



New South Wales

# Prisoners (Interstate Transfer) Amendment Bill 2005

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Prisoners (Interstate Transfer) Act 1982* (***the Principal Act***) to broaden the range of matters that the Minister may have regard to when considering a request by a prisoner to be transferred to or from another State or Territory.

At present, the national co-operative legislative scheme permits the transfer of prisoners between participating jurisdictions for the purposes of standing trial or for welfare purposes. A transfer for welfare purposes may be made at the request of the prisoner concerned and depends on the Minister forming the opinion that it is in the interests of the prisoner's welfare that the prisoner should be transferred. The Bill amends the Principal Act to remove the limitation on the Minister's discretion in relation to transfer requests and provides instead that the Minister, when considering a request by a prisoner to be transferred to or from another State or Territory, may have regard to any of the following:

- (a) the welfare of the prisoner concerned,
- (b) the administration of justice in NSW or any other State,
- (c) the security and good order of any prison in NSW or any other State,

- (d) the safe custody of the prisoner,
- (e) the protection of the community in NSW or any other State,
- (f) any other matter the Minister considers relevant.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Prisoners (Interstate Transfer) Act 1982* set out in Schedule 1.

**Schedule 1** contains the amendments to the *Prisoners (Interstate Transfer) Act 1982* described in the Overview above.

First print



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# Prisoners (Interstate Transfer) Amendment Bill 2005

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New South Wales

# Prisoners (Interstate Transfer) Amendment Bill 2005

No. , 2005

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## A Bill for

An Act to amend the *Prisoners (Interstate Transfer) Act 1982* to make further provision with respect to interstate transfers at the request of prisoners; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Prisoners (Interstate Transfer) Amendment Act 2005</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5
<b>3 Amendment of Prisoners (Interstate Transfer) Act 1982 No 104</b>	6
The <i>Prisoners (Interstate Transfer) Act 1982</i> is amended as set out in Schedule 1.	7
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<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Part 2, heading</b>	3
	Omit “ <b>Transfer for prisoner’s welfare</b> ”.	4
	Insert instead “ <b>Transfer at request of prisoner</b> ”.	5
<b>[2]</b>	<b>Section 7 Requests for, and orders of, transfer</b>	6
	Omit “in the interests of the welfare of the prisoner” wherever occurring in section 7 (1) (b), (3) (b) and (5) (b).	7 8
<b>[3]</b>	<b>Section 10A</b>	9
	Insert after section 10:	10
<b>10A</b>	<b>Matters to which Minister may have regard</b>	11
	In forming an opinion or exercising any discretion under this Part, the Minister may have regard to any one or more of the following:	12 13 14
	(a) the welfare of the prisoner concerned,	15
	(b) the administration of justice in this or any other State,	16
	(c) the security and good order of any prison in this or any other State,	17 18
	(d) the safe custody of the prisoner,	19
	(e) the protection of the community in this or any other State,	20
	(f) any other matter the Minister considers relevant.	21
<b>[4]</b>	<b>Section 11 Reports</b>	22
	Omit “may have regard to reports” from section 11 (1).	23
	Insert instead “by reference to reports”.	24
<b>[5]</b>	<b>Section 23 Provisions ancillary to section 20</b>	25
	Omit “it is in the interests of the welfare of the person that” from section 23 (1) (a).	26 27

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Schedule 1 Amendments

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<b>[6] Section 23 (1A)</b>	1
Insert after section 23 (1):	2
(1A) In making a decision under subsection (1) (a), the Minister may have regard to any one or more of the following:	3
(a) the welfare of the person concerned,	4
(b) the administration of justice in this or any other State,	5
(c) the security and good order of any prison in this or any other State,	6
(d) the safe custody of the person,	7
(e) the protection of the community in this or any other State,	8
(f) any other matter the Minister considers relevant.	9
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