



New South Wales

Law Enforcement (Powers and Responsibilities) Amendment (Detained Person's Property) Act 2008 No 88

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Law Enforcement (Powers and Responsibilities) Amendment (Detained Person's Property) Act 2008 No 88

Act No 88, 2008

An Act to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to make further provision with respect to custody of a detained person's property; and to make related amendments. [Assented to 19 November 2008]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Law Enforcement (Powers and Responsibilities) Amendment (Detained Person's Property) Act 2008*.

2 Commencement

This Act commences on a day to be appointed by proclamation.

3 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103

The *Law Enforcement (Powers and Responsibilities) Act 2002* is amended as set out in Schedule 1.

4 Amendment of Law Enforcement (Powers and Responsibilities) Regulation 2005

The *Law Enforcement (Powers and Responsibilities) Regulation 2005* is amended as set out in Schedule 2.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002

(Section 3)

[1] Section 131 Custody records to be maintained

Omit section 131 (2) (d).

[2] Section 131A

Insert after section 131:

131A Dealing with property taken from detained person

The custody manager for a detained person must ensure that any property taken from that person is dealt with in accordance with the regulations.

Schedule 2 Amendment of Law Enforcement (Powers and Responsibilities) Regulation 2005

(Section 4)

[1] Clause 17A

Insert after clause 17:

17A Dealing with detained person's property

- (1) The custody manager for a detained person must ascertain what property the person has with the person when he or she comes into the police station or other place of detention concerned, or had taken from him or her on arrest, and must arrange for safekeeping of the property if it remains at the police station or other place of detention.
- (2) The custody manager must ensure that all property taken from the detained person is placed in a clear tamper-proof bag of a kind approved by the Commissioner for the purposes of this clause.
- (3) The property must be placed in the bag under camera surveillance in so far as it is practicable to do so.
- (4) Unless the detained person is intoxicated or there are other circumstances that make it impractical to do so, the custody manager must ask the detained person to verify that all property taken from the person has been placed in the bag by signing and dating the bag in the manner approved by the Commissioner for the purposes of this clause.
- (5) The Commissioner may enter into a memorandum of understanding with the Commissioner of Corrective Services with respect to the use of tamper-proof bags under this clause.

[2] Clause 21 Additional matters to be recorded in custody record

Insert after clause 21 (1) (i):

- (j) if any property was taken from the person—the date and time that the property was placed in a tamper-proof bag in accordance with clause 17A,
- (k) the date and time the person verified placement of his or her property in the tamper-proof bag when requested to do so under clause 17A (4) or, if the person refused to verify placement, the fact that the person refused to do so and the reasons (if any) that the person gave for refusing,

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Amendment of Law Enforcement (Powers and Responsibilities) Regulation Schedule 2
2005

- (1) if circumstances made it impractical to request the person to verify placement of property in the tamper-proof bag—the reasons for not asking the person to verify placement.

[3] Clause 21 (2)

Omit “matters referred to in section 131 (2) (d) of the Act and”.

Insert instead “matter referred to in”.

[4] Schedule 2 Guidelines for custody managers and other police officers

Omit clause 2.

[Agreement in principle speech made in Legislative Assembly on 29 August 2008
Second reading speech made in Legislative Council on 29 October 2008]

BY AUTHORITY