

# Parole Orders (Transfer) Act 1983 No 190

[1983-190]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Editorial note**

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-dashes (em-dashes). Text of the legislation is not affected.

This version has been updated.

### Authorisation

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# Parole Orders (Transfer) Act 1983 No 190



New South Wales

An Act relating to the reciprocal enforcement of parole orders within New South Wales and within other States or any Territory of the Commonwealth.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Parole Orders (Transfer) Act 1983*.

### 2 Commencement

- (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.

### 3 Definitions

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 Territory relating to the transfer of parole orders that corresponds (or substantially corresponds) to the provisions of this Act, and includes a law of another State or Territory 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 (other than a body corporate) having powers under the corresponding law of that State or Territory that correspond to those of the Minister under section 5.

**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, and

- (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
- (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
- (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.

**State Parole Authority** means the State Parole Authority constituted by section 183 of the [Crimes \(Administration of Sentences\) Act 1999](#).

**Territory** means a Territory of the Commonwealth.

#### **4 Appointment of Registrar**

- (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.

## **Part 2 Registration of parole orders**

#### **5 Requests for registration of transferred parole orders**

- (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 made 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 made under a law of New South Wales be registered under the corresponding law of that State or Territory.
- (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—
  - (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

(b) is present in the State or Territory in which the order is proposed to be registered.

- (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 Documents to accompany requests**

- (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, order, direction, declaration or any other authority which authorised the imprisonment of the person to whom 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 the Registrar.
- (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.

## **7 Matters to which Minister to have regard**

In determining whether to make a direction or request under section 5, the Minister must have regard to the following matters—

- (a) the interests (including the welfare) of the person to whom the parole order relates,
- (b) the administration of justice in this or any other State or a Territory,
- (c) the protection of the community in this or any other State or a Territory,
- (d) any other matter the Minister considers relevant.

## **8 Registration**

- (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 the Registrar to the effect that the parole order is, on the date of the endorsement, registered under this Act, and
  - (a1) attaching to the parole order a document specifying the conditions of the parole order that apply, on and from the registration, because of the operation of section 9A, and
  - (b) keeping the endorsed parole order in a register together with the original or a copy of the document sent by the designated authority under section 6 (1) (b).
- (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.
- (2) When the Registrar has registered a parole order, the Registrar is—
  - (a) to provide the Chairperson of the State Parole Authority with access to the parole order and memorandum, the document referred to in subsection (1)(a1) and the document sent by the designated authority under section 6(1)(b), and
  - (b) to notify the designated authority that requested the registration of the parole order in writing of the order's registration and the date of registration, and
  - (c) to personally serve a notice on the person to whom the parole order relates that specifies the date of registration and the conditions of the parole order that apply, on and from registration, because of the operation of section 9A.

## **9 Effect of registration**

- (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.

(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.

(3) For the purposes of subsection (2), the **appropriate court** of this jurisdiction is—

(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

(b) in any other case—the Supreme Court.

(4) (Repealed)

#### **9A Conditions of interstate parole orders**

(1) When a parole order made under a law of another State or a Territory (a **registered interstate parole order**) is registered under this Act—

(a) the parole order is taken to be subject to the NSW standard parole conditions as if the parole order was a parole order made under the [Crimes \(Administration of Sentences\) Act 1999](#) and the provisions of that Act relating to conditions of a parole order apply accordingly, and

(b) the NSW standard parole conditions replace any conditions imposed under the law of the other State or Territory to which the parole order was subject immediately before registration.

(2) The **NSW standard parole conditions** are—

(a) the standard conditions imposed by the [Crimes \(Administration of Sentences\) Act 1999](#) or the regulations made under that Act, as referred to in section 128 of that Act, and

(b) a condition that the offender is subject to supervision as prescribed by the regulations under section 128C of that Act for the relevant period of supervision.

(3) The **relevant period of supervision** is the period that is the lesser of the following—

(a) the remaining period of the parole order,

(b) 3 years plus any extension of that period under subsection (4).



- (4) The State Parole Authority may while the parole order is in force extend the relevant period of supervision by, or impose a further period of supervision of, up to 3 years at a time.
- (5) The regulations may modify the application of the NSW standard parole conditions to a person to whom a registered interstate parole order relates, including by prescribing a different relevant period of supervision.

**Note—**

The State Parole Authority may impose additional conditions on a registered interstate parole order, and vary or revoke additional conditions, under the [Crimes \(Administration of Sentences\) Act 1999](#) in the same way as it can in relation to a parole order made in New South Wales.

## **10 Effect of transfer of parole order to another State or a Territory**

- (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, and
  - (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, and
  - (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 conditions of the parole order that occurred before it was registered under the corresponding law.
- (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 its first registration under a corresponding law revive and continue while the parole order is registered under this Act.

## **Part 3 Reciprocal arrangements for administration of NSW and interstate parole orders**

## 10A Definitions

In this Part—

**interstate law enforcement officer**, 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.

**interstate parole order** means a parole order made under a law of another State or a Territory.

**interstate parolee** means a person to whom an interstate parole order relates.

**interstate registrar**, 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.

**interstate travel permit** 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.

**local law enforcement officer** means a correctional officer or community corrections officer (within the meaning of the [Crimes \(Administration of Sentences\) Act 1999](#)) or a police officer.

**NSW parole order** means a parole order made under a law of New South Wales.

**NSW parolee** means a person to whom a NSW parole order relates.

**relevant Ministerial arrangements**, in relation to another State or a Territory, means arrangements entered into under section 10B between the Minister and the designated authority of that State or Territory.

## 10B Ministerial arrangements for the administration of NSW and interstate parole orders

- (1) The Minister may enter into arrangements with the designated authority of another State or a Territory so as to facilitate—
  - (a) the administration, within New South Wales, of interstate parole orders made under a law of the other State or Territory, and
  - (b) the administration, within the other State or Territory, of NSW parole orders, either in relation to particular NSW or interstate parolees or particular classes of NSW or interstate parolees.
- (2) In particular, such arrangements may be entered into so as to facilitate—
  - (a) travel to the other State or Territory by NSW parolees, and

(b) travel to New South Wales by interstate parolees of the other State or Territory.

- (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.
- (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—
- (a) by the interstate prisons authority of that State or Territory, and
  - (b) in accordance with the relevant Ministerial arrangements, and
  - (c) in the administration of a NSW parole order in relation to a NSW parolee who is present in that State or Territory,

is taken to have been done pursuant to the laws of New South Wales.

- (5) In this section—

***interstate prisons authority***, 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).

***local prisons authority*** means the Commissioner of Corrective Services.

#### **10C Issue of interstate travel permit to NSW parolee**

- (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.
- (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.
- (3) As soon as practicable after any such permission is granted, the Registrar—
- (a) must incorporate the terms and conditions of the permission in an interstate travel permit, and
  - (b) must provide a copy of the permit to the parolee, and
  - (c) must provide—
    - (i) a copy of the permit, and
    - (ii) such other documents or information about the parolee as are required or authorised to be sent under the relevant Ministerial arrangements,

to the interstate registrar of each State or Territory to which the permit authorises travel.

- (4) As soon as practicable after the terms or conditions of any such permission are varied, the Registrar—
  - (a) must incorporate the terms and conditions of the permission, as varied, in an amended interstate travel permit, and
  - (b) must provide a copy of the amended permit to the parolee, and
  - (c) must provide—
    - (i) a copy of the amended permit, and
    - (ii) such other documents or information as are relevant to the variation,to the interstate registrar of each State or Territory to which the permit authorises travel.
- (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.
- (6) An interstate travel permit ceases to have effect in a State or Territory to which it authorises travel—
  - (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
  - (b) if the parolee is arrested pursuant to a warrant issued under the corresponding law of that State or Territory.

#### **10D Effect of interstate travel permit issued to NSW parolee**

- (1) This section applies in respect of any period during which—
  - (a) an interstate travel permit is in force in respect of a NSW parolee, and
  - (b) the NSW parolee is present in a State or Territory to which the permit authorises travel.
- (2) For the purposes of the laws of New South Wales with respect to parole—
  - (a) the conditions of the interstate travel permit are taken to be substituted for the conditions of the relevant NSW parole order, and
  - (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.

#### **10E Powers exercisable in relation to interstate parolees**

- (1) This section applies to an interstate parolee—
  - (a) who holds an interstate travel permit that authorises the parolee to travel to New South Wales, and
  - (b) who is present in New South Wales.
- (2) The local parole authority may issue a warrant for the parolee's arrest—
  - (a) if advised by the relevant interstate registrar that the interstate travel permit is no longer in force in New South Wales, or
  - (b) if of the opinion that the parolee has failed to comply with the conditions of the interstate travel permit.
- (3) A warrant under subsection (2) is sufficient authority for a local law enforcement officer—
  - (a) to arrest the parolee, and
  - (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
  - (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.
- (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.
- (5) In this section, **local parole authority** means the State Parole Authority.

#### **10F Powers of interstate law enforcement officers**

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.

#### **10G Operation of [Service and Execution of Process Act 1992](#) (Cth)**

Nothing in this Act is intended to limit or otherwise affect the operation of the [Service and Execution of Process Act 1992](#) of the Commonwealth.

### **Part 4 General**

## **11 Evidence**

- (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.

### **11A Use of documents and information**

- (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—
  - (a) may inform himself or herself as the Minister thinks fit including, in particular, by reference to relevant documents and information—
    - (i) forwarded to the Minister by the designated authority of another State or a Territory, or
    - (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
  - (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.
- (2) This section does not authorise the disclosure of information about a person to whom a parole order relates unless the person—
  - (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
  - (b) is present in the State or Territory in which the parole order is, or is proposed to be, registered, or
  - (c) has applied for permission to travel to that State or Territory.
- (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.

## **12 Delegation**

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to a public servant, any of the Minister's 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.

## **13 Amendment or revocation of notices**

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.

## **14 Regulations**

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.

## **15 Confirmation of meaning of "corresponding law"**

- (1) Anything done or omitted to be done under or for the purposes of this Act before the substitution of the definition of **corresponding law** in section 3 by the amending Act that would have been valid had the definition been in force when it was done or omitted to be done is (to the extent of any invalidity) taken to be, and always to have been, valid.
- (2) For the avoidance of doubt, it is declared that each of the following laws (while in force) has been a corresponding law for the purposes of this Act (including subsection (1))—
  - (a) the *Crimes (Sentence Administration) Act 2005* of the Australian Capital Territory,
  - (b) the *Parole Orders (Transfer) Act 1983* of the Australian Capital Territory (including when it was named the *Parole Orders (Transfer) Ordinance 1983*),
  - (c) the *Parole Orders (Transfer) Act* of the Northern Territory,
  - (d) the *Parole Orders (Transfer) Act 1984* of Queensland,
  - (e) the *Parole Orders (Transfer) Act 1983* of South Australia,
  - (f) the *Parole Orders (Transfer) Act 1983* of Tasmania,

(g) the *Parole Orders (Transfer) Act 1983* of Victoria,

(h) the *Parole Orders (Transfer) Act 1984* of Western Australia.

(3) Any notice made for the purposes of the definition of **corresponding law** in section 3 before its substitution by the amending Act that was in force immediately before that substitution continues in force as a notice for the purposes of the substituted definition.

(4) In this section—

**amending Act** means the *Statute Law (Miscellaneous Provisions) Act (No 2) 2014*.

## **Schedule 1 Savings, transitional and other provisions**

### **Part 1 Provisions consequent on enactment of *Justice Legislation Amendment Act (No 2) 2019***

#### **1 Definition**

In this Part—

**amending Act** means the *Justice Legislation Amendment Act (No 2) 2019*.

#### **2 Regulations**

(1) A regulation (a **transitional regulation**) may make provision about a matter for which—

(a) it is necessary to make provision to allow or facilitate the doing of any thing to achieve the transition from the operation of this Act before it was amended by the amending Act to the operation of this Act as amended by the amending Act, and

(b) this Act does not make provision or sufficient provision.

(2) A transitional regulation may have retrospective operation to a day not earlier than the commencement of this Part.

(3) A transitional regulation must declare it is a transitional regulation.

(4) This clause and any transitional regulations expire 2 years after the commencement of this Part.

#### **3 Conditions of registered interstate parole orders**

(1) The amendments made to Part 2 of this Act by the amending Act are taken to apply to an existing registered interstate parole order as soon as the Registrar has complied with section 8(1)(a1) and (2) in respect of the order.

(2) The regulations may make further modifications to the application of section 9A to a



person to whom an existing registered interstate parole order applies.

(3) In this clause—

***existing registered interstate parole order*** means a parole order that was registered under this Act immediately before the commencement of section 9A.