

# Prisoners (Interstate Transfer) Regulation 1999

[1999-238]



New South Wales

## Status Information

### Currency of version

Repealed version for 28 May 1999 to 31 August 2004 (accessed 2 December 2024 at 14:49)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Repeal**

The Regulation was repealed by the [Subordinate Legislation Act 1989 No 146](#), sec 10 (2) with effect from 1.9.2004.

### Authorisation

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File last modified 1 September 2004

# Prisoners (Interstate Transfer) Regulation 1999



New South Wales

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# Prisoners (Interstate Transfer) Regulation 1999



New South Wales

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Prisoners (Interstate Transfer) Act 1982*.

BOB DEBUS, M.P., Minister for Corrective Services

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Prisoners (Interstate Transfer) Regulation 1999*.

### 2 Commencement

This Regulation commences on 1 June 1999.

### 3 Definitions

(1) In this Regulation:

**additional term** means an additional term set under Part 2 of the *Sentencing Act 1989*.

**Commissioner** means the Commissioner of Corrective Services.

**correctional centre** has the same meaning as in the *Correctional Centres Act 1952*.

**fixed term** means a fixed term set under Part 2 of the *Sentencing Act 1989*.

**governor of a correctional centre** has the same meaning as in the *Correctional Centres Act 1952*.

**minimum term** means a minimum term set under Part 2 of the *Sentencing Act 1989*.

**Parole Board** means the Parole Board constituted by the *Sentencing Act 1989*.

**Senior Assistant Commissioner** means the Senior Assistant Commissioner, Inmate and Custodial Services, Department of Corrective Services.

**the Act** means the *Prisoners (Interstate Transfer) Act 1982*.

- (2) In this Regulation, a reference to a form is a reference to a form set out in Schedule 1.
- (3) A form containing any directions for its completion is to be completed in accordance with those directions.

#### **4 Notes**

The explanatory note and table of contents do not form part of this Regulation.

## **Part 2 Transfer for prisoner's welfare**

### **5 Request for transfer to participating State**

- (1) For the purposes of section 7 of the Act, a written request to the Minister by a prisoner for transfer to a participating State (in this Part referred to as a **prisoner's request**) is to be in or to the effect of Form 1.
- (2) A prisoner's request must:
  - (a) be signed by the prisoner, and
  - (b) be forwarded through the governor of the correctional centre where the prisoner is held.
- (3) If the governor of a correctional centre receives a prisoner's request, the governor must:
  - (a) prepare and attach to the request a comprehensive report on the prisoner's conduct and behaviour while in the correctional centre, and
  - (b) forward a copy of the request to a probation and parole officer and ask the officer to prepare and forward to the Commissioner:
    - (i) a detailed report on the request, and
    - (ii) an expression of opinion as to whether or not the transfer of the prisoner to the participating State would be in the interests of the welfare of the prisoner, and
    - (iii) an indication whether the prisoner identifies as being of Aboriginal or Torres Strait Islander descent, and
  - (c) forward the request to the Commissioner for consideration by the Minister.

### **6 Statements in support of prisoner's request**

A prisoner's request must include statements as to the following:

- (a) family or near family support in the participating State, including the availability of accommodation on the prisoner's release from prison,

- (b) family or other social circumstances that may benefit the welfare of the prisoner either during imprisonment or following release from prison,
- (c) medical reasons (if any) in support of the request,
- (d) prospects of employment following release from prison,
- (e) any other matters that the prisoner wishes to put forward in support of the request.

## **7 Consideration of prisoner's request**

- (1) For the purposes of the Minister's consideration of a prisoner's request, the Commissioner may (or, if the Minister so requests, must) supply to the Minister such medical, psychiatric or psychological reports or assessments in respect of the prisoner as are or may be made available to the Commissioner.
- (2) There must be included in any report or assessment in respect of a prisoner furnished or caused to be furnished for the information of the Minister under this clause any further information available to the person or authority furnishing the report or assessment, or causing the same to be furnished, that may be of assistance to the Minister in considering the prisoner's request.
- (3) Without affecting the Minister's powers to form an opinion or exercise a discretion under Part 2 of the Act, the Minister, in considering a prisoner's request, may have regard to the following matters:
  - (a) whether the statutory period during which an appeal against the prisoner's conviction or sentence may be made has expired,
  - (b) whether any appeal against the prisoner's conviction or sentence has been finally dealt with,
  - (c) whether, so far as the Minister is aware, every complaint or information alleging an offence by the prisoner against the law of New South Wales or the Commonwealth, or of any other State or of a Territory of Australia, has been finally dealt with,
  - (d) whether a petition for an inquiry, or an inquiry, under the laws of New South Wales into the prisoner's conviction or sentence is pending,
  - (e) the term of imprisonment remaining to be served by the prisoner compared with the estimated period for dealing with the request and issuing and executing an order of transfer.

## **8 Repeated requests for transfer**

- (1) The Minister may refuse to consider a request for transfer made by a prisoner within one year of a similar request if there has not, in the Minister's opinion, been a

substantial change in the circumstances that are likely to benefit the prisoner's welfare.

- (2) Subclause (1) does not affect the Minister's power to exercise a discretion under section 9 of the Act.

## **9 Request to corresponding Minister to accept transfer of prisoner**

- (1) If:

- (a) following consideration of a written request by a prisoner for transfer to a participating State, the Minister is of the opinion that the prisoner should be transferred in the interests of the welfare of the prisoner, and
- (b) the Minister makes a written request to the corresponding Minister of the participating State to accept the transfer of the prisoner,

the written request must be accompanied by a copy of the relevant documents referred to in subclause (2).

- (2) The relevant documents are as follows:

- (a) the prisoner's written request for transfer,
- (b) the reports, assessments and other information referred to in clauses 5 and 7 in relation to the prisoner,
- (c) a statement setting out the matters on which the Minister's opinion is based.

## **10 Order of transfer**

If the Minister has received from a corresponding Minister of a participating State written notice of the corresponding Minister's consent to the transfer of a prisoner to that participating State as referred to in section 7 of the Act, the order of transfer that may be issued by the Minister is to be in or to the effect of Form 2.

## **11 Request for transfer to New South Wales**

If the Minister receives a written request referred to in section 10 of the Act from a corresponding Minister of a participating State asking the Minister to accept the transfer of an imprisoned person to New South Wales, the Minister may, before considering the matter, request:

- (a) the Parole Board, and
- (b) the Probation and Parole Service, and
- (c) the Commissioner, and
- (d) the Commissioner of Police,

to furnish reports on the merits (or otherwise) of the request for the transfer of the person.

### **Part 3 Transfer for trial**

#### **12 Request by Attorney General of participating State for transfer of prisoner**

- (1) If the Attorney General receives from the Attorney General of a participating State a written request referred to in section 12 (1) (a) of the Act for the transfer of a prisoner to that participating State for the purpose of being dealt with according to law, the Attorney General, before considering the request, may:
  - (a) through the Minister, inform the prisoner of the substance of the request and seek the prisoner's comments in writing, and
  - (b) obtain from the Minister a report relating to the prisoner, being a report in the same terms as a report that would be required to be sent in respect of the prisoner under section 26 (1) (c) of the Act if the prisoner were conveyed to the participating State.
- (2) Any comments the prisoner intends to make must be made within 14 days of receipt by the prisoner of the advice of the substance of the request and must be forwarded to the Minister for reference to the Attorney General.

#### **13 Request by prisoner for transfer to participating State**

- (1) For the purposes of section 12 (1) (b) of the Act, a written request made by a prisoner to the Minister for the transfer of the prisoner to a participating State to be dealt with according to law is to be in or to the effect of Form 3.
- (2) If the Minister refers to the Attorney General a written request made by a prisoner for the transfer of the prisoner to a participating State to be dealt with according to law, the Minister must, at the same time, send to the Attorney General a report relating to the prisoner, being a report in the same terms as a report that would be required to be sent in respect of the prisoner under section 26 (1) (c) of the Act if the prisoner were conveyed to the participating State.
- (3) If the Attorney General consents to a prisoner's written request for transfer to a participating State to be dealt with according to law, the Attorney General must refer to the Attorney General of the participating State, with the written notice of the consent, the report referred to in subclause (2), together with the prisoner's written request for the transfer.

#### **14 Certification of consent or request**

- (1) A certificate referred to in section 13 (2) of the Act in relation to a consent or request required under section 13 (1) of the Act is to be in or to the effect of Form 4.



- (2) The following are prescribed officers for the purpose of signing a certificate referred to in section 13 (2) of the Act:
  - (a) the Director-General of the Attorney General's Department,
  - (b) the Director, Community Relations Division, Attorney General's Department.
- (3) On the signing of a certificate under section 13 (2) of the Act, it must be forwarded to the Commissioner for the purpose of making an application to a Local Court for the issue of an order of transfer.

#### **15 Application to a court for issue of order of transfer**

- (1) An application to a Local Court under section 14 (1) of the Act for the issue of an order of transfer:
  - (a) may be made by, or on behalf of, the Commissioner, and
  - (b) is to be in or to the effect of Form 5, and
  - (c) must be lodged in quadruplicate.
- (2) If, as a result of such an application, a court makes an order under section 14 (1) of the Act in relation to a prisoner, a copy of the application and notice of the order, together with a notice of hearing of the application, must be served, by or on behalf of the applicant, on:
  - (a) the prisoner personally, and
  - (b) the Attorney General.

#### **16 Order to bring prisoner before court**

An order under section 14 (1) or 16 (2) of the Act directing the governor of a correctional centre where a prisoner is held to bring the prisoner before a court is to be in or to the effect of Form 6.

#### **17 Order of transfer**

- (1) An order of transfer issued by a Local Court pursuant to section 15 (a) of the Act is to be in or to the effect of Form 7.
- (2) An order of transfer issued by the Supreme Court pursuant to section 16 (6) of the Act is to be in or to the effect of Form 8.

#### **18 Request for transfer to New South Wales by imprisoned person**

If the Attorney General has, under section 19 of the Act, received from the Attorney General of a participating State a notice in writing that the Attorney General of the participating State has consented to a request made by a person imprisoned in the

participating State to be transferred to New South Wales to enable the person to be dealt with according to law, the Attorney General may, before considering the matter, obtain a report from the Commissioner of Police on the request.

## **Part 4 Transfer back to original State**

### **19 Return of person to participating State**

For the purposes of section 20 of the Act, an order of transfer returning a person to a participating State is to be in or to the effect of Form 9.

### **20 Inquiries before issue of order of transfer**

Before issuing an order for the transfer of a person in accordance with the provisions of Part 4 of the Act, the Minister may inquire of:

- (a) the person, and
- (b) the Commissioner of Police,

whether or not, as far as is known, every complaint or information alleging any offence by the person against the law of New South Wales or the Commonwealth has been finally dealt with according to law.

### **21 Request to serve imprisonment in New South Wales**

- (1) If a person who is liable to be transferred to a participating State pursuant to an order of transfer that may be issued under section 20 of the Act makes a written request to the Minister to serve imprisonment in New South Wales, the request must:
  - (a) be signed by the person, and
  - (b) set out the grounds in support of the request, and
  - (c) be forwarded through the governor of the correctional centre where the person is held.
- (2) The provisions of clause 5 (3) apply to and in respect of a request referred to in subclause (1) in the same way as those provisions apply to and in respect of a prisoner's request to which clause 5 applies.
- (3) The provisions of clause 7 (1)-(3) apply to and in respect of a request referred to in subclause (1) in the same way as those provisions apply to and in respect of a prisoner's request to which clause 7 applies.
- (4) If the Minister agrees to a person's request referred to in subclause (1), the Minister must:
  - (a) give written notice of the decision to the corresponding Minister of the

participating State, and

- (b) enclose with the notice copies of the reports, information, documents and details that the Minister had regard to in considering the request, and
- (c) seek the advice of the corresponding Minister as to whether or not that Minister agrees to the person's imprisonment being served in New South Wales.

## **22 Order following agreement under section 23 (1) (a)**

If, on a person making a request referred to in section 23 (1) (a) of the Act, the Minister and the corresponding Minister of the participating State agree that it is in the interests of the welfare of the person that the person's imprisonment should be served in New South Wales, the Minister must issue an order of imprisonment in or to the effect of Form 10.

## **23 Inquiries concerning persons liable to be transferred to New South Wales**

The Minister, in deciding whether or not to agree to a person imprisoned in a participating State serving imprisonment in that participating State (in pursuance of a request made under the provision of an interstate law that corresponds to section 23 (1) (a) of the Act), may inquire of the Commissioner of Police whether or not, as far as is known, every complaint or information alleging any offence by that person against the law of New South Wales or the Commonwealth has been finally dealt with according to law.

## **Part 5 Miscellaneous**

### **24 Escort arrangements**

- (1) Unless there is an agreement to the contrary between:
  - (a) if the request is for the transfer of a State prisoner to a participating State—the Minister and the corresponding Minister of the participating State, or
  - (b) if the request is for the transfer of a State prisoner to a Territory or for the transfer of a joint prisoner to a participating State or Territory—the Minister and the Attorney-General of the Commonwealth,

the cost of and responsibility for transferring a prisoner of a kind described in Column 1 of the Table to this clause from New South Wales pursuant to an order of transfer of a kind so described in relation to the prisoner is to be borne by the State or the Commonwealth as is specified in Column 2 of the Table opposite the description.

- (2) In the Table to this clause, a reference to a sentence includes a reference to concurrent or cumulative sentences.

#### **Table**

**Column 1**

**Column 2**

Section 7 (2) of the Act—Order for transfer of a State prisoner to a participating State or Territory for prisoner’s welfare	New South Wales
Section 7 (4) or (5), 15 or 16 of the Act—Order for transfer to a participating State or Territory for welfare or trial of:	
(a) joint prisoner serving State and Commonwealth sentences for the same period, or	Commonwealth
(b) joint prisoner serving longer Commonwealth sentence than State sentence, or	Commonwealth
(c) joint prisoner serving longer State sentence than Commonwealth sentence	Participating State
Section 12 of the Act—Order for transfer of a State prisoner to a participating State or Territory to be dealt with according to law of Commonwealth	Commonwealth
Section 15 or 16 (6) of the Act—Order for transfer of a State prisoner to a participating State or Territory for prisoner’s trial	Participating State
Section 20 of the Act—Order for transfer to return prisoner to a participating State or Territory after being dealt with according to law	New South Wales

## **25 Information relating to prisoner to be sent to participating State**

If a copy of an order of transfer or other document is to be sent, pursuant to section 26 (1) of the Act, to the corresponding Minister of a participating State, or to some person for the time being designated by the corresponding Minister, the copy must be certified by the Commissioner or the Senior Assistant Commissioner.

## **26 Information relating to person received from participating State**

If, under an interstate law, an order is issued for the transfer to New South Wales of a person imprisoned in a participating State and the person is brought into New South Wales pursuant to the order, the order and other documents (or copies of them) sent by the corresponding Minister to the Minister or other person for the time being designated by the Minister must, after completion of any action required in relation to them:

- (a) be forwarded to the governor of the correctional centre where the person is held, and
- (b) be retained with the person’s warrant papers.

## **27 Lawful custody for transit through New South Wales**

If, pursuant to section 31 of the Act, the governor of a correctional centre receives a person who is the subject of an order of transfer from one participating State to another

participating State and detains that person in custody, the governor must endorse on the copy of the order of transfer delivered to the governor by the escort:

- (a) the time and date of the receipt of that person into custody, and
- (b) the time and date of the delivery of that person to the custody of the escort.

## **28 Return of person in transit to original State**

- (1) For the purposes of section 32 (2) of the Act, a warrant ordering a person to be returned to the participating State in which the order of transfer was issued is to be in or to the effect of Form 11.
- (2) A warrant referred to in subclause (1) must direct that the person who is the subject of the warrant be returned to the prison in the participating State from which the person was transferred pursuant to the order of transfer.

## **29 Revocation of order of transfer**

- (1) For the purposes of section 34 of the Act, an application to a Local Court to revoke an order of transfer is to be in or to the effect of Form 12.
- (2) An application referred to in subclause (1) may be made by the Commissioner or the Senior Assistant Commissioner.

## **30 Procedure relating to property on transfer of prisoner**

- (1) If a prisoner is about to be released from a correctional centre for escort to a participating State pursuant to an order of transfer, or a warrant issued under the authority of the Act, the governor of the correctional centre is to give or cause to be given to the prisoner, an opportunity to inspect:
  - (a) the personal property, if any, belonging to the prisoner and in the custody of the governor, and
  - (b) any official records at the correctional centre relating to money (if any) belonging to the prisoner.
- (2) If a prisoner:
  - (a) inspects the personal property (if any) belonging to the prisoner and in the custody of the governor of the correctional centre and any records referred to in subclause (1) (b), and
  - (b) wishes to make a complaint regarding the condition of, or any deficiency in, that property or any mistake in those records,

the prisoner may make a written complaint regarding the condition, deficiency or mistake, as the case requires.

- (3) A prisoner who makes a complaint under subclause (2) must deliver the complaint to:
  - (a) the governor of the correctional centre where the prisoner is held, or
  - (b) a correctional officer at the correctional centre who must, without unnecessary delay, convey the complaint to the governor.
- (4) The governor of a correctional centre must:
  - (a) investigate any complaint made by a prisoner under subclause (2) that is delivered or conveyed to the governor, or cause any such complaint to be investigated, and
  - (b) report the result (if any) of the investigation, or cause it to be reported, to the prisoner prior to the release of the prisoner for escort to a participating State.
- (5) If it is brought to the attention of the governor of a correctional centre that:
  - (a) the result of an investigation carried out in response to a complaint made by a prisoner under subclause (2) is not to the satisfaction of the prisoner, or
  - (b) an investigation of a complaint made by a prisoner under subclause (2) has not been completed prior to the release of the prisoner for escort to a participating State,the governor of the correctional centre must, without unnecessary delay, notify the Commissioner of the complaint and the result of the investigation, or the fact that the investigation has not been completed, as the case requires.

### **31 Transfer of prisoner's property**

- (1) If a prisoner is released from a correctional centre and escorted to a participating State pursuant to an order of transfer, or a warrant issued under the authority of the Act, any money belonging to the prisoner that is in the control and custody of the governor of the correctional centre where the prisoner was held must be remitted by the governor to the person in charge of the prison in the participating State to which the prisoner is to be escorted for credit to the prisoner's account.
- (2) The governor of a correctional centre where a prisoner who is being transferred to a participating State under the Act was held must inform the prisoner, or cause the prisoner to be informed, in writing, of the amount remitted to the person in charge of the prison in the participating State for credit to the prisoner's account.
- (3) When being escorted to a participating State, a prisoner being transferred under the Act may be permitted to take so much personal clothing and other articles of personal property belonging to the prisoner as, in the opinion of the escort or escorts, can be safely and conveniently taken with the prisoner to the participating State.

- (4) Articles of personal property belonging to a prisoner being transferred under the Act, being articles that are either in the prisoner's physical possession at a correctional centre or in the custody of the governor of the correctional centre and that are not taken with the prisoner, may be:
- (a) disposed of by the governor of the correctional centre in accordance with written directions given by the prisoner, or
  - (b) forwarded to the prisoner in the participating State, at the prisoner's risk and expense.

### 32 Repeal of Prisoners (Interstate Transfer) Regulation 1994

- (1) The *Prisoners (Interstate Transfer) Regulation 1994* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Prisoners (Interstate Transfer) Regulation 1994*, had effect under that Regulation is taken to have effect under this Regulation.

## Schedule 1 Forms

### Form 1 Request by prisoner for transfer to participating State

(Clause 5)

I, .....(full name and aliases by which known), currently a prisoner held at ..... Correctional Centre in New South Wales, request, in the interests of my welfare, to be considered for transfer to the State/Territory of ....., a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*, to serve the balance of my sentence(s).

The following questions are to be answered by the prisoner:

Question	Answer
Has any appeal been lodged against the prisoner's conviction or sentence?	..... ..... .....
If so, has the appeal been determined?	..... ..... .....
Is there any outstanding charge, complaint or information against the prisoner under the law of New South Wales or the Commonwealth, or any other State or a Territory of Australia, yet to be dealt with?	..... ..... .....
Has there been any petition for, or is there pending, any inquiry into the prisoner's conviction or sentence?	..... ..... .....

The request is made on the following grounds: *(if space insufficient, set out grounds on additional sheet)*

(See also clause 6 of the *Prisoners (Interstate Transfer) Regulation 1999* as set out below)

**6 Statements in support of prisoner's request**

A prisoner's request must include statements as to the following:

- (a) family or near family support in the participating State, including the availability of accommodation on the prisoner's release from prison,
- (b) family or other social circumstances that may benefit the welfare of the prisoner either during imprisonment or following release from prison,
- (c) medical reasons (if any) in support of the request,
- (d) prospects of employment following release from prison,
- (e) any other matters that the prisoner wishes to put forward in support of the request.

For the purposes of this request I consent to any reports, assessments or other information obtained or supplied in respect of me being sent to the appropriate Minister in the participating State.

I understand that, on transfer:

- (a) the sentence(s) of imprisonment imposed on me in New South Wales is taken to have been imposed on me in the participating State, and
- (b) I will be subject to the provisions of any rules, regulations, etc, applying to prisoners in that State, and
- (c) I may be subject to reclassification under those provisions.

Signed ..... Date .....

**Form 2 Order of transfer to participating State for prisoner's welfare**

(Clause 10)

TO the governor of the correctional centre at ..... in New South Wales  
AND TO the escort(s) for the purposes of executing this order

.....(*full name of prisoner*) was sentenced on .....(*date*) at .....(*Court*) in New South Wales to ..... imprisonment (*aggregate term*) for the offence(s) of .....(*short description*).

I, the Minister for Corrective Services in New South Wales, following receipt of a written request from the prisoner for transfer to a participating State, am of the opinion that, in the interest of the welfare of the prisoner, the prisoner should be transferred to the State/Territory of ..... (a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*) to serve the balance of the sentence(s) of imprisonment in accordance with the interstate law of that participating State, as defined in section 5 (1) of the Act, and the corresponding Minister of the participating State has given written consent to the transfer of the prisoner to the participating State.

I order you:

- (a) the governor of the abovenamed correctional centre in New South Wales, to deliver the prisoner, together with this order, into the custody of the abovementioned escort(s), and
- (b) the abovenamed escort(s), to take and safely keep custody of the prisoner for the purpose of conveying the prisoner from New South Wales to the participating State and there delivering the prisoner, together with this order, into the custody of the person in charge of the prison at ..... in the participating State,



and for your so doing, this order is your sufficient authority.

Signed this ..... day of ..... at Sydney  
Minister for Corrective Services

**Form 3 Request by prisoner for transfer to participating State to be dealt with according to law**

(Clause 13)

I, .....(full name and aliases by which known), currently a prisoner held at ..... Correctional Centre in New South Wales, request that I be transferred to the State/Territory of ....., a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*, to be dealt with in that participating State according to law for outstanding offence(s) alleged against me.

Details of the outstanding offence(s) alleged against me are as follows: (Give details of the prosecutor, date and nature of the alleged offence(s), the court where the proceedings are pending, and details of any arrest warrant)

There is no outstanding charge, complaint or information against me in New South Wales yet to be dealt with according to law, nor is there any appeal pending in respect of me in New South Wales. (If any matters are outstanding or pending, delete paragraph and insert details below)

Signed ..... Date .....

**[NOTE—**

If outstanding offences alleged against the prisoner occurred in more than one participating State, a separate request is to be made in respect of each participating State.]

**Form 4 Certificate of prescribed officer**

(Clause 14)

.....(full name of prisoner) was sentenced on .....(date) at .....(Court) in New South Wales to ..... imprisonment (aggregate term) for the offence(s) of .....(short description).

The prisoner is the subject of an arrest warrant issued in accordance with the law of the State/Territory of ....., a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*.

The Attorney General of New South Wales has received:

- (a) from the Attorney General of the participating State a written request given under the provision of an interstate law that corresponds to section 18 of the Act, accompanied by a copy of the arrest warrant, and
- (b) a written request made by the prisoner to the Minister for Corrective Services and referred to the Attorney General of New South Wales,

being a request for the transfer of the prisoner to the participating State to be dealt with according to law.

I, the Director-General of the Attorney General's Department/the Director, Community Relations Division, Attorney General's Department (delete whichever is not applicable), the prescribed officer for the purposes of section 13 (2) of the Act, certify that the consent(s)/request (delete whichever is not applicable) required under section 13 (1) of the Act have been given or made for the transfer of the prisoner to the participating State to be dealt with according to law.

Signed this ..... day of ..... at Sydney

Director-General of the Attorney General's Department/Director, Community Relations Division, Attorney General's Department (delete whichever is not applicable)

**Form 5 Application to Local Court for issue of order of transfer**

(Clause 15)

I, .....(name of applicant) of ..... on behalf of the Commissioner of Corrective Services, make application to the Local Court at ..... in New South Wales, for the issue of an order of transfer of .....(full name of prisoner) at present held in the correctional centre at ..... in New South Wales, TO the State/Territory of ....., a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*, to be dealt with according to law.

The prisoner was on .....(date) at .....(Court) in New South Wales sentenced to imprisonment for .....(aggregate term) for the offence(s) of .....(short description).

The prisoner is the subject of an arrest warrant issued in accordance with the law of the participating State.

I attach a certificate issued in accordance with section 13 (2) of the Act certifying that the necessary consent(s)/request (*delete whichever is not applicable*) required under section 13 (1) of the Act for the transfer of the prisoner to the participating State have been given or made.

I ask that an order in writing be issued by the Court, in accordance with section 14 (1) of the Act, directing the governor of the abovenamed correctional centre to bring the prisoner before the Court for determination as to whether an order of transfer is to be issued.

Signed ..... Designation ..... Date .....

[Ihrule]

Take note that this application will be heard and determined at the Local Court at ..... on .....(date) at .....(time).

An order in writing under section 14 (1) of the Act has been made directing that the prisoner be brought before the Court on the above date.

Clerk of the Local Court at ..... Date .....

To the applicant

To the abovenamed prisoner

To the Attorney General

**[NOTE—**

This application is to be filed at the Local Court in quadruplicate.]

**Form 6 Order directing governor of correctional centre to bring prisoner before the Court**

(Clause 16)

TO the governor of the correctional centre at .....

AND TO all correctional officers and police officers in New South Wales

.....(full name of prisoner), a prisoner held in the abovenamed correctional centre, should be in attendance before the Court mentioned below in connection with an application for/a review of a decision made to issue (*delete whichever is inapplicable*) an order of transfer of the prisoner to a participating State to be dealt with according to law.

I, .....(*delete whichever is inapplicable*):

- a Magistrate constituting a Local Court,
- a Judge of the Supreme Court,
- a person authorised by the rules of the Supreme Court,

by this order made pursuant to section 14 (1)/section 16 (2) of the *Prisoners (Interstate Transfer) Act 1982*(*delete whichever is inapplicable*), direct you, the governor of the abovenamed correctional centre, or such correctional

officers or police officers charged by you to execute this order, to produce the prisoner, under secure conduct, in the Court at ..... on .....(date) at .....(time), and so from day to day until the prisoner's attendance is no longer required by the Court and, in due course, to return the prisoner to the custody from where the prisoner has been brought.

Signed ..... Designation ..... Date .....

**Form 7 Order of transfer to participating State for prisoner's trial (issued by Local Court)**

(Clause 17 (1))

TO the governor of the correctional centre at ..... in New South Wales

AND TO the escort(s) for the purposes of executing this order

.....(full name of prisoner) was sentenced on .....(date) at .....(Court) in New South Wales to ..... imprisonment (aggregate term) for the offence(s) of .....(short description).

It has been established to the satisfaction of the undersigned Magistrate constituting a Local Court at ..... in New South Wales that the prisoner is the subject of an arrest warrant issued in accordance with the law of the State/Territory of ....., a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*, and that the Attorney General of New South Wales and the Attorney General of the participating State have consented to or requested, as the case may be, the transfer of the prisoner to the participating State to be dealt with according to law.

I, the undersigned Magistrate, constituting the abovenamed Local Court, issue this order for the transfer of the prisoner to the participating State to be dealt with according to law.

I order you:

- (a) the governor of the abovenamed correctional centre in New South Wales, to deliver the prisoner, together with this order, into the custody of the abovementioned escort(s),
- (b) the abovenamed escort(s), to take and safely keep custody of the prisoner for the purpose of conveying the prisoner from New South Wales to the participating State and there delivering the prisoner, together with this order, into the custody of the person in charge of the prison at ..... in the participating State,

and for your so doing, this order is sufficient authority.

Signed this ..... day of ..... at the ..... Local Court, New South Wales

Magistrate

**Form 8 Order of transfer to participating State for prisoner's trial (issued by Supreme Court)**

(Clause 17 (2))

TO the governor of the correctional centre at ..... in New South Wales

AND TO the escort(s) for the purposes of executing this order

.....(full name of prisoner) was sentenced on .....(date) at .....(Court) in New South Wales to ..... imprisonment (aggregate term) for the offence(s) of .....(short description).

On .....(date), the Local Court at ..... in New South Wales, on an application for the issue of an order for the transfer of the prisoner to the State/Territory of ....., a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*, to be dealt with according to law, made the following order:

The .....(applicant for review) was dissatisfied with the decision of the Local Court and applied to the Supreme Court of New South Wales for a review of the decision.

I, the undersigned Judge of the Supreme Court of New South Wales, having reviewed the decision of the Local

Court, quash the decision.

AND, it having been established to my satisfaction that the prisoner is the subject of an arrest warrant issued in accordance with the law of the participating State and that the Attorney General of New South Wales and the Attorney General of the participating State have consented to or requested, as the case may be, the transfer of the prisoner to the participating State to be dealt with according to law, I issue this order for the transfer of the prisoner to the participating State to be dealt with according to law.

I order you:

- (a) the governor of the abovenamed correctional centre in New South Wales, to deliver the prisoner, together with this order, into the custody of the abovenamed escort(s),
- (b) the abovenamed escort(s), to take and safely keep custody of the prisoner for the purpose of conveying the prisoner from the State of New South Wales to the participating State and there delivering the prisoner, together with this order, into the custody of the person in charge of the prison at ..... in the participating State,

and for your so doing, this order is sufficient authority.

Signed this ..... day of ..... at the Supreme Court at Sydney

Judge of the Supreme Court of New South Wales

**Form 9 Order of transfer to return person to participating State after being dealt with according to law**

(Clause 19)

TO the governor of the correctional centre at ..... in New South Wales

AND TO the escort(s) for the purposes of executing this order

.....(*full name of prisoner*) was sentenced on .....(*date*) at .....(*Court*) in the State/Territory of ....., a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*, to ..... imprisonment (*aggregate term*) for the offence(s) of .....(*short description*).

The prisoner was transferred to New South Wales from the abovenamed participating State pursuant to an order of transfer issued under a provision of the interstate law of that participating State for the purpose of being dealt with according to law.

So far as I, the Minister for Corrective Services, am aware, every complaint or information alleging any offence by the prisoner against the law of New South Wales or the Commonwealth has been finally dealt with according to law and as a result the prisoner:

- did not become liable to serve any sentence of imprisonment in New South Wales,
- was sentenced on .....(*date*) at .....(*Court*) in New South Wales to ..... imprisonment (*aggregate term*) for the offence(s) of .....(*short description*),

*(delete whichever is inapplicable)*

and the term of imprisonment remaining to be served in New South Wales is shorter than the period of imprisonment remaining to be served by the prisoner under any translated sentence of imprisonment imposed for any other offence against a law of the Commonwealth or a Territory.

I, the Minister for Corrective Services, pursuant to the provisions of section 20 of the Act, issue this order for the transfer of the prisoner to the participating State to serve the period of imprisonment remaining to be served by the prisoner in that State.

I order you:

- (a) the governor of the abovenamed correctional centre in New South Wales, to deliver the prisoner, together with this order into the custody of the abovenamed escort(s),
- (b) the abovenamed escort(s), to take and safely keep custody of the prisoner for the purpose of conveying the

prisoner from New South Wales to the participating State and there delivering the prisoner, together with this order, into the custody of the person in charge of the prison at ..... in the participating State,

and for your so doing, this order is sufficient authority.

Signed this ..... day of ..... at Sydney

Minister for Corrective Services

**Form 10 Order of imprisonment following agreement of Ministers that person should serve imprisonment in New South Wales**

(Clause 22)

TO the governor of the correctional centre at ..... in New South Wales

.....(*full name of prisoner*) was sentenced on .....(*date*) at .....(*Court*) in the State/Territory of ....., a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*, to ..... imprisonment (*aggregate term*) for the offence(s) of .....(*short description*).

The prisoner was transferred to New South Wales pursuant to the Act for the purpose of being dealt with according to law.

The prisoner was sentenced on .....(*date*) at .....(*Court*) in New South Wales to ..... imprisonment (*aggregate term*) for the offence(s) of .....(*short description*).

Because of the shorter sentence of imprisonment imposed in New South Wales, the prisoner is liable to be transferred back to the participating State pursuant to the provisions of Part 4 of the Act to serve the longer sentence of imprisonment.

The prisoner has made a written request to the Minister for Corrective Services to serve the longer sentence of imprisonment in New South Wales.

The corresponding Minister of the participating State and I, the Minister for Corrective Services, have agreed in writing that it is in the interests of the welfare of the prisoner that the prisoner should serve the longer sentence of imprisonment in New South Wales.

I order you, the governor of the abovenamed correctional centre, to receive the prisoner into your custody for the purpose of serving the longer sentence of imprisonment in accordance with the provisions of the Act, and for your so doing this order is sufficient authority.

Signed this ..... day of ..... at Sydney

Minister for Corrective Services

**Form 11 Warrant ordering person to be returned to participating State where order of transfer was issued**

(Clause 28)

TO the senior police officer at ..... in New South Wales, and to all other police officers in New South Wales

TO the governor of the correctional centre at ..... in New South Wales

AND TO the escort(s) for the purposes of the *Prisoners (Interstate Transfer) Act 1982*

.....(*full name of prisoner*), a person subject to an order of transfer issued under an interstate law of the State/Territory of ....., a participating State for the purposes of the Act, being a person in lawful custody pursuant to the provisions of section 31 of the Act for transit through New South Wales was, before a justice at ..... on .....(*date*), proved to have:

- escaped from such lawful custody,
- attempted to escape from such lawful custody.

*(delete whichever is inapplicable)*

Despite the terms of the order of transfer issued in the abovenamed participating State, it was ordered by that justice that the prisoner be returned to the participating State and, for that purpose, it was also ordered that the prisoner be delivered to an escort.

I order you:

- the abovenamed senior police officer and all other police officers in New South Wales, and the governor of the abovenamed correctional centre, as the case may be, to receive the prisoner and detain the prisoner in your custody until the prisoner is delivered into the custody of the escort(s) to whom this warrant is directed, together with this warrant, for the purpose of being returned to the participating State, or until the expiration of a period of 7 days from the date of this warrant, whichever first occurs,
- the abovenamed escort(s), to take and safely keep custody of the prisoner for the purpose of conveying the prisoner from New South Wales to the participating State,

and for your so doing, this warrant is sufficient authority.

In the event that the prisoner is not delivered into the custody of an escort to whom this warrant is directed within a period of 7 days from the date of this warrant, the warrant has no further effect and the prisoner is to be discharged.

Signed this ..... day of ..... at ..... in New South Wales

Justice of the Peace

## **Form 12 Application to Local Court to revoke order of transfer**

(Clause 29)

I, ..... of ....., a ....., apply to the Local Court at ..... in New South Wales for the revocation of the order of transfer issued by ..... on .....(date) for the transfer of .....(full name of prisoner) to the State/Territory of ....., a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*.

The application is made on the ground(s) that the prisoner has committed the following offence(s):

Signed ..... Designation ..... Date .....

[hrule]

Take note that this application will be heard and determined at the Local Court at ..... on .....(date) at .....(time).

Clerk of the Local Court at ..... Date .....

To the applicant

To the abovenamed prisoner

### **NOTE—**

This application is to be filed at the Local Court in triplicate.