

PAROLE ORDERS (TRANSFER) ACT, 1983, No. 190

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 190, 1983.

An Act relating to the reciprocal enforcement of parole orders within New South Wales and within other States or any Territory of the Commonwealth. [Assented to, 31st December, 1983.]

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Parole Orders (Transfer) Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Interpretation.

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"corresponding law" means a law of another State or a Territory relating to the transfer of parole orders declared by the Minister, by notice published in the Gazette, to be a corresponding law for the purposes of this Act;

"designated authority" means, in relation to another State or a Territory, the person or body with powers under the corresponding law of that State or Territory that correspond to those of the Minister under section 5;

"imprisonment" includes penal servitude;

"Parole Board" means the Parole Board constituted under the law of New South Wales;

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“parole order” means a parole order in force under a law of New South Wales, or under a law of another State or a Territory, relating to parole, and includes—

- (a) an authority given under a law of New South Wales or a law of another State or a Territory for the release of a person of or over the age of 18 years from imprisonment or lawful detention, being an authority that has the effect of or is deemed to be an order for the release of a person upon parole;
- (b) an authority given under a law of New South Wales or a law of another State or a Territory, being an authority of a prescribed class or description (whether or not it is an authority referred to in paragraph (a)); and
- (c) such a parole order or authority as varied from time to time;

“Registrar” means the Registrar of Transferred Parole Orders;

“regulations” means regulations under this Act;

“sentence of imprisonment” includes an order, direction, declaration or other authority under which a person may be lawfully detained in a prison;

“Territory” means a Territory of the Commonwealth.

Appointment of Registrar.

4. (1) There shall be a Registrar of Transferred Parole Orders who shall be appointed by the Minister.

(2) A person is not eligible for appointment as Registrar unless the person is a public servant.

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Requests for registration of transferred parole orders.

5. (1) The Minister may, at the request in writing of the designated authority for another State or a Territory, by instrument in writing, direct the Registrar to register under this Act a parole order that was in force at the time of the request under a law of that State or Territory.

(2) The Minister may, by instrument in writing addressed to the designated authority for another State or a Territory, request that a parole order that is in force under a law of New South Wales be registered under the corresponding law of that State or Territory.

Documents to accompany requests.

6. (1) Where the Minister requests the designated authority for another State or a Territory under section 5 (2) to register a parole order under the corresponding law of that State or Territory, the Minister shall cause to be sent to the designated authority—

- (a) the parole order to which the request relates together with any variations of the order;
- (b) the judgment or order by virtue of which the person to whom the parole order relates became liable to undergo the imprisonment to which the parole order relates;
- (c) particulars in writing of the address of that person last known to the Minister; and
- (d) a report in writing relating to that person containing such information and accompanied by such documents as appear to be likely to be of assistance to any court, authority or officer in that State or Territory, including all documents that were before the body making the parole order, details of convictions, sentences of imprisonment, minimum terms of imprisonment, periods of imprisonment served, class of prisoner, remissions earned and other grants of parole.

(2) A reference in subsection (1) (other than a reference in subsection (1) (a)) to an order, judgment or other document is a reference to the original or to a copy certified as a true copy by a person purporting to be the person in whose custody the original is entrusted.

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Regard for interests of parolee.

7. (1) The Minister shall not direct under section 5 (1) the registration under this Act of a parole order in force under a law of another State or a Territory unless—

- (a) he is satisfied, on consideration of relevant information and documents forwarded to him by the designated authority for that State or Territory, that, having regard to the interests of the person to whom the parole order relates, it is desirable that the parole order be so registered; and
- (b) either—
 - (i) that person has given his consent to, or has requested, the registration of the parole order under this Act; or
 - (ii) that person is residing in New South Wales.

(2) The Minister shall not make a request pursuant to section 5 (2) for the registration under the corresponding law of another State or a Territory of a parole order in force under a law of New South Wales unless—

- (a) he is satisfied that, having regard to the interests of the person to whom the parole order relates, it is desirable that the parole order be so registered; and
- (b) either—
 - (i) that person has given his consent to, or has requested, the registration of the parole order under the corresponding law of that State or Territory; or
 - (ii) there are reasonable grounds for believing that that person is residing in that State or Territory.

Registration.

8. (1) When so directed under section 5 (1), the Registrar shall register a parole order under this Act by—

- (a) endorsing on the parole order a memorandum signed by him to the effect that the parole order is, on the date of the endorsement, registered under this Act; and

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- (b) keeping the endorsed parole order in a register together with the original or copy of the judgment or order sent by the designated authority, being the judgment or order by virtue of which the person to whom the parole order relates became liable to undergo the imprisonment to which the parole order relates.
- (2) When the Registrar has registered a parole order, he shall—
- (a) forward to the Chairman of the Parole Board one copy of the parole order, being a copy on which is written a copy of the memorandum endorsed on the parole order in accordance with subsection (1), together with one copy of the judgment or order referred to in subsection (1) (b); and
 - (b) cause notice in writing of the fact and date of the registration of the parole order to be given to the designated authority who requested the registration of the parole order, and to be served personally on the person to whom the parole order relates.

Effect of registration.

9. (1) Subject to this section, while a parole order (including a parole order that was, at any time, in force in New South Wales) is registered under this Act, the laws of New South Wales apply to and in relation to the parole order and the person to whom the parole order relates.

(2) If the parole order registered under this Act was made under a law of another State or a Territory, the laws of New South Wales apply under subsection (1) as if—

- (a) each sentence of imprisonment to which the person to whom the parole order relates was subject immediately before the making of the parole order had been imposed by the appropriate court of New South Wales;
- (b) each period of imprisonment served by that person for the purpose of each such sentence had been served for the purpose of the sentence imposed by the appropriate court of New South Wales;
and
- (c) the parole order had been made and were in force under a law of New South Wales.

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(3) For the purpose of subsection (2), the appropriate court of New South Wales in relation to a sentence of imprisonment is the court that, under the regulations, is the court corresponding to the court of the other State or the Territory by which the sentence of imprisonment was imposed.

(4) Where a parole order registered under this Act is rescinded or revoked or is deemed to have been rescinded or revoked under a law of New South Wales, the person to whom the parole order related shall be liable to serve a period of imprisonment equal to the period for which he was liable, on the date on which he was released on parole under the order, to be imprisoned.

Effect of transfer of parole order to another State or a Territory.

10. (1) Upon the registration under a corresponding law of a parole order that, immediately before that registration, was in force under a law of New South Wales—

- (a) the parole order ceases to be in force in New South Wales;
- (b) in the case of a parole order that was registered under this Act, the parole order ceases to be so registered; and
- (c) each sentence of imprisonment to which the person to whom the parole order relates was subject immediately before the registration under the corresponding law ceases to have effect in New South Wales.

(2) Upon the subsequent registration under this Act of a parole order in relation to which subsection (1) has, at any time, applied—

- (a) paragraphs (a) and (c) of that subsection cease to apply in relation to the parole order; and
- (b) the force and effect that the parole order, and each sentence of imprisonment to which the person to whom the parole order relates was subject, had under a law of New South Wales immediately before the registration under the corresponding law revive and continue while the parole order is registered under this Act.

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Evidence.

11. (1) An instrument in writing that purports to be a copy of a memorandum endorsed on a parole order on a specified date under section 8 (1) and to have been signed by the Registrar is prima facie evidence that the parole order was registered under this Act on that date.

(2) A parole order made under a law of another State or a Territory and registered under this Act may be received in evidence in any court without further proof by the production of a copy of the parole order certified as a true copy by the Registrar, and such a copy is prima facie evidence of the matters stated in the parole order.

Delegation.

12. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a public servant, any of his powers under this Act, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister.

Amendment or revocation of notices.

13. A notice referred to in the definition of "corresponding law" in section 3 may be rescinded, revoked, altered or varied from time to time as occasion requires.

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Regulations.

14. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
