



Australian Capital Territory

Periodic Detention Regulation 1995

SL1995-34

made under the

Periodic Detention Act 1995

Republication No 6

Effective: 14 January 2006 – 1 June 2006

Republication date: 14 January 2006

Last amendment made by SL2005-15

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Periodic Detention Regulation 1995*, made under the *Periodic Detention Act 1995* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 14 January 2006. It also includes any amendment, repeal or expiry affecting the republished law to 14 January 2006.

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.



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R6
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Australian Capital Territory

Periodic Detention Regulation 1995

made under the

Periodic Detention Act 1995

1 Name of regulation

This regulation is the *Periodic Detention Regulation 1995*.

1A Notes

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

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

1B Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

2 Meaning of *authorised analyst*

In this regulation:

authorised analyst means a person who may analyse urine samples under section 7A (Authorisation of analysts).

Note A definition applies except so far as the contrary intention appears (see Legislation Act, s 155).

4 Notice of commitment to detention

If a court orders that an offender serve a sentence of periodic detention, the court must give a copy of the order to the manager of the detention centre as soon as practicable after the making of the order.

5 Notice to detainee

- (1) A notice under the Act, section 10, must be in triplicate.
- (2) If a notice under the Act, section 10, is served on a detainee, the detainee must sign the notice and, of the copies—
 - (a) 1 copy must be kept by the detainee; and
 - (b) 1 copy must be given to the manager by the court; and
 - (c) 1 copy must be kept by the court.

6 Manner of reporting for detention

For the Act, section 14 (4), a detainee must report at a detention centre with—

- (a) clothing and footwear suitable for outdoor work; and
- (b) a change of clothing; and
- (c) toiletries for personal use.

7 Alcohol and drug testing—Act s 23

- (1) The following tests are prescribed:
 - (a) for establishing the concentration of alcohol in a detainee's blood—breath tests in accordance with subsection (2);
 - (b) for establishing whether a drug is present in a detainee's body—urine tests in accordance with subsection (2).

- (2) For a test mentioned in subsection (1), the chief executive may, in writing, approve—
 - (a) the procedures to be followed in relation to the test; and
 - (b) an instrument required for the test; and
 - (c) the procedures to be followed in relation to the analysis of a sample or specimen tested; and
 - (d) anything else that relates to the test.
- (3) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

7A Authorisation of analysts

A person who is accredited by the National Association of Testing Authorities, Australia to provide toxicological services may analyse urine samples obtained by the procedure approved under section 7 (2).

8 Written statement relating to alcohol and drug tests

- (1) For the Act, section 23 (4), the particulars required to be included in a statement under that subsection are—
 - (a) the name of the detainee; and
 - (b) the date and time when the test was carried out; and
 - (c) the results of the test; and
 - (d) the name of the officer who carried out the test.
- (2) A statement under the Act, section 23 (4) must be accompanied—
 - (a) for an alcohol test—by a copy of the print-out of the results of the analysis; and
 - (b) for a drug test—by a copy of the analyst’s statement.

9 Leave of absence

- (1) For the Act, section 24 (2), an application for leave of absence must—
 - (a) be in writing signed by the detainee; and
 - (b) be lodged with an officer; and
 - (c) set out the reasons for which leave of absence is sought.
- (2) The director may, by written notice, require a detainee to give to the director, either orally or in writing, the further information relating to the application that is specified in the notice.

10 Notification of certain applications

- (1) The court must serve on the director a copy of an application made by a detainee under the Act, section 24.
- (2) The court must serve on the director or detainee, as the case requires, a copy of an application made by the director or a detainee under the Act, section 26.

11 Evidentiary matters

- (1) For the Act, section 30 (9) (a), a certificate purporting to have been signed by the manager and stating that a detainee refused or failed to take an alcohol or drug test on a specified day at a specified time is evidence of the matters so stated.
- (2) For the Act, section 30 (9) (b) and (c)—
 - (a) for an alcohol test and the analysis of the results of that test—the certificate must be provided by the officer who carried out the alcohol test or by the manager; and
 - (b) for a drug test—the certificate must be provided by the officer who carried out the drug test or by the manager; and

- (c) for the analysis of the results of the drug test—the certificate must be provided by the analyst who carried out the test or the officer in charge of the laboratory where the analysis was carried out.

12 Body searches

A body search must be conducted—

- (a) in as seemly a way as possible; and
- (b) with due regard to the dignity and self-respect of the detainee.

13 Information relating to detainees

The manager of a detention centre must ensure that the following particulars are recorded for a detainee who reports to the detention centre for the first time in compliance with an order for periodic detention:

- (a) name and residential address;
- (b) age, height and weight;
- (c) any distinguishing features;
- (d) whether the person is an Aboriginal or Torres Strait Islander;
- (e) name and residential address of next of kin;
- (f) the offence for which the detainee was convicted and the period of detention ordered to be served;
- (g) any other information the manager considers appropriate.

14 Medication

- (1) A detainee who brings in to a detention centre medication that is required to be administered to the detainee in the course of his or her period of detention must notify the manager of the particulars of the dosage of the medication and the date and time it is to be administered.

- (2) The manager may require a detainee to surrender his or her medication on entering the detention centre for the period of his or her detention.
- (3) If medication is surrendered under subsection (2), the manager must take reasonable steps to ensure that the medication is administered to the detainee in accordance with the directions on the medication.
- (4) The manager must return any medication surrendered under subsection (2) at the completion of each detention period.

15 Regard to religious beliefs etc of detainee

In providing food and beverages (other than intoxicating beverages) to a detainee, regard must be had to the religious beliefs and the reasonable dietary requirements of the detainee and any restrictions specified in relation to the detainee by the medical staff of the centre.

16 Work etc

- (1) A detainee must not be required to work more than 8 hours per day inclusive of meal and tea breaks.
- (2) A tea break of 10 minutes must be taken by a detainee during any morning or afternoon during which the detainee is required to work for more than 3 hours.
- (3) A meal break of 45 minutes must be taken by a detainee between the hours of 12 noon and 1 pm and 5 pm and 6 pm.
- (4) An officer must not direct a detainee to perform work—
 - (a) in consequence of a contravention of this regulation or the standing orders; or
 - (b) that would personally benefit a person who is an officer of, or otherwise engaged by, the Territory, a territory authority, an institution, or home, of the kind mentioned in the Act, section 15 (2).

17 Reports about physical or mental risks to detainees

- (1) If a doctor or nurse gives the manager a written report that he or she is of the opinion that the physical or mental health of a detainee may be injuriously affected if the detainee were to comply with an order under the Act, part 2, or by his or her continuing to comply with such an order, the manager must notify the director in writing of that fact and give the director a copy of the report.
- (2) If an officer (other than the manager) becomes aware of the illness of a detainee, the officer must report the matter as soon as possible to the manager.
- (3) If the manager becomes aware of the illness of a detainee, the manager must report the matter as soon as possible to the director.

18 Notification of appeal against order

If a detainee appeals against an order for periodic detention, the court that made the order must notify the manager of the detention centre to which the detainee was ordered to attend.

20 Threatening behaviour etc

- (1) A detainee who is reporting for, or is otherwise serving, a detention period must not—
 - (a) use threatening or abusive language to, or in the presence of, someone else; or
 - (b) behave in a threatening way towards another person.Maximum penalty: 10 penalty units.
- (2) An offence against this section is a strict liability offence.

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
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
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

This regulation was originally the *Periodic Detention Regulations*. It was renamed by the *Periodic Detention Regulations Amendment SL2000-20* (see s 3) and under the *Legislation Act 2001*.

Periodic Detention Regulation 1995 No 34

notified 1 September 1995 (Gaz 1995 No S222)

commenced 1 September 1995 (s 2 and Gaz 1995 No S222)

as amended by

Periodic Detention Regulations 2000 No 20

notified 11 May 2000 (Gaz 2000 No 19)

commenced 11 May 2000 (s 1)

Legislation (Consequential Amendments) Act 2001 No 44 pt 279

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 279 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Legislation (Gay, Lesbian and Transgender) Amendment Act 2003 A2003-14 sch 1 pt 1.26

notified LR 27 March 2003

s 1, s 2 commenced 27 March 2003 (LA s 75 (1))

sch 1 pt 1.26 commenced 28 March 2003 (s 2)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.64

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 2 pt 2.64 commenced 9 April 2004 (s 2 (1))

Periodic Detention Amendment Regulation 2005 (No 1) SL2005-15

notified LR 14 July 2005

s 1, s 2 commenced 14 July 2005 (LA s 75 (1))

remainder commenced 14 January 2006 (s 2 and LA s 79)

4 Amendment history

Name of regulation

s 1 sub 2000 No 20 s 3
am R5 LA

Notes

s 1A ins SL2005-15 s 4

Offences against regulation—application of Criminal Code etc

s 1B ins SL2005-15 s 4

Meaning of *authorised analyst*

s 2 sub 2001 No 44 amdt 1.3118

Definitions

s 3 hdg sub 2000 No 20 s 3
s 3 am 2000 No 20 s 4
om 2001 No 44 amdt 1.3118

Alcohol and drug testing—Act s 23

s 7 sub SL2005-15 s 5

Authorisation of analysts

s 7A ins 2000 No 20 s 5
am SL2005-15 s 6

Written statement relating to alcohol and drug tests

s 8 am SL2005-15 s 7

False statements

s 19 om 2004-15 amdt 2.140

Threatening behaviour etc

s 20 sub SL2005-15 s 8

Alcohol testing

sch 1 am R2 LA; ss renum R5 LA
om SL2005-15 s 9

Drug testing

sch 2 am 2000 No 20 s 6; R2 LA; A2003-14 amdt 1.84, amdt 1.85;
ss renum R5 LA
om SL2005-15 s 9

Endnotes

5 Earlier republications

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. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	SL 2000 No 20	31 May 2000
2	Act 2001 No 44	13 December 2001
3	A2003-14	28 March 2003
4	A2004-15	9 April 2004
5	A2004-15	2 November 2004

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