



New South Wales

Crimes (Administration of Sentences) Amendment (Assistance in Foreign Criminal Matters) Act 2007 No 32

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Crimes (Administration of Sentences) Amendment (Assistance in Foreign Criminal Matters) Act 2007 No 32

Act No 32, 2007

An Act to provide for the authorisation of an offender to travel to a foreign country for the purpose of giving evidence at a proceeding, or giving assistance in relation to an investigation, relating to a criminal matter. [Assented to 4 July 2007]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes (Administration of Sentences) Amendment (Assistance in Foreign Criminal Matters) Act 2007*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Crimes (Administration of Sentences) Act 1999 No 93

The *Crimes (Administration of Sentences) Act 1999* is amended as set out in Schedule 1.

4 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- (1) This Act is repealed on the day following the day on which this Act commences.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 Amendments

(Section 3)

[1] Section 38 Absent inmates taken to be in custody

Insert after section 38 (1) (f):

- (f1) while absent from a correctional centre in accordance with an approval granted under section 255A,

[2] Section 38 (2) (a)

Omit “unescorted”. Insert instead “not escorted by a correctional officer”.

[3] Section 39 Powers of arrest

Omit “or interstate leave permit” wherever occurring in section 39 (1) (a)–(c).
Insert instead “, interstate leave permit or approval granted under section 255A”.

[4] Section 40 Certain unlawful absences not to affect length of sentence

Omit “or interstate leave permit” from section 40 (1) (b).

Insert instead “, interstate leave permit or approval granted under section 255A”.

[5] Section 255A

Insert after section 255:

255A Approvals for the purposes of the Mutual Assistance in Criminal Matters Act 1987 of the Commonwealth

- (1) The relevant officer may, at the request of the Commonwealth Attorney-General, grant approval, by order in writing, for an offender to travel to a foreign country:
- (a) for the purpose of giving evidence at a proceeding relating to a criminal matter, as referred to in section 26 of the Commonwealth Act, or
 - (b) for the purpose of giving assistance in relation to an investigation relating to a criminal matter, as referred to in section 27 of the Commonwealth Act,
- and may give such directions as are necessary in that regard.
- (2) An approval under this section is subject to such conditions as are prescribed by the regulations and to such other conditions (not inconsistent with those prescribed by the regulations) as the relevant officer may specify in the approval.

- (3) While an approval is in force under this section, the offender to whom the approval relates:
- (a) is authorised to be absent from custody (other than custody referred to in section 26 (1) (e) (iii) or 27 (1) (e) (iii) of the Commonwealth Act) in relation to any period during which the offender would, but for the approval, be required to be in custody, and
 - (b) is exempt from such other requirements imposed by or under this or any other Act as would, but for the approval, prevent the offender from travelling to the foreign country concerned for the purpose set out in the Commonwealth Attorney-General's request.

Note. Restrictions may nevertheless be imposed on an offender who is subject to an approval under this section by means of regulations made under section 79, 101 or 106ZA or conditions imposed under section 103 or 128.

- (4) In this section:
- relevant officer* means:
- (a) in relation to an offender who is on release on parole, or is the subject of a home detention order—the Parole Authority, and
 - (b) in any other case—the Commissioner.

the Commonwealth Act means the *Mutual Assistance in Criminal Matters Act 1987* of the Commonwealth.

[Agreement in principle speech made in Legislative Assembly on 20 June 2007
Second reading speech made in Legislative Council on 28 June 2007]

BY AUTHORITY