



New South Wales

# Crimes (Administration of Sentences) Legislation Amendment (Interstate Transfers) Bill 2012

## Explanatory note

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

## Overview of Bill

The *Crimes (Interstate Transfer of Community Based Sentences) Act 2004*, the *Parole Orders (Transfer) Act 1983* and the *Prisoners (Interstate Transfer) Act 1982* comprise a package of uniform legislation with respect to the interstate transfer of sentences and the persons by whom such sentences are being served. This Bill contains amendments, agreed to by the various jurisdictions that have adopted the uniform legislation, that seek to facilitate the administration of the Acts included in that package.

The objects of this Bill are:

- (a) to amend the *Crimes (Interstate Transfer of Community Based Sentences) Act 2004* so as:
  - (i) to facilitate the making of reciprocal arrangements for the administration of local and interstate community based sentences, and
  - (ii) to clarify the application of the Act in relation to fines and other financial penalties imposed by an interstate sentence, and

- (iii) to limit the purposes for which an interstate penalty has effect in relation to an interstate sentence after it has been registered as a community based sentence under a law of this State, and
  - (iv) to provide that proceedings against an offender whose interstate sentence is registered as a community based sentence under a law of this State may not be commenced or continued in relation to any breach of the conditions of the sentence that occurred before it was registered, and
  - (v) to make other miscellaneous amendments to the Act, and
- (b) to amend the *Parole Orders (Transfer) Act 1983* so as:
- (i) to facilitate the making of reciprocal arrangements for the administration of local and interstate parole orders, and
  - (ii) to vary the conditions that must be satisfied before an interstate parole order may be registered in this State, and
  - (iii) to extend the range of documents that may be used to support an application for the registration of an interstate parole order, and
  - (iv) to provide that an interstate parolee whose parole order is registered in this State may be dealt with under the laws of this State for any breach of the conditions of parole that occurred before the order was registered, and that proceedings against a NSW parolee whose parole order is registered under a law of another jurisdiction may not be commenced or continued in relation to any breach of the conditions of parole that occurred before the order was registered, and
  - (v) to provide that the consequences of the revocation of a parole order that has been registered under the Act are no different to those of the revocation under the laws of this State of any other parole order, and
  - (vi) to insert a provision with respect to the Minister's use of various documents and information in connection with the making of determinations and exercise of discretions under the Act, and
  - (vii) to make other miscellaneous amendments to the Act, and
- (c) to amend the *Prisoners (Interstate Transfer) Act 1982* so as:
- (i) to enable prisoners who are being transferred to an interstate jurisdiction to be delivered to an interstate escort, and at a location, authorised for that purpose by the prisons authority for that jurisdiction, and
  - (ii) to ensure that the arrest powers given to an interstate escort in relation to an offender who escapes from custody while in this State extend not only to prisoners in transit to another jurisdiction but also to prisoners being transferred to this State.

## 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 the date of assent to the proposed Act.

## **Schedule 1      Amendment of Crimes (Interstate Transfer of Community Based Sentences) Act 2004 No 72**

### **Administration of local and interstate sentences**

**Schedule 1 [8]** inserts proposed Part 5A into the Act. The new Part contains the following provisions:

**Proposed section 27A** contains various definitions for the purposes of the proposed Part.

**Proposed section 27B** enables the Minister to enter into arrangements with the corresponding Minister of an interstate jurisdiction for the administration, within this State and that jurisdiction, of sentences imposed under the respective laws of each jurisdiction.

**Proposed section 27C** requires any permission for interstate travel that is given to a local offender to be given in the form of an interstate travel permit, and to be subject to such conditions as are required to be imposed on the permit by the arrangements referred to in proposed section 27B. The proposed section further provides that an interstate travel permit ceases to have effect in an interstate jurisdiction if the relevant authority in that jurisdiction is notified that permission to travel has been revoked, or if the offender is arrested in the interstate jurisdiction pursuant to a warrant issued under the laws of that jurisdiction.

**Proposed section 27D** provides that, while a local offender is travelling interstate in accordance with an interstate travel permit, the conditions of the permit are taken to have replaced the conditions of his or her sentence and his or her compliance (or non-compliance) with the conditions of the permit is taken to be compliance (or non-compliance) with the conditions of his or her sentence.

**Proposed section 27E** empowers the local authority (that is, the Commissioner of Corrective Services) to issue an arrest warrant for an interstate offender if advised by the relevant interstate authority that the offender's interstate travel permit is no longer in force in this State or if of the opinion that the offender has failed to comply with the conditions of the permit.

**Proposed section 27F** gives recognition in this State to arrest warrants of the kind referred to in proposed section 27E that are issued under the laws of another jurisdiction.

**Proposed section 27G** provides that nothing in the Act is intended to limit or otherwise affect the operation of the *Service and Execution of Process Act 1992* of the Commonwealth.

### **Application of Act to fines and penalties**

Section 4 (2) provides that the Act does not apply to a parole order, or to a sentence to the extent to which it imposes a fine or other penalty or requires the making of

reparation. **Schedule 1 [1]** substitutes the subsection with a new subsection that merely provides that the Act does not apply to a parole order.

**Schedule 1 [5]** amends section 24 (which deals with the effect of registering an interstate sentence as a community based sentence under a law of this State) so as to provide that the section does not apply to the extent to which the interstate sentence imposes a fine or other financial penalty or requires the making of reparation.

**Schedule 1 [7]** amends section 27 (which deals with the registration of a local sentence as a community based sentence under the laws of another jurisdiction) so as to provide that the section does not apply to the extent to which the sentence imposes a fine or other penalty or requires the making of reparation and, to that extent, the sentence remains a sentence in force in this jurisdiction and may be enforced accordingly.

### **Effect of interstate penalties**

Section 24 (1) (e) provides that, if an interstate sentence is registered in this State, the penalty for the offence for which the penalty was imposed is taken to be the relevant penalty for the offence under the laws of the originating jurisdiction (that is, the jurisdiction in which the sentence was originally imposed) and not the penalty for an offence of that kind under the laws of this State. **Schedule 1 [4]** amends section 24 so as to provide that section 24 (1) (e) applies only for the purpose of determining the penalty to be imposed for the relevant offence in circumstances in which the offender is, under the laws of this State, re-sentenced in relation to the offence. If the offender breaches the conditions of the sentence in circumstances that do not result in the offender being re-sentenced for the original offence, the relevant penalty to be imposed for the breach is the penalty that could be imposed for a breach of a similar sentence imposed under the laws of this State.

### **Proceedings for breaches arising before registration**

Section 24 (1) (g) provides that, if an interstate sentence is registered in this State, the offender may be dealt with in this State for a breach of the sentence, whether occurring before or after the sentence was registered. **Schedule 1 [6]** amends section 27 so as to provide that, if a local sentence is registered in an interstate jurisdiction, a breach of the sentence occurring before the sentence was registered cannot be dealt with under the laws of this State. This will prevent the offender from being subject to separate proceedings in each jurisdiction for the same breach.

### **Miscellaneous amendments**

**Schedule 1 [2]** amends section 7 to provide that the regulations may declare that a combination of community based sentences is taken, for the purposes of the Act, to be a single community based sentence under a law of this State.

**Schedule 1 [3]** amends section 19 so as to clarify the circumstances in which a community based sentence under a law of this State is taken to correspond to an interstate sentence.

**Schedule 1 [9]** enables savings and transitional regulations to be made as a consequence of the proposed Act or any other Act that amends the Act.

## **Schedule 2      Amendment of Parole Orders (Transfer) Act 1983 No 190**

### **Administration of local and interstate parole orders**

**Schedule 2 [19]** inserts proposed Part 3 into the Act. The new Part contains the following provisions:

**Proposed section 10A** contains various definitions for the purposes of the proposed Part.

**Proposed section 10B** enables the Minister to enter into arrangements with the corresponding Minister of an interstate jurisdiction for the administration, within this State and that jurisdiction, of parole orders issued under the respective laws of each jurisdiction.

**Proposed section 10C** requires any permission for interstate travel that is given to a NSW parolee to be given in the form of an interstate travel permit, and to be subject to such conditions as are required to be imposed on the permit by the arrangements referred to in proposed section 10B. The proposed section further provides that an interstate travel permit ceases to have effect in an interstate jurisdiction if the relevant authority in that jurisdiction is notified that permission to travel has been revoked, or if the parolee is arrested in the interstate jurisdiction pursuant to a warrant issued under the laws of that jurisdiction.

**Proposed section 10D** provides that, while a NSW parolee is travelling interstate in accordance with an interstate travel permit, the conditions of the permit are taken to have replaced the conditions of his or her parole and his or her compliance (or non-compliance) with the conditions of the permit is taken to be compliance (or non-compliance) with the conditions of his or her parole.

**Proposed section 10E** empowers the local parole authority (that is, the State Parole Authority) to issue an arrest warrant for an interstate parolee if advised by the relevant interstate registrar that the parolee's interstate travel permit is no longer in force in this State or if of the opinion that the parolee has failed to comply with the conditions of the permit.

**Proposed section 10F** gives recognition in this State to arrest warrants of the kind referred to in proposed section 10E that are issued under the laws of another jurisdiction.

**Proposed section 10G** provides that nothing in the Act is intended to limit or otherwise affect the operation of the *Service and Execution of Process Act 1992* of the Commonwealth.

### **Registration of parole orders**

Section 5 enables the Minister to request registration interstate of a NSW parole order (section 5 (2)) and to respond to a similar request from interstate by directing the Registrar of Transferred Parole Orders to register an interstate parole order

(section 5 (1)). Section 7 sets out certain matters that must be satisfied before such a request or direction is given, in particular that the person to whom the request or direction relates has consented to (or requested) such action and is residing in the jurisdiction concerned.

**Schedule 2 [8]** transfers these latter matters to section 5, with two changes. Firstly, the amendment enables the person to whom the request or direction relates to withdraw any consent or request that he or she has previously given. Secondly, the amendment provides that it is sufficient if that person is present, rather than residing, in the jurisdiction concerned. The latter change is intended to facilitate the interstate transfer of a parole order concerning a person whose whereabouts are known but whose intentions as to residence cannot be established. **Schedule 2 [12]** makes a consequential amendment to section 8, making it clear that a parole order may not be registered under the Act unless the person to whom it relates is actually present in this State.

**Schedule 2 [11]** substitutes section 7. The new section contains only those matters to which the Minister must have regard when deciding whether to make a request or direction under section 5, but requires additional matters (such as the administration of justice and the protection of the community) to be taken into consideration.

### **Documents to accompany requests for registration**

Section 6 sets out the documents that must accompany a request by the Minister for registration interstate of a NSW parole order. In particular, those documents must include the original parole order and the originals of any variations that have been made to it. Copies of documents other than the parole order and its variations are acceptable, but must be certified by the person in whose custody the originals have been entrusted. In many cases the supply of an original parole order is impracticable or inappropriate. **Schedule 2 [10]** inserts proposed section 6 (3) to allow a copy to be provided instead, so long as the copy has the same legal effect as the original. **Schedule 2 [9]** amends section 6 (2) so as to enable copies of other documents to be certified by the Registrar of Transferred Parole Orders instead of the person having possession of the document, so allowing for a single certificate.

### **Proceedings for breaches arising before registration**

Section 9 states that registration of an interstate parole order under the Act gives the order the same effect as a parole order issued under the laws of this State. The section is silent as to how a breach of the conditions of a parole order is to be dealt with if the breach occurred before the order was registered. **Schedule 2 [13]** amends section 9 so as to make it clear that such a breach is to be dealt with under the laws of this State. **Schedule 2 [17]** amends section 10 so as to provide that a breach of the conditions of a NSW parole order may not be dealt with under the laws of this State if, subsequent to the breach, the parole order has been registered in another jurisdiction.

### **Consequences of revocation of parole**

Section 9 (1) provides that, while a parole order is registered under the Act, the laws of this State apply to and in relation to the order and the person to whom the order relates. Section 9 (4) specifically provides that a person whose parole order is revoked is liable to imprisonment for the remainder of his or her sentence, calculated from the date of his or her release on parole. The general rule for revocation of parole is that the remainder of the person's sentence is calculated as from the date on which the parole order is revoked (see sections 168 and 254 of the *Crimes (Administration of Sentences) Act 1999*). **Schedule 2 [15]** omits section 9 (4), and thereby reinstates the general rule (via section 9 (1)).

### **Miscellaneous amendments**

**Schedule 2 [1], [5] and [20]** insert Part headings before existing sections 1, 5 and 11 of the Act.

**Schedule 2 [2]** amends the definition of *designated authority* in section 3 so as to ensure that such an authority must be a natural person, and not a body corporate.

**Schedule 2 [4]** extends the definition of *parole order* in section 3 to prospective parole orders, so as to allow an interstate parole order to be registered in this State before it takes effect. **Schedule 2 [6] and [7]** make consequential amendments to section 5.

**Schedule 2 [14]** substitutes section 9 (3) so as to define *appropriate court* in a way that avoids the need to make regulations under the Act. The new definition follows a definition of the same expression in the *Crimes (Interstate Transfer of Community Based Sentences) Act 2004*.

**Schedule 2 [18]** amends section 10 (2) (b) so as to remove a potential ambiguity of meaning.

**Schedule 2 [21]** inserts proposed section 11A. The new section deals with the use by the Minister of certain documents and information when making determinations under the Act or exercising discretions conferred by the Act.

**Schedule 2 [3] and [16]** are law revision amendments that insert missing words.

## **Schedule 3      Amendment of Prisoners (Interstate Transfer) Act 1982 No 104**

### **Delivery of transferred prisoners**

Section 24 currently requires a prisoner who is being transferred from this State to another jurisdiction, or from another jurisdiction to this State, to be conveyed to a specified prison and there delivered into the custody of the gaoler of that prison.

**Schedule 3 [2]** inserts proposed subsection (4) into that section so as to state that these requirements are satisfied if the prisoner concerned is delivered to an interstate escort, and at a location, authorised by the local prisons authority of the transferee

jurisdiction. **Schedule 3 [1] and [3]** make consequential amendments to sections 5 and 31.

**Arrest powers of interstate escorts**

Section 32 enables an interstate escort to arrest a prisoner who escapes from custody while being conveyed through this State to a prison in another jurisdiction pursuant to section 31. **Schedule 3 [4]** amends section 32 so as to confer the same power on an interstate escort who is conveying a prisoner to a prison in this State pursuant to section 24.





New South Wales

# Crimes (Administration of Sentences) Legislation Amendment (Interstate Transfers) Bill 2012

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New South Wales

# Crimes (Administration of Sentences) Legislation Amendment (Interstate Transfers) Bill 2012

No. , 2012

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## A Bill for

An Act to amend the *Crimes (Interstate Transfer of Community Based Sentences) Act 2004*, the *Parole Orders (Transfer) Act 1983* and the *Prisoners (Interstate Transfer) Act 1982* so as to make further provision for the uniform administration of sentences imposed by local and interstate jurisdictions.

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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>Crimes (Administration of Sentences) Legislation Amendment (Interstate Transfers) Act 2012</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6

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<b>Schedule 1</b>	<b>Amendment of Crimes (Interstate Transfer of Community Based Sentences) Act 2004 No 72</b>	1
		2
		3
<b>[1] Section 4 Application of Act</b>		4
Omit section 4 (2). Insert instead:		5
(2) This Act does not apply to a parole order.		6
<b>[2] Section 7 What is a “community based sentence”?</b>		7
Insert after section 7 (2) (d):		8
(e) any combination of 2 or more community based sentences referred to in subsection (1) (a) that is declared by the regulations to be a single community based sentence.		9 10 11
<b>[3] Section 19 Registration criteria</b>		12
Insert after section 19 (2):		13
(3) For the purposes of subsection (2) (a), a community based sentence under a law of this jurisdiction corresponds, or substantially corresponds, to an interstate sentence if and only if the law of this jurisdiction provides that:		14 15 16 17
(a) a penalty of substantially the same nature as the penalty imposed by the interstate sentence can be imposed by the community based sentence, and		18 19 20
(b) conditions of substantially the same nature as the conditions to which the interstate sentence is subject can be imposed in relation to the community based sentence.		21 22 23
<b>[4] Section 24 Effect of local registration of interstate sentences</b>		24
Insert after section 24 (2):		25
(2A) Subsection (1) (e) applies only for the purpose of determining the penalty to be imposed for the relevant offence in circumstances in which the offender is, under the law of this jurisdiction, re-sentenced in relation to that offence.		26 27 28 29
<b>[5] Section 24 (5A)</b>		30
Insert after section 24 (5):		31
(5A) This section does not apply to an interstate sentence to the extent to which:		32 33
(a) it imposes a fine or other financial penalty (however described), or		34 35

(b)	it requires the making of reparation (however described).	1
<b>[6]</b>	<b>Section 27 Effect of interstate registration of local sentences</b>	2
	Insert after section 27 (1) (c):	3
(d)	proceedings against the offender may not be commenced or continued under the law of this jurisdiction in relation to any breach of the conditions attached to the sentence that occurred before it was registered in the interstate jurisdiction.	4 5 6 7 8
<b>[7]</b>	<b>Section 27 (2A)</b>	9
	Insert after section 27 (2):	10
(2A)	If this jurisdiction is the originating jurisdiction for the local sentence, this section does not affect the sentence to the extent to which:	11 12 13
(a)	it imposes a fine or other financial penalty (however described), or	14 15
(b)	it requires the making of reparation (however described), and, to that extent, the sentence remains a sentence in force in this jurisdiction and may be enforced accordingly.	16 17 18
<b>[8]</b>	<b>Part 5A</b>	19
	Insert after Part 5:	20
	<b>Part 5A Reciprocal arrangements for administration of local and interstate sentences</b>	21 22 23
<b>27A</b>	<b>Definitions</b>	24
	In this Part:	25
	<i>corresponding Minister</i> , in relation to an interstate jurisdiction, means the person who has powers under the corresponding law of that jurisdiction that correspond to the powers of the Minister under this Part.	26 27 28 29
	<i>interstate law enforcement officer</i> , in relation to an interstate jurisdiction, means a local law enforcement officer within the meaning of the corresponding law of that jurisdiction.	30 31 32
	<i>interstate offender</i> means an offender who is subject to an interstate sentence.	33 34

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<i>local law enforcement officer</i> means a correctional officer, compliance and monitoring officer or probation and parole officer (within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i> ) or a police officer.	1 2 3 4
<i>local offender</i> means an offender who is subject to a local sentence.	5 6
<i>Ministerial arrangements</i> means arrangements referred to in section 27B.	7 8
<b>27B Ministerial arrangements for the administration of local and interstate sentences</b>	9 10
(1) The Minister may enter into arrangements with the corresponding Minister of an interstate jurisdiction so as to facilitate:	11 12 13
(a) the administration, within this jurisdiction, of interstate sentences imposed under a law of the interstate jurisdiction, and	14 15 16
(b) the administration, within the interstate jurisdiction, of local sentences,	17 18
either in relation to particular local or interstate offenders or particular classes of local or interstate offenders.	19 20
(2) In particular, such arrangements may be entered into so as to facilitate:	21 22
(a) travel to the interstate jurisdiction by local offenders, and	23
(b) travel to this jurisdiction by interstate offenders.	24
(3) The local authority has, and may exercise, such powers, authorities, duties and functions as are necessary, under the relevant Ministerial arrangements, for the administration of interstate sentences in relation to interstate offenders who are present in this jurisdiction.	25 26 27 28 29
(4) For the purposes of the law of this jurisdiction with respect to local sentences, anything that is done:	30 31
(a) by the appropriate interstate authority of an interstate jurisdiction, and	32 33
(b) in accordance with the relevant Ministerial arrangements, and	34 35
(c) in the administration of a local sentence in relation to a local offender who is present in the interstate jurisdiction, is taken to have been done pursuant to the law of this jurisdiction.	36 37 38

<b>27C Issue of interstate travel permit to local offender</b>	1
(1) This section applies to a local offender whose sentence is subject to a condition (whether imposed by the sentence or otherwise) that prohibits the offender from leaving this jurisdiction without permission.	2 3 4 5
(2) Permission to leave this jurisdiction is to be granted, varied and revoked, and conditions of permission are to be imposed and varied, in accordance with the relevant Ministerial arrangements.	6 7 8
(3) As soon as practicable after any such permission is granted, the local authority:	9 10
(a) must incorporate the terms and conditions of the permission in an interstate travel permit, and	11 12
(b) must provide a copy of the permit to the offender, and	13
(c) must provide:	14
(i) a copy of the permit, and	15
(ii) such other documents or information about the offender as are required or authorised to be sent under the relevant Ministerial arrangements,	16 17 18
to the interstate authority of each interstate jurisdiction to which the permit authorises travel.	19 20
(4) As soon as practicable after the terms or conditions of any such permission are varied, the local authority:	21 22
(a) must incorporate the terms and conditions of the permission, as varied, in an amended interstate travel permit, and	23 24 25
(b) must provide a copy of the amended permit to the offender, and	26 27
(c) must provide:	28
(i) a copy of the amended permit, and	29
(ii) such other documents or information as are relevant to the variation,	30 31
to the interstate authority of each interstate jurisdiction to which the permit authorises travel.	32 33
(5) As soon as practicable after any such permission is revoked, the local authority must provide written notice of that fact to the offender and to the interstate authority of each interstate jurisdiction to which the permit authorised travel.	34 35 36 37



(6)	An interstate travel permit ceases to have effect in an interstate jurisdiction to which it authorises travel:	1
		2
(a)	if written notice referred to in subsection (5) is provided to the interstate authority of that jurisdiction (regardless of whether or not the offender has received such notice), or	3
		4
		5
(b)	if the offender is arrested pursuant to a warrant issued under the corresponding law of that jurisdiction.	6
		7
<b>27D</b>	<b>Effect of interstate travel permit issued to local offender</b>	8
(1)	This section applies in respect of any period during which:	9
(a)	an interstate travel permit is in force in respect of a local offender, and	10
		11
(b)	the local offender is present in an interstate jurisdiction to which the permit authorises travel.	12
		13
(2)	For the purposes of the law of this jurisdiction with respect to local sentences:	14
		15
(a)	the conditions of the interstate travel permit are taken to be substituted for the conditions of the relevant local sentence, and	16
		17
		18
(b)	any compliance or non-compliance by the offender with the conditions of the interstate travel permit is taken to be compliance or non-compliance, as the case may be, with the conditions of the relevant local sentence.	19
		20
		21
		22
<b>27E</b>	<b>Powers exercisable in relation to interstate offenders</b>	23
(1)	This section applies to an interstate offender:	24
(a)	who holds an interstate travel permit that authorises the offender to travel to this jurisdiction, and	25
		26
(b)	who is present in this jurisdiction.	27
(2)	The local authority may issue a warrant for the offender's arrest:	28
(a)	if advised by the relevant interstate authority that the interstate travel permit is no longer in force in this jurisdiction, or	29
		30
		31
(b)	if of the opinion that the offender has failed to comply with the conditions of the interstate travel permit.	32
		33
(3)	A warrant under subsection (2) is sufficient authority for a local law enforcement officer:	34
		35
(a)	to arrest the offender, and	36

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Schedule 1 Amendment of Crimes (Interstate Transfer of Community Based Sentences) Act 2004 No 72

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(b)	to convey the offender to a place specified in the warrant (whether in this jurisdiction or an interstate jurisdiction), and	1 2 3
(c)	to deliver the offender into the custody of an interstate law enforcement officer of the jurisdiction in which the interstate travel permit was issued.	4 5 6
(4)	For the avoidance of doubt, such a warrant authorises a local law enforcement officer to convey the offender within or across any interstate jurisdiction for the purpose of taking the offender to a place specified in the warrant.	7 8 9 10
<b>27F</b>	<b>Powers of interstate law enforcement officers</b>	11
	A warrant issued under the corresponding law of an interstate jurisdiction that authorises an interstate law enforcement officer of that jurisdiction to convey an interstate offender or local offender within or across this jurisdiction for the purpose of taking the offender to a place specified in the warrant has effect, in this jurisdiction, according to its tenor.	12 13 14 15 16 17
<b>27G</b>	<b>Operation of Service and Execution of Process Act 1992 (Cth)</b>	18
	Nothing in this Act is intended to limit or otherwise affect the operation of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth.	19 20 21
<b>[9]</b>	<b>Schedule 1 Savings, transitional and other provisions</b>	22
	Insert at the end of clause 1 (1):	23
	any other Act that amends this Act	24

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<b>Schedule 2</b>	<b>Amendment of Parole Orders (Transfer)</b>	1
	<b>Act 1983 No 190</b>	2
<b>[1] Part 1, heading</b>		3
Insert before section 1:		4
	<b>Part 1 Preliminary</b>	5
<b>[2] Section 3 Definitions</b>		6
Omit “the person or body with” from the definition of <i>designated authority</i> .		7
Insert instead “the person (other than a body corporate) having”.		8
<b>[3] Section 3, definition of “parole order”</b>		9
Insert “and” after “parole,” in paragraph (a) of the definition.		10
<b>[4] Section 3, definition of “parole order”</b>		11
Insert after paragraph (b) of the definition:		12
(b1) a prospective parole order, or a prospective authority of the kind referred to in paragraph (a) or (b), but only for the purpose of making or dealing with a request under section 5, and		13 14 15 16
<b>[5] Part 2, heading</b>		17
Insert before section 5:		18
	<b>Part 2 Registration of parole orders</b>	19
<b>[6] Section 5 Requests for registration of transferred parole orders</b>		20
Omit “that was in force at the time of the request” from section 5 (1).		21
Insert instead “made”.		22
<b>[7] Section 5 (2)</b>		23
Omit “that is in force”. Insert instead “made”.		24

<b>[8] Section 5 (3) and (4)</b>	1
Insert after section 5 (2):	2
(3) A direction or request is not to be made under this section unless the Minister is satisfied that the person to whom the parole order relates:	3
(a) has given consent to, or has requested, the registration of the parole order under this Act or under the relevant corresponding law (as the case requires), and has not withdrawn that consent or request, or	4
(b) is present in the State or Territory in which the order is proposed to be registered.	5
(4) A person who has given consent to, or has requested, the registration of a parole order, as referred to in subsection (3) (a), may withdraw the consent or request at any time before (but not after) the parole order is registered.	6
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<b>[9] Section 6 Documents to accompany requests</b>	16
Omit “a person purporting to be the person in whose custody the original is entrusted” from section 6 (2).	17
Insert instead “the Registrar”.	18
	19
<b>[10] Section 6 (3)</b>	20
Insert after section 6 (2):	21
(3) In subsection (1) (a), a reference to a parole order (including any variation of a parole order) is a reference not only to the original but also to a copy that, under a law of New South Wales, has the same effect as the original.	22
	23
	24
	25
<b>[11] Section 7</b>	26
Omit the section. Insert instead:	27
<b>7 Matters to which Minister to have regard</b>	28
In determining whether to make a direction or request under section 5, the Minister must have regard to the following matters:	29
(a) the interests (including the welfare) of the person to whom the parole order relates,	30
(b) the administration of justice in this or any other State or a Territory,	31
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	(c) the protection of the community in this or any other State or a Territory,	1 2
	(d) any other matter the Minister considers relevant.	3
<b>[12]</b>	<b>Section 8 Registration</b>	4
	Insert after section 8 (1):	5
	(1A) Despite subsection (1), a parole order must not be registered under this Act unless, or until, the person to whom the order relates is present in New South Wales.	6 7 8
<b>[13]</b>	<b>Section 9 Effect of registration</b>	9
	Insert after section 9 (2):	10
	(2A) Without limiting subsections (1) and (2), the person to whom the parole order relates may be dealt with under the laws of New South Wales in relation to any breach of the conditions of the parole order that occurred before it was registered under this Act.	11 12 13 14
<b>[14]</b>	<b>Section 9 (3)</b>	15
	Omit the subsection. Insert instead:	16
	(3) For the purposes of subsection (2), the <i>appropriate court</i> of this jurisdiction is:	17 18
	(a) if the sentence of imprisonment referred to in subsection (2) (a) was imposed by a court of summary jurisdiction or by a court on appeal from a court of summary jurisdiction—the Local Court, and	19 20 21 22
	(b) in any other case—the Supreme Court.	23
<b>[15]</b>	<b>Section 9 (4)</b>	24
	Omit the subsection.	25
<b>[16]</b>	<b>Section 10 Effect of transfer of parole order to another State or a Territory</b>	26 27
	Insert “and” after “New South Wales,” in section 10 (1) (a).	28
<b>[17]</b>	<b>Section 10 (1) (d)</b>	29
	Insert at the end of section 10 (1) (c):	30
	, and	31
	(d) proceedings against the person to whom the parole order relates may not be commenced or continued under the laws of New South Wales in relation to any breach of the	32 33 34

	conditions of the parole order that occurred before it was registered under the corresponding law.	1 2
[18]	<b>Section 10 (2) (b)</b>	3
	Omit “the registration under the corresponding law”.	4
	Insert instead “its first registration under a corresponding law”.	5
[19]	<b>Part 3</b>	6
	Insert after section 10:	7
	<b>Part 3 Reciprocal arrangements for administration of NSW and interstate parole orders</b>	8 9 10
10A	<b>Definitions</b>	11
	In this Part:	12
	<i>interstate law enforcement officer</i> , in relation to another State or a Territory, means a local law enforcement officer within the meaning of the corresponding law of that State or Territory.	13 14 15
	<i>interstate parole order</i> means a parole order made under a law of another State or a Territory.	16 17
	<i>interstate parolee</i> means a person to whom an interstate parole order relates.	18 19
	<i>interstate registrar</i> , in relation to another State or a Territory, means the person or body having powers under the corresponding law of that State or Territory that correspond to those of the Registrar under this Act.	20 21 22 23
	<i>interstate travel permit</i> means an interstate travel permit issued under section 10C or an interstate travel permit (however described) issued under the corresponding law of another State or a Territory.	24 25 26 27
	<i>local law enforcement officer</i> means a correctional officer, compliance and monitoring officer or probation and parole officer (within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i> ) or a police officer.	28 29 30 31
	<i>NSW parole order</i> means a parole order made under a law of New South Wales.	32 33
	<i>NSW parolee</i> means a person to whom a NSW parole order relates.	34 35
	<i>relevant Ministerial arrangements</i> , in relation to another State or a Territory, means arrangements entered into under	36 37

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section 10B between the Minister and the designated authority of that State or Territory.	1 2
<b>10B Ministerial arrangements for the administration of NSW and interstate parole orders</b>	3 4
(1) The Minister may enter into arrangements with the designated authority of another State or a Territory so as to facilitate:	5 6
(a) the administration, within New South Wales, of interstate parole orders made under a law of the other State or Territory, and	7 8 9
(b) the administration, within the other State or Territory, of NSW parole orders,	10 11
either in relation to particular NSW or interstate parolees or particular classes of NSW or interstate parolees.	12 13
(2) In particular, such arrangements may be entered into so as to facilitate:	14 15
(a) travel to the other State or Territory by NSW parolees, and	16
(b) travel to New South Wales by interstate parolees of the other State or Territory.	17 18
(3) The local prisons authority has, and may exercise, such powers, authorities, duties and functions as are necessary, under the relevant Ministerial arrangements, for the administration of interstate parole orders in relation to interstate parolees who are present in New South Wales.	19 20 21 22 23
(4) For the purposes of the laws of New South Wales with respect to parole, anything that is done in another State or a Territory:	24 25
(a) by the interstate prisons authority of that State or Territory, and	26 27
(b) in accordance with the relevant Ministerial arrangements, and	28 29
(c) in the administration of a NSW parole order in relation to a NSW parolee who is present in that State or Territory,	30 31
is taken to have been done pursuant to the laws of New South Wales.	32 33
(5) In this section:	34
<i>interstate prisons authority</i> , in relation to another State or a Territory, means the person or body having powers under the corresponding law of that State or Territory that correspond to those of the local prisons authority under subsection (3).	35 36 37 38

	<i>local prisons authority</i> means the Commissioner of Corrective Services.	1 2
<b>10C</b>	<b>Issue of interstate travel permit to NSW parolee</b>	3
(1)	This section applies to a NSW parolee whose parole is subject to a condition (whether imposed by the parole order or otherwise) that prohibits the parolee from leaving New South Wales without permission.	4 5 6 7
(2)	Permission to leave New South Wales is to be granted, varied and revoked, and conditions of permission are to be imposed and varied, in accordance with the relevant Ministerial arrangements.	8 9 10
(3)	As soon as practicable after any such permission is granted, the Registrar:	11 12
	(a) must incorporate the terms and conditions of the permission in an interstate travel permit, and	13 14
	(b) must provide a copy of the permit to the parolee, and	15
	(c) must provide:	16
	(i) a copy of the permit, and	17
	(ii) such other documents or information about the parolee as are required or authorised to be sent under the relevant Ministerial arrangements,	18 19 20
	to the interstate registrar of each State or Territory to which the permit authorises travel.	21 22
(4)	As soon as practicable after the terms or conditions of any such permission are varied, the Registrar:	23 24
	(a) must incorporate the terms and conditions of the permission, as varied, in an amended interstate travel permit, and	25 26 27
	(b) must provide a copy of the amended permit to the parolee, and	28 29
	(c) must provide:	30
	(i) a copy of the amended permit, and	31
	(ii) such other documents or information as are relevant to the variation,	32 33
	to the interstate registrar of each State or Territory to which the permit authorises travel.	34 35
(5)	As soon as practicable after any such permission is revoked, the Registrar must provide written notice of that fact to the parolee and to the interstate registrar of each State or Territory to which the permit authorised travel.	36 37 38 39



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(6)	An interstate travel permit ceases to have effect in a State or Territory to which it authorises travel:	1
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(a)	if written notice referred to in subsection (5) is provided to the interstate registrar of that State or Territory (regardless of whether or not the parolee has received such notice), or	3
		4
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(b)	if the parolee is arrested pursuant to a warrant issued under the corresponding law of that State or Territory.	6
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<b>10D</b>	<b>Effect of interstate travel permit issued to NSW parolee</b>	8
(1)	This section applies in respect of any period during which:	9
(a)	an interstate travel permit is in force in respect of a NSW parolee, and	10
		11
(b)	the NSW parolee is present in a State or Territory to which the permit authorises travel.	12
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(2)	For the purposes of the laws of New South Wales with respect to parole:	14
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(a)	the conditions of the interstate travel permit are taken to be substituted for the conditions of the relevant NSW parole order, and	16
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(b)	any compliance or non-compliance by the parolee with the conditions of the interstate travel permit is taken to be compliance or non-compliance, as the case may be, with the conditions of the relevant NSW parole order.	19
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<b>10E</b>	<b>Powers exercisable in relation to interstate parolees</b>	23
(1)	This section applies to an interstate parolee:	24
(a)	who holds an interstate travel permit that authorises the parolee to travel to New South Wales, and	25
		26
(b)	who is present in New South Wales.	27
(2)	The local parole authority may issue a warrant for the parolee's arrest:	28
		29
(a)	if advised by the relevant interstate registrar that the interstate travel permit is no longer in force in New South Wales, or	30
		31
		32
(b)	if of the opinion that the parolee has failed to comply with the conditions of the interstate travel permit.	33
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(3)	A warrant under subsection (2) is sufficient authority for a local law enforcement officer:	1
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(a)	to arrest the parolee, and	3
(b)	to convey the parolee to a place specified in the warrant (whether in New South Wales or in another State or a Territory), and	4
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(c)	to deliver the parolee into the custody of an interstate law enforcement officer of the State or Territory in which the interstate travel permit was issued.	7
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(4)	For the avoidance of doubt, such a warrant authorises a local law enforcement officer to convey the parolee within or across any other State or a Territory for the purpose of taking the parolee to a place specified in the warrant.	10
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(5)	In this section, <i>local parole authority</i> means the State Parole Authority.	14
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<b>10F</b>	<b>Powers of interstate law enforcement officers</b>	16
	A warrant issued under the corresponding law of another State or a Territory that authorises a local law enforcement officer (within the meaning of that law) to convey an interstate parolee or NSW parolee within or across New South Wales for the purpose of taking the parolee to a place specified in the warrant has effect, in New South Wales, according to its tenor.	17
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<b>10G</b>	<b>Operation of Service and Execution of Process Act 1992 (Cth)</b>	23
	Nothing in this Act is intended to limit or otherwise affect the operation of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth.	24
		25
		26
[20]	<b>Part 4, heading</b>	27
	Insert before section 11:	28
	<b>Part 4 General</b>	29

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<b>[21] Section 11A</b>	1
Insert after section 11:	2
<b>11A Use of documents and information</b>	3
(1) For the purpose of making a determination or exercising a discretion under this Act, or for the purpose of complying with any obligations imposed by the relevant Ministerial arrangements under Part 3, the Minister:	4
(a) may inform himself or herself as the Minister thinks fit including, in particular, by reference to relevant documents and information:	5
(i) forwarded to the Minister by the designated authority of another State or a Territory, or	6
(ii) obtained in the course of investigations carried out in New South Wales in connection with the making of the determination or the exercise of the discretion, and	7
(b) may provide any such documents or information (including any personal information about the person to whom a parole order relates) to any government agencies or other persons that may be directly affected by that person's presence in the State or Territory in which the parole order is, or is proposed to be, registered.	8
(2) This section does not authorise the disclosure of information about a person to whom a parole order relates unless the person:	9
(a) has given consent to, or has requested, the registration of the parole order under this Act or under the relevant corresponding law (as the case requires), and has not withdrawn that consent or request, or	10
(b) is present in the State or Territory in which the parole order is, or is proposed to be, registered, or	11
(c) has applied for permission to travel to that State or Territory.	12
(3) A person who has given consent to, or has requested, the registration of a parole order, as referred to in subsection (2) (a), may withdraw the consent or request at any time before (but not after) the parole order is registered.	13
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<b>Schedule 3</b>	<b>Amendment of Prisoners (Interstate Transfer) Act 1982 No 104</b>	1
		2
<b>[1] Section 5 Definitions</b>		3
Insert in alphabetical order in section 5 (1):		4
<i>local prisons authority</i> means:		5
(a) in relation to New South Wales, the Commissioner of Corrective Services, or		6
		7
(b) in relation to a participating State other than New South Wales, the local prisons authority for that State within the meaning of the interstate law of that State, or		8
		9
		10
(c) in relation to a Territory, the local prisons authority for that Territory within the meaning of the <i>Transfer of Prisoners Act 1983</i> of the Commonwealth.		11
		12
		13
<b>[2] Section 24 Transfer in custody of escort</b>		14
Insert after section 24 (3):		15
(4) Without limiting subsections (1) and (3), it is sufficient compliance with an order referred to in either of those subsections if the prisoner concerned:		16
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		18
(a) is delivered into the custody of an escort of the State or Territory to which the prisoner is being transferred, being an escort who is authorised by the local prisons authority for that State or Territory to receive custody of the prisoner, and		19
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(b) is so delivered into custody at a place at which the escort referred to in paragraph (a) is authorised by the local prisons authority for that State or Territory to receive custody of the prisoner.		24
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<b>[3] Section 31 Lawful custody for transit through New South Wales</b>		28
Omit “from New South Wales to such prison in the participating State or Territory as is specified in the order and there delivering the person into the custody of the gaoler” from section 31 (1) (a).		29
		30
		31
Insert instead “within New South Wales in accordance with the order”.		32

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**[4] Section 32 Escape from custody of person being transferred**

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Insert “24 (3) or” after “section” in section 32 (1).

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