the Principal Act is amended by inserting “and reasonable” after “necessary”.

**PART XII—AMENDMENT OF REMOVAL OF PRISONERS ACT**

**40. Principal Act**

In this Part, “Principal Act” means the *Removal of Prisoners Act 1968*.<sup>11</sup>

**41. Interpretation**

Section 3 of the Principal Act is amended—

- (a) by omitting from the definition of “authorised person” in subsection (1) “the Clerk or a Deputy Clerk of the Magistrates Court established under the law of the Territory” and substituting “the Registrar or a Deputy Registrar of the Magistrates Court”; and
- (b) by omitting from subsection (1) the definition of “constable” and substituting the following definition:

“ ‘constable’ means a member or special member of the Australian Federal Police and includes—

- (a) an escort under the *Custodial Escorts Act 1998*; and
- (b) in section 5B—a member of the police force of a State or another Territory;”.

**PART XIII—AMENDMENT OF ROYAL COMMISSIONS ACT**

**42. Principal Act**

In this Part, “Principal Act” means the *Royal Commissions Act 1991*.<sup>12</sup>

**43. Apprehension of witnesses failing to appear**

Section 35 of the Principal Act is amended by adding at the end the following subsection:

“(6) Unless the warrant specifies otherwise, a police officer may cause the witness to be brought before the Commission by an escort acting on behalf of the officer under the *Custodial Escorts Act 1998*.”.



## NOTES

### Principal Acts

1. *Children's Services Act 1986*. Reprinted as at 24 June 1998. See also Act No. 27, 1998.
2. *Coroners Act 1997*. Act No. 57, 1997. See also Act No. 96, 1997.
3. *Crimes Act 1900*. Reprinted as at 1 June 1998. See also Acts Nos. 9, 22, 29, 57 and 71, 1998.
4. *Firearms Act 1996*. Reprinted as at 31 May 1997.
5. *Games Wagers and Betting-houses Act 1901*. Reprinted as at 31 July 1992. See also Act No. 55, 1994.
6. *Judicial Commissions Act 1994*. Act No. 9, 1994. See also No. 38, 1994; Nos. 41 and 96, 1997.
7. *Magistrates Court Act 1930*. Reprinted as at 1 June 1998. See also Acts Nos. 25 and 38, 1998.
8. *Prisoners' Interstate Leave Act 1997*. Act No. 99, 1997.
9. *Prisoners (Interstate Transfer) Act 1993*. Act No. 70, 1993.
10. *Remand Centres Act 1976*. Reprinted as at 1 January 1997. See also Acts Nos. 41 and 100, 1997; No. 28, 1998.
11. *Removal of Prisoners Act 1968*. Reprinted as at 31 January 1998.
12. *Royal Commissions Act 1991*. Reprinted as at 28 February 1995. See also Acts Nos. 41 and 96, 1997.

*[Presentation speech made in Assembly on 26 November 1998]*