



Australian Capital Territory

Remand Centres Regulation 1976

SL1976-17

made under the

Remand Centres Act 1976

Republication No 5

Effective: 2 November 2004 – 1 June 2006

Republication date: 2 November 2004

Last amendment made by A2003-14
(republishing includes editorial amendments
under Legislation Act)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Remand Centres Regulation 1976*, made under the *Remand Centres Act 1976* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 2 November 2004. It also includes any amendment, repeal or expiry affecting the republished law to 2 November 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 includes 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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02/11/04

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Australian Capital Territory

Remand Centres Regulation 1976

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Remand Centres Regulation 1976*.

2 Definitions for regulation

In this regulation:

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

administrator—see the Act, section 6.

minister of religion means a person who is registered under the *Marriage Act 1961* (Cwlth), part 4, division 1 (Authorised celebrants).

Part 2 Duties of superintendent and custodial officers

3 Duties of superintendent

- (1) The superintendent must inspect the remand centre daily.
- (2) The superintendent is responsible for—
 - (a) the keeping of detainees in safe custody; and
 - (b) the safekeeping of items confiscated under section 7 or surrendered by a detainee for safekeeping; and
 - (c) the custody, preservation and management of articles used within the remand centre; and
 - (d) the maintenance of a daily journal recording all occurrences of importance within the centre, including those relating to—
 - (i) the health and discipline of detainees; and
 - (ii) infringements of standing orders; and
 - (iii) action by the superintendent under the Act, section 21 and the reason for the action; and
 - (e) the maintenance of—
 - (i) a register of the admission and discharge of each detainee; and
 - (ii) a register of transfers of detainees to New South Wales institutions; and
 - (iii) a register of the movement of detainees to and from a remand centre; and
 - (f) the compilation and maintenance of records under section 8.

4 Duties of custodial staff

- (1) The duties of custodial officers are—
- (a) to prevent the escape of detainees; and
 - (b) to prevent breaches of the Act; and
 - (c) to supervise, guard and ensure the safe custody of detainees.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation and the standing orders (see Legislation Act, s 104).

- (2) If a custodial officer becomes aware of—
- (a) a breach of discipline by a detainee; or
 - (b) a breach of the Act; or
 - (c) the illness of a detainee; or
 - (d) a complaint or request by a detainee;
- the custodial officer must report the matter as soon as possible to the superintendent.
- (3) A custodial officer must carry out any other duties that the exigencies of the service require.

5 Offences by custodial officers

A custodial officer must not—

- (a) allow an unauthorised person to communicate with, or remain in the vicinity of, a detainee; or
- (b) allow an unauthorised person or an unauthorised article to pass into or out of the remand centre; or
- (c) solicit or receive a gift from a detainee, a member of a detainee's family or a visitor.

Maximum penalty: \$1 000.

Part 3 Rights and duties of detainees

6 Detainee to be informed of rights and duties

- (1) The superintendent must ensure that a detainee is informed in writing, on arrival at a remand centre, of the detainee's rights and duties regarding—
 - (a) conduct and discipline; and
 - (b) legal representation; and
 - (c) the detainee's rights of appeal and complaint to an official visitor; and
 - (d) the availability of medical and psychiatric assistance; and
 - (e) any other matter the Minister directs.
- (2) The superintendent must ensure a detainee is given, on arrival at a remand centre, a copy of the standing orders, other than those parts of the standing orders dealing with the security of the remand centre.

7 Detainees to be searched

- (1) A custodial officer must search each detainee on admission to a remand centre.
- (2) A detainee and the detainee's quarters may be searched whenever the superintendent, in the interests of security, considers it necessary.
- (3) The search of a detainee or the detainee's quarters under subsection (1) or (2) must, if practicable, be carried out by a custodial officer of the same sex as the detainee.

- (4) If the detainee is a transgender or intersex person, the person may ask that the search be carried out by either a male or a female.

Note 1 For the meaning of **transgender person** see the Legislation Act, s 169A.

Note 2 For the meaning of **intersex person**, see the Legislation Act, s 169B.

- (5) If the detainee asks that the search be carried out by a male, the detainee is taken, for this section, to be male.
- (6) If the detainee asks that the search be carried out by a female, the detainee is taken, for this section, to be female.
- (7) An item found during the search of a detainee or the detainee's quarters under subsection (1) or (2) that, in the opinion of the custodial officer conducting the search, is prejudicial to the health of the detainee or to the security and good order of the remand centre, may be confiscated.
- (8) If a custodial officer confiscates an item under subsection (7), the custodial officer must report the matter to the superintendent as soon as possible.
- (9) An item confiscated under subsection (7) must, unless it needs to be destroyed on the grounds that it is prejudicial to the health of a detainee or the security of the remand centre, be kept in safekeeping while the detainee remains in the remand centre.
- (10) A custodial officer conducting a search under subsection (1) must make a record of the detainee's property, stating—
- (a) a description of each item; and
 - (b) for an item that has been confiscated—the date it was confiscated; and
 - (c) for an item that has been destroyed—the date it was destroyed.

8 Records to be kept

The superintendent must ensure that details of the following matters are recorded for each detainee:

- (a) the warrant under which the detainee is held;
- (b) any committal order made in relation to the detainee;
- (c) the clothing and other personal property in the detainee's possession at the time of the detainee's admission to the remand centre;
- (d) any financial transactions made by the detainee;
- (e) the detainee's medical history;
- (f) the name and address of each visitor received;
- (g) the name and address of each person with whom the detainee communicates by mail or telephone.

9 Medical examination

- (1) A detainee must, as soon as practicable after admission to a remand centre, be examined by a medical officer.
- (2) The medical officer must keep a record of every medical examination made under this section.
- (3) A detainee who has a transmissible notifiable condition within the meaning of the *Public Health Act 1997*, or is in a verminous condition, may be kept isolated from other detainees.

10 Accommodation

- (1) Each detainee must be accommodated in separate sleeping quarters.
- (2) If—
 - (a) the superintendent, on the grounds of security; or
 - (b) the medical officer, on medical grounds;considers that a detainee should not be accommodated in separate sleeping quarters, the detainee must, subject to subsections (5), (7) and (8), share sleeping quarters.
- (3) Subject to subsection (5), if the Minister considers it necessary, because of a temporary shortage of accommodation at a remand centre, for a detainee to share sleeping quarters, the detainee must, subject to subsections (5), (7) and (8), share sleeping quarters.
- (4) If a detainee shares sleeping quarters, the superintendent or medical officer must report the fact to the administrator.
- (5) Sleeping quarters occupied by male detainees must be segregated from sleeping quarters occupied by female detainees.
- (6) For subsection (5), a transgender or intersex person is taken to be of the sex with which the person identifies.

Note 1 For the meaning of **transgender person**, see the Legislation Act, s 169A.

Note 2 For the meaning of **intersex person**, see the Legislation Act, s 169B.

- (7) Sleeping quarters occupied by adult detainees must be segregated from sleeping quarters occupied by child detainees.
- (8) Sleeping quarters occupied by convicted detainees must be segregated from sleeping quarters occupied by unconvicted detainees.

11 Accommodation of detainees' children

- (1) Subject to this section, a detainee who is the parent of a child under 3 years old may, with the consent of any other person who has custody of the child, keep the child with the detainee at the remand centre.
- (2) If the C&YP chief executive considers that it is in the best interests of a child mentioned in subsection (1) to be separated from the child's parent, that chief executive may, with the consent of any other person who has custody of the child, place the child in the other care that the C&YP chief executive considers appropriate.
- (3) Placement of a child under subsection (2) must be for a period that does not exceed the period during which the parent of the child is a detainee.
- (4) If a child is in a remand centre under subsection (1), the C&YP chief executive or a person authorised in writing by that chief executive may, from time to time, inspect the remand centre to satisfy himself or herself that it is in the best interests of the child to remain in the remand centre.
- (5) In this section:

C&YP chief executive means the chief executive responsible for administering the *Children and Young People Act 1999*, chapter 2 (General objects, principles and parental responsibility).

12 Food

- (1) A detainee must be supplied with food and toiletries of adequate quality and quantity.
- (2) If a detainee arranges to obtain food from outside the remand centre, a custodial officer may search or examine any food that the custodial officer considers may contain matter prejudicial to the health of the detainee or the security and good order of the remand centre.

13 Cleanliness

- (1) A detainee must keep himself or herself clean.
- (2) A detainee must ensure that the detainee's accommodation, clothing, bedding and any other articles issued for his or her use are kept clean and in good order.

14 Clothing

- (1) A detainee may wear his or her own clothing, and have clothing brought to the detainee from outside the remand centre, if the clothing—
 - (a) is not required for the legal proceedings in relation to which he or she is a detainee; and
 - (b) is clean and will not transmit disease.
- (2) If, on the admission of a detainee, the superintendent is of the opinion that the clothing of the detainee requires to be disinfected, laundered or otherwise cleaned, the superintendent may order that the clothing be disinfected, laundered or cleaned.
- (3) Clothing of a suitable style and quality is to be made available for a detainee who requires or requests it.

15 Employment of detainees

- (1) A detainee is not required to carry out any work at a remand centre unless the detainee wishes to do so.
- (2) If—
 - (a) a detainee wishes to work; and
 - (b) appropriate work is available at the remand centre;the detainee may carry out the work.

16 Visitors

- (1) A detainee may have visitors at the times that are specified in the standing orders.
- (2) The superintendent may, if the superintendent considers it necessary to safeguard the health of a detainee or the security and good order of the remand centre—
 - (a) refuse to allow a person to visit the detainee; or
 - (b) require a visitor to leave the remand centre.
- (3) If a person whose visit has been refused or ended under subsection (2) refuses to leave the remand centre, a custodial officer may use the force that is necessary to remove the person from the remand centre.
- (4) If the superintendent exercises his or her powers under subsection (2), the superintendent must report the matter to the administrator, stating the reason for refusing or ending the visit.
- (5) Subject to subsection (6), a person whose visit is refused or ended under this section may appeal to the administrator, who may direct the superintendent to allow the visit.
- (6) No appeal lies in relation to a visit that is refused or ended at a time other than that specified in the standing orders in accordance with subsection (1).
- (7) A detainee may refuse to see any visitor.
- (8) If a detainee refuses to see a visitor—
 - (a) a custodial officer must make a record of the refusal; and
 - (b) the detainee must sign the record.
- (9) If a police officer wishes to visit a detainee, the detainee may have his or her legal adviser or a custodial officer, or both, present during the visit, and the superintendent must inform the detainee of the fact.

- (10) This section does not apply in relation to a visit to a detainee by the detainee's legal adviser.

17 Visits by legal adviser

A detainee may have a visit from, and communicate with, his or her legal adviser between 8.30am and 10.30pm on any day.

18 Purchases by detainees

- (1) A detainee may purchase cigarettes, newspapers and other day-to-day requisites.
- (2) If a detainee has insufficient means of support, the superintendent may supply the detainee with cigarettes, newspapers and any other day-to-day requisites that are reasonably required by the detainee.

19 Communication by and with detainees

- (1) A detainee may have unlimited mail correspondence.
- (2) The superintendent may, in the presence of the detainee to whom the letter or parcel is addressed, open and check incoming letters and parcels and remove items that may be prejudicial to the health of the detainees or the security and good order of the remand centre.
- (3) Incoming or outgoing letters must not be censored.
- (4) A detainee may, with the consent of the superintendent, make telephone calls.
- (5) The superintendent must not unreasonably withhold consent under subsection (4).
- (6) A detainee must pay for the cost of the detainee's mail and telephone calls.
- (7) However, if the superintendent is satisfied that a detainee does not have enough money to pay for his or her essential mail or telephone calls, the cost of the postage and telephone calls must be borne by the Territory.

20 Recreation

- (1) Reasonable facilities for recreation are to be made available for the use of detainees.
- (2) A detainee must not be forced to take part in any recreational activities.

21 Religious instruction

- (1) A detainee may—
 - (a) attend any religious services that are conducted at the remand centre; and
 - (b) attend a minister of religion at the remand centre for religious instruction or guidance.
- (2) A minister of religion must have a reasonable right of access to a detainee who wishes to see the minister.

22 Offence

A detainee must not fail to comply with a provision of this regulation.

Maximum penalty: \$1 000.

Part 4 Transfer of people remanded

23 Notice of transfers from the ACT

- (1) The administrator must give the Minister written notice for each quarter (the *quarterly notice*) as soon as practicable, but within 14 days, after the end of the quarter.
- (2) The quarterly notice must state—
 - (a) the name of each remandee transferred to a remand centre or other institution outside the ACT during the quarter; and
 - (b) the circumstances that made the transfer of the remandee necessary or desirable; and
 - (c) the criteria relied on in deciding to transfer the remandee.
- (3) Within 14 days after the day of receiving the notice, the Minister must give a copy of the quarterly notice to the Legislative Assembly standing committee the terms of which include an examination of matters related to the administration of justice.
- (4) For this section:

remandee means a person remanded into the administrator's custody.

Endnotes

About the endnotes 1

Endnotes

1 About the endnotes

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

3 Legislation history

This regulation was originally called the *Remand Centres Regulations* and was originally made under a Commonwealth ordinance—the *Remand Centres Ordinance 1976* No 48 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT, and the regulations made under them, into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. The *Remand Centres Ordinance 1976* and the *Remand Centres Regulations 1976* were converted into ACT enactments on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name of the ordinance was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

This regulation was renamed by the *Law Reform (Miscellaneous Provisions) Act 1999* No 69 sch 4 and under the *Legislation Act 2001*.

Before 12 September 2001, regulations commenced on their notification day unless otherwise stated (see *Interpretation Ordinance 1914* s 5, *Interpretation Ordinance 1937* s 16, *Interpretation Act 1967* s 50, *Subordinate Laws Act 1989* s 6).

Legislation before becoming Territory enactment

Remand Centres Regulation 1976 No 17

notified 27 September 1976
commenced 27 September 1976

as amended by

Remand Centres Regulations Amendment 1978 No 3

notified 3 February 1978
commenced 3 February 1978

Remand Centres Regulations Amendment 1983 No 24

notified 30 December 1983
commenced 30 December 1983

Children's Services (Miscellaneous Amendments) Ordinance 1986 No 14

notified 4 June 1986
commenced 26 April 1988 (s 2 and Gaz 1988 No S116)

Endnotes

3 Legislation history

Remand Centres Regulations Amendment 1987 No 9

notified 22 July 1987

commenced 22 July 1987

Self-Government (Consequential Amendments) Ordinance 1989 No 38

notified 10 May 1989

s 1, s 2 commenced 10 May 1989

remainder commenced 11 May 1989 (s 2 (2) and Gaz 1989 No S164)

Legislation after becoming Territory enactment

Remand Centres Regulations (Amendment) 1996 No 34

notified 24 December 1996

commenced 1 Jan 1997 (s 1)

Public Health (Miscellaneous Provisions) Act 1997 No 70 sch 4

notified 9 October 1997 (Gaz 1997 No S300)

ss 1-3 commenced 9 October 1997

sch 4 commenced 10 July 2001 (Gaz 2001 No S45)

Public Health (Consequential Amendments) Act 1999 No 20 sch 2

notified 14 April 1999 (Gaz 1999 No S16)

sch 2 commenced 10 July 2001 (s 2 and Gaz 2001 No S45)

Children and Young People (Consequential Amendments) Act 1999 No 64 sch 3

notified 10 November 1999 (Gaz 1999 No 45)

s 1, s 2 commenced 10 November 1999 (IA s10B)

sch 3 commenced 10 May 2000 (s 2 (2))

Remand Centres Regulations Amendment 2000 No 45

notified 9 November 2000 (Gaz 2000 No 45)

s 1, s 2 commenced 9 November 2000 (IA s 10B)

remainder (regs 2-4) commenced 9 November 2000

Legislation (Consequential Amendments) Act 2001 No 44 pt 329

notified 26 July 2001 (Gaz 2001 No 30)

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

pt 329 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 1.31

notified LR 27 March 2003

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

sch 1 pt 1.31 commenced 28 March 2003 (s 2)

4 Amendment history

Name of regulation

s 1 sub Act 1999 No 66 sch 4
am R5 LA

Definitions for regulation

s 2 am ord 1986 No 14; Act 1999 No 64 sch 3
sub 2000 No 45 s 3
def **Director** om Act 1999 No 64 sch 3
def **the Act** om Act 2001 No 44 amdt 1.3623

Duties of custodial staff

s 4 am 1978 No 3
am Act 2001 No 44 amdt 1.3624-1.3626

Detainee to be informed of rights and duties

s 6 am 1987 No 9

Detainees to be searched

s 7 am A2003-14 amdt 1.98; regs renum R4 LA (see A2003-14
amdt 1.99)

Medical examination

s 9 am Act 1997 No 70 sch 4
am Act 1999 No 20 sch 2

Accommodation

s 10 am ord 1986 No 14; A2003-14 amdt 1.100; regs renum R4 LA
(see A2003-14 amdt 1.101)

Accommodation of detainees' children

s 11 am 1983 No 24; Act 1999 No 64 sch 3

Communication by and with detainees

s 19 am ord 1989 No 38

Transfer of people remanded

pt 4 hdg ins 1996 No 34 s 3
sub 2000 No 45 s 4

Endnotes

5 Earlier replications

Notice of transfers from the ACT

s 23 ins 1996 No 34 s 3
 am Act 1999 No 66 sch 4
 sub 2000 No 45 s 4

5 Earlier replications

Some earlier replications 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 replications have also been published in printed format. These replications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Replication No	Amendments to	Replication date
1	Ordinance 1989 No 38	31 October 1991
2	SL 1996 No 34	31 January 1997
3	Act 2001 No 44	20 November 2001
4	A2003-14	28 March 2003

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