



New South Wales

Crimes (Administration of Sentences) Amendment (Assistance in Foreign Criminal Matters) Bill 2007

Explanatory note

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

Overview of Bill

The *Mutual Assistance in Criminal Matters Act 1987* of the Commonwealth (*the Commonwealth Act*) provides that the Commonwealth Attorney-General may make arrangements for the travel of an offender 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.

The object of this Bill is to amend the *Crimes (Administration of Sentences) Act 1999* (*the principal Act*) to complement the Commonwealth Act by establishing an approval process that allows an offender to travel to a foreign country pursuant to a request made by the Commonwealth Attorney-General under the Commonwealth Act.

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.

Clause 3 is a formal provision that gives effect to the amendments to the *Crimes (Administration of Sentences) Act 1999* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1 [5] inserts proposed section 255A into the principal Act. The proposed section allows the Commissioner of Corrective Services or, in the case of an offender who is on release on parole or is subject to a home detention order, the State Parole Authority to grant approval to a request from the Commonwealth Attorney-General for an offender to be authorised to travel to a foreign country for the purpose of giving evidence in a proceeding, or giving assistance in relation to an investigation, relating to a criminal matter.

The proposed section also provides that an offender who is the subject of such an approval is exempt from any requirement imposed by or under the principal Act or any other Act that would prevent the offender from travelling to the foreign country.

Schedule 1 [1]–[4] make consequential amendments.

First print



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New South Wales

Crimes (Administration of Sentences) Amendment (Assistance in Foreign Criminal Matters) Bill 2007

No. , 2007

A Bill for

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.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Crimes (Administration of Sentences) Amendment (Assistance in Foreign Criminal Matters) Act 2007</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Crimes (Administration of Sentences) Act 1999 No 93	7
The <i>Crimes (Administration of Sentences) Act 1999</i> is amended as set out in Schedule 1.	8 9
4 Repeal of Act	10
(1) This Act is repealed on the day following the day on which this Act commences.	11 12
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	13 14

Schedule 1 Amendments

		1
	(Section 3)	2
[1] Section 38 Absent inmates taken to be in custody		3
Insert after section 38 (1) (f):		4
(f1) while absent from a correctional centre in accordance with an approval granted under section 255A,		5 6
[2] Section 38 (2) (a)		7
Omit “unescorted”. Insert instead “not escorted by a correctional officer”.		8
[3] Section 39 Powers of arrest		9
Omit “or interstate leave permit” wherever occurring in section 39 (1) (a)–(c).		10
Insert instead “, interstate leave permit or approval granted under section 255A”.		11 12
[4] Section 40 Certain unlawful absences not to affect length of sentence		13
Omit “or interstate leave permit” from section 40 (1) (b).		14
Insert instead “, interstate leave permit or approval granted under section 255A”.		15 16
[5] Section 255A		17
Insert after section 255:		18
255A Approvals for the purposes of the Mutual Assistance in Criminal Matters Act 1987 of the Commonwealth		19 20
(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:		21 22 23
(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		24 25 26
(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,		27 28 29
and may give such directions as are necessary in that regard.		30
(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.		31 32 33 34

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Schedule 1 Amendments

- (3) While an approval is in force under this section, the offender to whom the approval relates: 1
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- (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 3
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- (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. 8
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- 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. 13
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- (4) In this section: 17
- relevant officer** means: 18
- (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 19
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- (b) in any other case—the Commissioner. 22
- the Commonwealth Act** means the *Mutual Assistance in Criminal Matters Act 1987* of the Commonwealth. 23
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