



Prisoners (Interstate Transfer) Act 1982

Reprinted as in force on 8 December 2005

Reprint No. 2D

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Information about this reprint

This Act is reprinted as at 8 December 2005. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

Replacement reprint date If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.



Queensland

Prisoners (Interstate Transfer) Act 1982

Contents

		Page
Part 1	Preliminary	
1	Short title	3
2	Definitions	3
2A	Meaning of joint prisoner	6
2B	Meaning of sentence of imprisonment	6
3	Warrant of commitment issued by justice	7
4	Sentences of imprisonment imposed by operation of law	7
4A	Persons completed serving sentence	7
4B	References to release on parole	8
5	Corresponding courts and interstate laws	8
Part 2	Transfer at request of prisoner	
6	Requests for, and orders of, transfer	9
7	Effect of orders under this part on joint prisoners	11
8	Repeated requests for transfer	11
9	Receipt of request for transfer to Queensland	11
10	Reports	12
10A	Matters that the Minister may have regard to	12
Part 3	Transfer for trial	
11	Request for transfer of prisoner to participating State or to a Territory	12
12	Necessary consents	13
13	Prisoner to be brought before Magistrates Court	14
14	Order of transfer	15
15	Review of decision of Magistrates Court	15
15A	Effect of orders under this part on joint prisoners	16
16	Prisoner brought to be returned to custody	16
17	Request for transfer of imprisoned person to Queensland	17

Prisoners (Interstate Transfer) Act 1982

18	Request for transfer to Queensland by imprisoned person	17
Part 4	Transfer back to original state	
19	Return of prisoner to participating State or to a Territory if no sentence or shorter sentence in Queensland	17
20	Effect of orders under this part on joint prisoners.	18
22	Provisions ancillary to ss 19 and 20.	19
Part 5	Effect of order of transfer	
23	Transfer in custody of escort	21
24	Transfer of sentence with prisoner	22
25	Information to be sent to the participating State.	22
26	Sentence deemed to have been imposed in this State	23
27	Provisions relating to translated sentences	24
28	Translated sentences—default imprisonment.	26
Part 6	Miscellaneous	
29	Notification to prisoners of certain decisions	27
30	Lawful custody for transit through Queensland	27
31	Escape from custody of person being transferred	28
32	Escape from custody—penalty.	29
33	Revocation of order of transfer on escape from custody	30
34	Regulation making power.	30
Endnotes		
1	Index to endnotes.	31
2	Date to which amendments incorporated.	31
3	Key	31
4	Table of reprints	32
5	Tables in earlier reprints.	32
6	List of legislation.	32
7	List of annotations	33

Prisoners (Interstate Transfer) Act 1982

[as amended by all amendments that commenced on or before 8 December 2005]

An Act relating to the transfer interstate of prisoners

Part 1 Preliminary

1 Short title

This Act may be cited as the *Prisoners (Interstate Transfer) Act 1982*.

2 Definitions

In this Act—

arrest warrant means a warrant to apprehend, a warrant to arrest or a warrant to commit a person to prison, but does not include—

- (a) such a warrant, where the term of imprisonment which the person to be apprehended, arrested or committed under the warrant is liable to serve is default imprisonment; or
- (b) a warrant to secure the attendance of a witness.

Attorney-General, for the Northern Territory, means the person holding ministerial office under the *Northern Territory (Self-Government) Act 1978* (Cwlth), section 36 who is designated under that Act as the holder of the office of Attorney-General.

Commonwealth sentence of imprisonment means a sentence of imprisonment for an offence against a law of the Commonwealth or of a Territory.

Prisoners (Interstate Transfer) Act 1982

corresponding court of Queensland, for a court of a participating State, means a Queensland court declared under section 5 to be a court corresponding to the court of the participating State.

corresponding Minister, for a participating State, means the Minister of that State who is responsible for the administration of the interstate law of that State.

default imprisonment means imprisonment in default of—

- (a) payment of any fine, penalty, costs or other sum of money of any kind imposed or ordered to be paid by any court, judge or justice; or
- (b) entering into a recognisance to keep the peace or to be of good behaviour.

gaoler in relation to a prison, means the person who, under the *Corrective Services Act 2000* is the person in charge of the prison.

Governor, for the Australian Capital Territory, means—

- (a) in this section, definition ***indeterminate sentence*** and in section 27(4)—the Governor-General;
- (b) in section 27(5)(b)—the Governor-General, or the Executive within the meaning of the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth).

indeterminate sentence means a sentence of or order or direction for imprisonment or detention for life or during the pleasure of Her Majesty or during the pleasure of the Governor-General, the Governor or the Governor of a participating State, and includes such a sentence, order or direction imposed, made or given by, or by the operation of, an Act or other law.

indictment includes an information.

interstate law means a law declared under section 5 to be an interstate law.

joint prisoner see section 2A.

Magistrates Court means a Magistrates Court constituted by a magistrate sitting alone.

Prisoners (Interstate Transfer) Act 1982

Minister means the Minister administering the *Corrective Services Act 2000*.

order of transfer means an order issued under section 6, 14, 15(6) or 19 for the transfer of a prisoner to a participating State.

participating State means any State in which there is in force an interstate law.

prison means a prison as defined in the *Corrective Services Act 2000*.

prisoner means a State prisoner or a joint prisoner.

prison officer means a person who holds an appointment as a corrective services officer under the *Corrective Services Act 2000*.

relevant security, in relation to a person, means a security given by the person, with or without sureties, by recognisance or otherwise, that the person will comply with conditions relating to the person's behaviour.

remission regulations means the regulations made under the *Corrective Services Act 1988* relating to the remission of portions of State sentences of imprisonment and the forfeiture of any such remission.

sentence of imprisonment see section 2B.

State includes the Australian Capital Territory and Northern Territory.

State prisoner means a person upon whom a State sentence of imprisonment has been imposed, but does not include a person upon whom a Commonwealth sentence of imprisonment has been imposed.

State sentence of imprisonment means a sentence of imprisonment for an offence against a law of Queensland, including a sentence by which default imprisonment is ordered, an indeterminate sentence and a translated sentence, but does not include detention under any Act relating to the punishment of persons who committed offences when they were under the age of 17 years.

Territory means—

- (a) the territory of Norfolk Island; or
- (b) the territory of Christmas Island; or
- (c) the territory of Cocos Island;

and includes a territory to which the *Transfer of Prisoners Act 1983* (Cwlth) is extended, but does not include the Australian Capital Territory or Northern Territory.

translated sentence means a sentence of imprisonment deemed by section 26 to have been imposed on a person by a court of Queensland.

2A Meaning of *joint prisoner*

A ***joint prisoner*** is a person on whom both of the following sentences have been imposed—

- (a) a Commonwealth sentence of imprisonment;
- (b) any of the following sentences of imprisonment—
 - (i) a State sentence of imprisonment;
 - (ii) a State sentence of imprisonment as defined under an interstate law;
 - (iii) an ACT sentence of imprisonment as defined under the *Prisoners (Interstate Transfer) Act 1993* (ACT);
 - (iv) a Territory sentence of imprisonment within the meaning of the *Prisoners (Interstate Transfer) Act 1983* (NT).

2B Meaning of *sentence of imprisonment*

Each of the following is a ***sentence of imprisonment***—

- (a) a State sentence of imprisonment;
- (b) a State sentence of imprisonment as defined by an interstate law;
- (c) an ACT sentence of imprisonment as defined by the *Prisoners (Interstate Transfer) Act 1993* (ACT);

- (d) a Territory sentence of imprisonment within the meaning of the *Prisoners (Interstate Transfer) Act 1983* (NT);
- (e) if relevant—a Commonwealth sentence of imprisonment.

3 Warrant of commitment issued by justice

Where a justice of a participating State, in the exercise of the justice's powers, issues a warrant of commitment while not constituting a court, the sentence of imprisonment imposed by the warrant shall, for the purposes of this Act, be deemed to have been imposed by a court.

4 Sentences of imprisonment imposed by operation of law

For the purposes of this Act, a sentence of imprisonment imposed, or originally imposed, by, or by the operation of, an Act or other law of a State or Territory shall, except as prescribed by regulations under this Act, be deemed to have been imposed, or originally imposed, by a court of that State or Territory.

4A Persons completed serving sentence

- (1) A reference in this Act to a person upon whom a sentence of imprisonment has been imposed does not include a reference to a person who has completed serving that sentence.
- (2) The following persons upon whom a sentence of imprisonment has been imposed shall be taken, for the purposes of this Act, to have completed serving that sentence—
 - (a) a person—
 - (i) who has been released from serving a part of that sentence on parole or upon licence to be at large; and
 - (ii) in respect of whom action can no longer be taken under a law of the Commonwealth, a State or a Territory by way of requiring the person to serve

- the whole or a part of the remainder of that sentence;
- (b) a person—
 - (i) who has been released from serving the whole or a part of that sentence upon giving a relevant security; and
 - (ii) in relation to whom—
 - (A) action can no longer be taken under a law of the Commonwealth, a State or a Territory in respect of a breach of a condition of that security; or
 - (B) action cannot, by reason of the expiration of the security, be taken under a law of the Commonwealth, a State or a Territory by way of requiring the person to serve the whole or a part of that sentence;
 - (c) a person who, as a result of the exercise of the royal prerogative of mercy, is no longer required to serve the whole or a part of that sentence.

4B References to release on parole

A reference in this Act to release on parole includes a reference to release on probation and to any other form of conditional release in the nature of parole.

5 Corresponding courts and interstate laws

- (1) A regulation may declare—
 - (a) a stated Queensland court to be a court corresponding to a stated court of a participating State; or
 - (b) a law of another State to be an interstate law.
- (2) However, a regulation may declare a law of another State to be an interstate law only if the Governor in Council is satisfied the law—
 - (a) substantially corresponds to this Act; and

Prisoners (Interstate Transfer) Act 1982

(b) has—

- (i) in respect of a request made by a State prisoner for a transfer to a Territory, given to the Attorney-General of the Commonwealth a written request under subsection (1)(d); and
- (ii) received from the Attorney-General of the Commonwealth written notice of consent to the transfer of the prisoner to the Territory;

the Minister may issue an order for the transfer of the prisoner to the participating State or the Territory, as the case may be.

(3) Where the Minister—

- (a) receives a written request made by a joint prisoner serving a sentence of imprisonment in Queensland for the transfer of the prisoner to a participating State; and
- (b) is of the opinion that the prisoner to whom the request relates should be transferred to the participating State;

the Minister shall give to the corresponding Minister of the participating State a written request asking that Minister to accept the transfer of the prisoner to that participating State.

(4) Where the Minister has—

- (a) in respect of a request by a joint prisoner for a transfer to a participating State, given to the corresponding Minister of the participating State a written request under subsection (3); and
- (b) received from that Minister written notice of consent to the transfer of the prisoner to the participating State;

the Minister may issue an order for the transfer of the prisoner to the participating State.

(5) Where a joint prisoner is serving a sentence of imprisonment in Queensland and the Minister—

- (a) receives a written request made by the prisoner for the transfer of the prisoner to a Territory; and
- (b) is of the opinion that the prisoner to whom the request relates should be transferred to the Territory;

the Minister may issue an order for the transfer of the prisoner to the Territory.

- (6) A decision to issue, or not to issue, an order under this section is not reviewable by a court or tribunal.

7 Effect of orders under this part on joint prisoners

An order of transfer issued under this part in relation to a joint prisoner has no effect—

- (a) to the extent that, but for this section, it authorises or requires the doing of an act or thing under this Act in relation to that person in his or her capacity as a person upon whom a Commonwealth sentence of imprisonment has been imposed; and
- (b) unless and until a transfer order corresponding to the order of transfer is in force under the *Transfer of Prisoners Act 1983* (Cwlth) in respect of the person or the person's transfer is otherwise authorised under that Act.

8 Repeated requests for transfer

A request made by a prisoner for the prisoner's transfer to a participating State or to a Territory need not be entertained by the Minister if it is made within 1 year of a similar request made by the prisoner.

9 Receipt of request for transfer to Queensland

Where the Minister receives a written request given under the provision of an interstate law that corresponds to section 6, or a request made for the purposes of the *Transfer of Prisoners Act 1983* (Cwlth), part II, asking the Minister to accept the transfer of an imprisoned person to Queensland, the Minister shall either refuse to consent, or consent, to the transfer and shall give to the Minister by whom the written request was given or to the Attorney-General of the Commonwealth, as the case may be, written notice of the Minister's refusal or consent.

10 Reports

- (1) For the purpose of forming an opinion or exercising any discretion under this part, the Minister may inform himself or herself as the Minister thinks fit and, in particular, by reference to reports of parole and corrective services authorities of Queensland and of any participating State.
- (2) Reports of parole and corrective services authorities may be sent to a corresponding Minister for the purpose of assisting the Minister to form an opinion or to exercise a discretion under the interstate law administered by the Minister.

10A Matters that the Minister may have regard to

When forming an opinion or exercising a discretion under this part, the Minister may have regard to any one or more of the following—

- (a) the welfare of the prisoner;
- (b) the administration of justice in this or any other State;
- (c) the security and good order of any prison in this or any other State;
- (d) the safe custody of the prisoner;
- (e) the protection of the community in this or any other State;
- (f) any other matter that the Minister considers relevant.

Part 3 Transfer for trial**11 Request for transfer of prisoner to participating State or to a Territory**

- (1) Where a person the subject of an arrest warrant issued in accordance with the law of a participating State, the Commonwealth or a Territory is a prisoner serving a sentence of imprisonment in Queensland and the Attorney-General receives—

Prisoners (Interstate Transfer) Act 1982

- (a) from—
 - (i) in the case of an arrest warrant issued in accordance with the law of a participating State—the Attorney-General of the participating State; or
 - (ii) in the case of an arrest warrant issued in accordance with the law of the Commonwealth or a Territory—the Attorney-General of the Commonwealth;

a written request, accompanied by a copy of the warrant;

- (b) a written request made by the prisoner to the Minister and referred to the Attorney-General;

being in any case a request for the transfer of the prisoner to a participating State or to a Territory to be dealt with according to law, the Attorney-General shall either refuse to consent, or consent, to the transfer and shall give to the Attorney-General of the participating State, the Attorney-General of the Commonwealth or to the Minister, as the case may be, written notice of the Attorney-General's refusal or consent.

- (2) Where the Minister receives a written request made by a prisoner for the transfer of the prisoner to a participating State or to a Territory to be dealt with according to law, the Minister shall refer the written request to the Attorney-General.
- (3) A request made by a prisoner for the prisoner's transfer to a participating State or to a Territory need not be referred by the Minister to the Attorney-General if it is made within 1 year of a similar request made by the prisoner.

12 Necessary consents

- (1) An order of transfer shall be issued under this part only if—
 - (a) the Attorney-General has, in writing, consented to the transfer of the prisoner to whom the order relates to the participating State or to the Territory, as the case may be; and
 - (b) in the case of a request for the transfer of a prisoner to a participating State (including a prisoner to whom

paragraph (c)(ii) applies), the Attorney-General of the participating State has, in writing, either consented to or requested the transfer; and

- (c) in the case of—
- (i) a request for a transfer of a prisoner to a Territory; or
 - (ii) a request for the transfer of a prisoner for the purpose of being dealt with in respect of an arrest warrant issued in accordance with the law of the Commonwealth;

the Attorney-General of the Commonwealth has, in writing, either consented to or requested the transfer.

- (2) A certificate signed by a prescribed officer certifying that any consent or request required under subsection (1) for the transfer of a prisoner to a participating State, or to a Territory, specified in the certificate has been given or made is evidence that the consent or request has been given or made and, in the absence of evidence to the contrary, conclusive evidence that the consent or request has been given or made.

13 Prisoner to be brought before Magistrates Court

- (1) A Magistrates Court, upon proof to its satisfaction that the conditions precedent specified in section 12(1) have been complied with, shall by order in writing direct the gaoler of the prison where the prisoner to whom the certificate relates is then imprisoned to bring the prisoner before a Magistrates Court specified in the order on a date and at a time so specified for determination as to whether an order of transfer shall be issued.
- (2) Notice of an order made under subsection (1) shall be served on the Attorney-General and on the prisoner to whom the order relates.
- (3) At a hearing for the purpose of determining whether an order for the transfer of a prisoner shall be issued—
- (a) the prisoner shall be entitled to be represented by a legal practitioner; and

- (b) the Attorney-General shall be entitled to appear or be represented.

14 Order of transfer

The Magistrates Court before which the prisoner is brought pursuant to an order made under section 13(1) shall—

- (a) issue an order for the transfer of the prisoner to the participating State, or to the Territory, specified in the certificate issued in accordance with section 12(2) in respect of the prisoner; or
- (b) if the court, on the application of the prisoner, is satisfied that it would be harsh or oppressive or not in the interests of justice to transfer the prisoner to that participating State or Territory or that the trivial nature of the charge or complaint against the prisoner does not warrant the transfer—refuse to issue such an order.

15 Review of decision of Magistrates Court

- (1) Where the Attorney-General or the prisoner, or any other person who has requested or consented to the transfer of the prisoner, is dissatisfied with the decision of the Magistrates Court under section 14, the Attorney-General, the prisoner or that person, as the case may be, may, within 14 days of the decision, apply to the Supreme Court for a review of the decision and the Supreme Court may review the decision.
- (2) The prisoner shall be entitled to be present and be represented by a legal practitioner at the review and for that purpose any court or a person authorised by the rules of the Supreme Court may by order in writing direct the gaoler of the prison where the prisoner is then imprisoned to bring the prisoner to the place of the review specified in the order on a date and at a time so specified.
- (3) The Attorney-General and any other person who has requested or consented to the transfer of the prisoner shall be entitled to appear or be represented at the review.

- (4) The review of the decision shall be by way of rehearing on the evidence (if any) given before the Magistrates Court and on any evidence in addition to the evidence so given.
- (5) Upon the review of a decision, the Supreme Court may confirm the decision or quash the decision and substitute a new decision in its stead.
- (6) For the purpose of giving effect to any such substituted decision the Supreme Court may issue an order for the transfer of the prisoner to the appropriate participating State or Territory.

15A Effect of orders under this part on joint prisoners

An order of transfer made under this part in relation to a joint prisoner has no effect—

- (a) to the extent that, but for this section, it authorises or requires the doing of an act or thing under this Act in relation to that person in his or her capacity as a person upon whom a Commonwealth sentence of imprisonment has been imposed; and
- (b) unless and until a transfer order corresponding to the order of transfer is in force under the *Transfer of Prisoners Act 1983* (Cwlth) in respect of the person or the person's transfer is otherwise authorised under that Act.

16 Prisoner brought to be returned to custody

Where an order is made under section 13(1) or 15(2)—

- (a) the gaoler to whom it is directed shall execute the order or may charge any prison officer or Queensland police officer with the execution of the order; and
- (b) the prisoner shall, while the order is being executed, be kept in the custody of the gaoler, prison officer or police officer acting under or in execution of the order, who shall in due course return the prisoner to the custody from which the prisoner has been brought.

17 Request for transfer of imprisoned person to Queensland

Where a person who is the subject of an arrest warrant issued in accordance with the laws of Queensland is imprisoned in a participating State, the Attorney-General may give to the Attorney-General of the participating State a written request, accompanied by a copy of the warrant, for the transfer of the person to Queensland to be dealt with according to law.

18 Request for transfer to Queensland by imprisoned person

Where—

- (a) a person is imprisoned in a participating State; and
- (b) the person is the subject of an arrest warrant issued in accordance with the laws of Queensland; and
- (c) the Attorney-General of the participating State has given a notice, in writing, to the Attorney-General that the Attorney-General has consented to a request made by the person to be transferred to Queensland to enable the person to be dealt with according to law;

the Attorney-General shall either refuse to consent, or consent, to the transfer and shall give to the Attorney-General of the participating State notice, in writing, of the Attorney-General's refusal or consent.

Part 4 Transfer back to original state**19 Return of prisoner to participating State or to a Territory if no sentence or shorter sentence in Queensland**

Where—

- (a) a person is transferred to Queensland from a participating State or a Territory pursuant to an order issued under the provision of the interstate law of that participating State that corresponds to section 14 or

15(6), or under the *Transfer of Prisoners Act 1983* (Cwlth), part 3, or both; and

- (b) so far as the Minister is aware, every complaint or indictment alleging any offence by the person against the law of Queensland or the Commonwealth has been finally dealt with according to law and as a result—
 - (i) the person did not become liable to serve any sentence of imprisonment in Queensland; or
 - (ii) the person did become liable to serve in Queensland 1 or more sentences of imprisonment under which the period of imprisonment remaining to be served is shorter than the period of imprisonment remaining to be served by the person under any translated sentence or translated sentences or any sentence of imprisonment that has been imposed upon the person for any other offence against a law of the Commonwealth or a Territory; and
- (c) the person is either a State prisoner or a joint prisoner; the Minister shall, subject to section 22, issue an order for the transfer of the person to the participating State or to the Territory, as the case may require.

20 Effect of orders under this part on joint prisoners

An order of transfer made under this part in relation to a joint prisoner has no effect—

- (a) to the extent that, but for this section, it authorises or requires the doing of an act or thing under this Act in relation to that person in his or her capacity as a person upon whom a Commonwealth sentence of imprisonment has been imposed; and
- (b) unless and until a transfer order corresponding to the order of transfer is in force under the *Transfer of Prisoners Act 1983* (Cwlth) in respect of the person or the person's transfer is otherwise authorised under that Act.

22 Provisions ancillary to ss 19 and 20

- (1) The provisions of section 19 do not apply in respect of a person if—
- (a) the Minister receives a written request made by the person, being a request for the person to serve the person's imprisonment in Queensland, and the Minister and—
 - (i) in the case of a person transferred from a participating State (being a person who is a State prisoner)—the corresponding Minister of the participating State; or
 - (ii) in the case of a person transferred from a participating State (being a person who is a joint prisoner)—the corresponding Minister of the participating State and the Attorney-General of the Commonwealth; or
 - (iii) in the case of a person transferred from a Territory (being a person who is a joint prisoner)—the Attorney-General of the Commonwealth;agree in writing that the person should serve the imprisonment in Queensland;
 - (b) an indeterminate sentence (not being a translated sentence) is imposed upon the person by a court of Queensland.
- (1A) When making a decision under subsection (1)(a), the Minister may have regard to any one or more of the following—
- (a) the welfare of the prisoner;
 - (b) the administration of justice in this or any other State;
 - (c) the security and good order of any prison in this or any other State;
 - (d) the safe custody of the prisoner;
 - (e) the protection of the community in this or any other State;
 - (f) any other matter that the Minister considers relevant.

Prisoners (Interstate Transfer) Act 1982

- (2) For the purpose of section 19, a complaint or indictment alleging an offence by a person is finally dealt with if—
- (a) the person is tried for the offence and—
 - (i) the time or extended time (if any) fixed by or under any Act, within which an appeal against, or an application for the review of, the decision given on the trial may be lodged, or within which a retrial may be ordered, has expired; and
 - (ii) any appeal or application for review in respect of the decision given on the trial has been determined or withdrawn and proceedings in respect of any retrial and any decision given on the retrial have been concluded; or
 - (b) the complaint is withdrawn or a *nolle prosequi* or similar instrument is entered in respect of the offence.
- (3) For the purpose of determining which of the periods referred to in section 19(b) is the shorter or longer—
- (a) any entitlement to remissions shall be disregarded;
 - (b) a finite period of imprisonment shall be treated as being shorter than a period to be served under an indeterminate sentence;
 - (c) the expression ‘sentences of imprisonment’ in section 19(b)(ii) includes a translated sentence that was originally imposed by a court of Queensland;
 - (d) the expression ‘translated sentence or translated sentences’ in section 19(b)(ii) does not include a translated sentence that was originally imposed by a court of Queensland;
 - (e) where a State sentence of imprisonment which a person became liable to serve in Queensland (not being a translated sentence) is cumulative with a translated sentence or translated sentences originally imposed by a court other than a court of Queensland, that translated sentence or those translated sentences shall be deemed—
 - (i) not to be a translated sentence or translated sentences, as the case may be; and

24 Transfer of sentence with prisoner

- (1) Where pursuant to an order of transfer a prisoner is conveyed to a participating State or a Territory specified in the order, then from the time the prisoner arrives in the participating State or the Territory every State sentence of imprisonment imposed upon the prisoner, including a translated sentence, ceases to have effect in Queensland except—
 - (a) for the purpose of any appeal against or review of any conviction, judgment or sentence made, imposed or fixed by a court of Queensland; or
 - (b) in relation to any period of imprisonment served by the prisoner in Queensland; or
 - (c) in relation to the remittance of money to the Minister which is paid in discharge or partial discharge of a sentence of default imprisonment originally imposed upon the prisoner by a court of Queensland.
- (2) Subsection (1) does not apply to a sentence of imprisonment imposed upon a person where the person has completed serving that sentence.

25 Information to be sent to the participating State

- (1) Where pursuant to an order of transfer a prisoner is conveyed to a participating State, the Minister shall cause to be sent to the corresponding Minister of the participating State or to some person for the time being designated by the Minister—
 - (a) the order of transfer; and
 - (b) the warrant of, or other authority for, commitment for any sentence of imprisonment which the prisoner was, immediately before the prisoner left Queensland, serving or liable to serve; and
 - (c) a report relating to the prisoner, which shall contain such information and be accompanied by such documents available in Queensland as appear to be likely to be of assistance to any court, authority or officer in the participating State and shall include details of convictions, sentences of imprisonment, eligibility for release on parole, periods of imprisonment served,

entitlements to remissions and grants of parole and a copy of any record relating to the prisoner's conduct; and

- (d) details, accompanied by any relevant orders or other documents, of any subsequent variations to the information provided in accordance with this subsection, whether arising from any appeal or review or otherwise.
- (2) A reference in subsection (1) to an order or other document is a reference to either the original or a copy certified in the prescribed manner.

26 Sentence deemed to have been imposed in this State

- (1) Where under an interstate law an order is issued for the transfer to Queensland of a person imprisoned in a participating State and the person is brought into Queensland pursuant to the order, then from the time the person arrives in Queensland—
- (a) any State sentence of imprisonment (as defined in the interstate law of the participating State) imposed upon the person by a court of the participating State and any sentence of imprisonment deemed by the provision of an interstate law that corresponds to this section to have been imposed by a court of the participating State shall be deemed to have been imposed upon the person;
 - (b) any direction or order given or made by a court of the participating State with respect to when any such State sentence of imprisonment shall commence shall, so far as practicable, be deemed to have been given or made; by a corresponding court of Queensland and, except as otherwise provided in this Act, shall be given effect to in Queensland, and the laws of Queensland shall apply, as if such a court had had power to impose the sentence and give or make the direction or order (if any) and did in fact impose the sentence and give or make the direction or order (if any).
- (2) Subsection (1) does not apply to or in respect of a sentence of imprisonment imposed upon a person where the person has completed serving that sentence.

27 Provisions relating to translated sentences

- (1) Where under a law of a participating State there has been fixed by a court in respect of a translated sentence a minimum term of imprisonment (being a shorter term than the translated sentence), during which minimum term the person subject to the sentence is not eligible to be released on parole, then, except as otherwise provided in this Act, that minimum term shall be deemed likewise to have been fixed by the corresponding court of Queensland and, notwithstanding any other Act, that person is not eligible to be released on parole until the person has served that minimum term of imprisonment.
- (2) Where a translated sentence or a minimum term deemed under subsection (1) to have been fixed by a corresponding court of Queensland—
 - (a) is varied or quashed on a review by or appeal to a court of the participating State where the sentence or minimum term was imposed or fixed, the sentence or minimum term shall be deemed to have been varied to the same extent, or to have been quashed, by a corresponding court of Queensland; or
 - (b) otherwise is varied or ceases to have effect as a result of action taken by any person or authority in that participating State, the sentence shall be deemed to have been varied to the same extent, or to have ceased to have effect, as a result of action taken by an appropriate person or authority in Queensland.
- (3) Nothing in this Act operates to permit in Queensland any appeal against or review of any conviction, judgment, sentence or minimum term made, imposed or fixed in relation to a person by a court of a participating State.
- (4) Where a translated sentence is an indeterminate sentence requiring that the person who is the subject of the sentence be detained during the pleasure of Her Majesty or during the pleasure of the Governor of the participating State in which the sentence was imposed, the person shall be detained during the Governor's pleasure.
- (5) The Governor—

- (a) may exercise the royal prerogative of mercy in favour of a person who is subject to a translated sentence as if the person were—
 - (i) an offender convicted in a court of Queensland; or
 - (ii) an offender convicted within Queensland before a judge or magistrate of Queensland; and
 - (b) in exercising that prerogative, may give effect to any indication given by the Governor of the participating State in which the sentence of imprisonment was imposed upon that person as to what the Governor of the participating State may have done had the person not been transferred to Queensland.
- (6) A person who is subject to a translated sentence—
- (a) shall be deemed to have served in Queensland such period of the translated sentence as, up to the time of the person's transfer to Queensland, the person had served in respect of that sentence in a participating State (including any period deemed by the provision of an interstate law that corresponds to this paragraph to have been served in a participating State and any period spent in custody while being transferred to a prison in Queensland); and
 - (b) shall, subject to subsection (7), be deemed to be entitled under the remission regulations to any remission of the person's translated sentence for which, up to the time of the person's transfer to Queensland, the person was eligible in respect of that translated sentence in the participating State (including any remission of sentence deemed by an interstate law to have been earned in a participating State) and any further remission of sentence under the remission regulations shall be calculated from the time of the arrival of the person in Queensland.
- (7) Any remission of a translated sentence—
- (a) for which the person who is subject to the sentence was eligible up to the time of the person's transfer to Queensland; and

- (b) which is attributable to a part of the sentence not served or not to be served in the participating State from which the person was transferred;

shall not be taken into account for the purposes of subsection (6)(b).

- (8) Subsection (5) does not apply in relation to a conviction or transferred sentence referred to in the *Transfer of Prisoners Act 1983* (Cwlth), section 24(2)(a) or (b), but nothing in this subsection shall be construed as preventing the Queen or the Governor from exercising the royal prerogative of mercy as referred to in section 24(2) of that Act.

28 Translated sentences—default imprisonment

- (1) Where a translated sentence is a sentence by which default imprisonment was ordered and any portion of the amount in default of payment of which the default imprisonment was ordered is paid by or on behalf of the prisoner who is the subject of the sentence to the gaoler of the prison in which the prisoner is imprisoned—
 - (a) the term of default imprisonment shall be reduced by a period which bears to the term of default imprisonment the same proportion as the portion paid bears to the total amount that was payable and, subject to any other sentence of imprisonment, the prisoner shall be entitled to be released on the expiry of the reduced period; and
 - (b) the portion so paid shall be remitted by the gaoler to the corresponding Minister of the participating State where the sentence, by which default imprisonment was ordered, was originally imposed.
- (2) Where a translated sentence is a sentence by which default imprisonment was ordered and, on a review by or an appeal to a court of the participating State where the sentence was imposed or as a result of any other action taken by any person or authority in that participating State, the amount in default of payment of which the default imprisonment was ordered is reduced or the obligation to pay that amount is quashed—
 - (a) the term of default imprisonment shall, where the amount is reduced, be reduced by a period which bears

- (ii) delivery to the gaoler by the escort of a copy of the order of transfer certified by the escort to be such a copy;

to receive the person and to detain the person in custody as though the person were a State prisoner for such time as the escort requests and is reasonably necessary for the purpose of executing the order.

- (2) Where a gaoler has the custody of a person under subsection (1)(b), the gaoler is authorised, upon the request of an escort and production by the escort of the order of transfer relating to the person, to deliver the person into the custody of the escort.

31 Escape from custody of person being transferred

- (1) A person in the custody of an escort pursuant to section 30 who escapes from that custody may be apprehended without warrant by the escort, any Queensland police officer or any other person.
- (2) Where a person in custody pursuant to section 30—
 - (a) has escaped and been apprehended; or
 - (b) has attempted to escape;

that person may be taken before a justice who may, notwithstanding the terms of any order of transfer issued under an interstate law, by signed warrant—

 - (c) order the person to be returned to the participating State in which the order of transfer under which that person was being conveyed at the time of the escape or attempt to escape was issued; and
 - (d) for that purpose, order the person to be delivered to an escort.
- (2A) Subsections (1) and (2) do not apply to a person to whom the *Crimes Act 1914* (Cwlth), section 47 applies by virtue of the *Transfer of Prisoners Act 1983* (Cwlth), section 26(2).
- (3) A warrant issued under subsection (2) may be executed according to its tenor.
- (4) A person who is the subject of a warrant issued under subsection (2) may be detained in custody as a State prisoner

until the person is delivered into the custody of an escort in accordance with that warrant or until the expiration of a period of 7 days from the issuing of the warrant, whichever first occurs.

- (5) If a person who is the subject of a warrant issued under subsection (2) is not, in accordance with the warrant, delivered into the custody of an escort within a period of 7 days from the issuing of the warrant, the warrant shall have no further effect.
- (6) A reference in subsection (2), (4) or (5) to an escort in relation to a person who was, at the time of the person's escape or attempt to escape, being conveyed under an order of transfer issued in a participating State is a reference to—
 - (a) the escort who had the custody of that person pursuant to that order; or
 - (b) a—
 - (i) prison officer; or
 - (ii) member of the police force; of the participating State; or
 - (c) a person appointed by the corresponding Minister of the participating State by an instrument in writing to be an escort for the purpose of conveying that person to the participating State;or any 2 or more of them.

32 Escape from custody—penalty

- (1) Any person who, being a person in custody under an order of transfer, escapes or attempts to escape from that custody while the person is not within Queensland or the participating State or the Territory to which the person was being conveyed under that order is guilty of an indictable offence and is liable to imprisonment for 3 years, to be served after the expiration of any term of imprisonment, or detention to which the person was subject at the time of the person's escape or attempt to escape.

- (2) Without limiting the generality of the third paragraph of section 20 of the Criminal Code, that paragraph applies to a person—
- (a) who is in custody under an order of transfer; and
 - (b) who escapes from that custody while the person is not within Queensland or the participating State or the Territory to which the person was being conveyed under that order;
- in the same way as it applies to a person who escapes from lawful custody while undergoing a sentence involving deprivation of liberty in Queensland.
- (3) Subsections (1) and (2) do not apply to a person to whom the *Crimes Act 1914* (Cwlth), section 47 applies by virtue of the *Transfer of Prisoners Act 1983* (Cwlth), section 26(1) or (2).

33 Revocation of order of transfer on escape from custody

Any Magistrates Court may revoke an order of transfer if it appears to the court, on application made to it under this section by the holder of a prescribed office or position or by a person who belongs to a prescribed class of persons, that the person in respect of whom the order was issued has, in the course of the person being conveyed in accordance with that order, committed—

- (a) the offence of escaping or attempting to escape; or
- (b) any other offence;

whether—

- (c) the offence was an offence against the law of Queensland, the Commonwealth, a participating State or a Territory; or
- (d) a charge has been laid or a conviction secured in respect of the offence or not.

34 Regulation making power

The Governor in Council may make regulations under this Act.

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	31
3 Key	31
4 Table of reprints	32
5 Tables in earlier reprints	32
6 List of legislation	32
7 List of annotations	33

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 8 December 2005. Future amendments of the Prisoners (Interstate Transfer) Act 1982 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1990 Act No. 80	14 November 1990	17 November 1994
2	1995 Act No. 58	28 November 1995	19 December 1995
2A	1995 Act No. 58	28 November 1995	14 November 1997
2B	1997 Act No. 82	5 December 1997	10 December 1997
2C	2000 Act No. 63	1 July 2001	25 January 2002
Reprint No.	Amendments included	Effective	Notes
2D	2005 Act No. 70	8 December 2005	

5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	1
Corrected minor errors	2
Obsolete and redundant provisions	1, 2

6 List of legislation

Prisoners (Interstate Transfer) Act 1982 No. 43

date of assent 4 October 1982

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1984 (proc pubd gaz 30 June 1984 p 1475)

amending legislation—

Prisoners (Interstate Transfer) Act Amendment Act 1987 No. 14

date of assent 15 April 1987

ss 1–2 commenced on date of assent

remaining provisions commenced 13 November 1989 (proc pubd gaz 11 November 1989 p 1961)

Corrective Services (Consequential Amendments) Act 1988 No. 88 s 3 sch 1

date of assent 1 December 1988

commenced 15 December 1988 (see s 2(2) of Act and o in c pubd gaz 10 December 1988 p 1675)

Public Service (Administrative Arrangements) Act (No. 2) 1990 No. 80 s 3 sch 1

date of assent 14 November 1990

commenced on date of assent (see s 2(1))

Statute Law (Minor Amendments) Act (No. 2) 1995 No. 51 ss 1, 4 sch

date of assent 22 November 1995

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82 ss 1–2, pt 20

date of assent 5 December 1997

commenced on date of assent

Corrective Services Act 2000 No. 63 ss 1, 2(2), 276 sch 2

date of assent 24 November 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2001 (2001 SL No. 88)

Justice and Other Legislation Amendment Act 2005 No. 70 s 1, pt 18, s 166 sch

date of assent 8 December 2005

commenced on date of assent

7 List of annotations

Short title

s 1 prov hdg amd R2 (see RA s 37)

Definitions**s 2**

prev s 2 om 1995 No. 58 s 4 sch 1

pres s 2 (prev s 4(1)) renum 1995 No. 58 s 4 sch 1

def “**Attorney-General**” sub 1987 No. 14 s 3(a)(i); 1995 No. 58 s 4 sch 1def “**Australian Capital Territory**” sub 1987 No. 14 s 3(a)(i)

om 1997 No. 82 s 77(1)

def “**Commonwealth sentence of imprisonment**” ins 1987 No. 14 s 3(a)(i)def “**corresponding court of Queensland**” sub 1995 No. 58 s 4 sch 1def “**corresponding Minister**” sub 1987 No. 14 s 3(a)(ii); 1997 No. 82 s 77(1)–(2)def “**gaoler**” amd 1988 No. 88 s 3 sch 1; 2000 No. 63 s 276 sch 2def “**Governor**” om 1987 No. 14 s 3(a)(iii)

ins 1995 No. 58 s 4 sch 1

sub 1997 No. 82 s 77(1)–(2)

def “**indeterminate sentence**” amd 1987 No. 14 s 3(a)(iv)def “**interstate law**” sub 1995 No. 58 s 4 sch 1def “**joint prisoner**” ins 1987 No. 14 s 3(a)(v)

sub 1997 No. 82 s 77(1)–(2)

def “**justice**” om R1 (see RA s 39)

- def “**Minister**” amd 1987 No. 14 s 3(a)(vi); 1988 No. 88 s 3 sch 1; 1990 No. 80 s 3 sch 1
 sub 1995 No. 58 s 4 sch 1
 amd 2000 No. 63 s 276 sch 2
- def “**Northern Territory**” om R1 (see RA s 39)
- def “**order of transfer**” amd 1987 No. 14 s 3(a)(vii)
- def “**participating State**” sub 1987 No. 14 s 3(a)(viii)
- def “**prison**” amd 1988 No. 88 s 3 sch 1; 2000 No. 63 s 276 sch 2
- def “**prisoner**” sub 1987 No. 14 s 3(a)(ix)
- def “**prison officer**” amd 1988 No. 88 s 3 sch 1
 sub 2000 No. 63 s 276 sch 2
- def “**relevant security**” ins 1987 No. 14 s 3(a)(ix)
- def “**remission regulations**” amd 1987 No. 14 s 3(a)(x)
- def “**section 26 sentence**” om 1987 No. 14 s 3(a)(xi)
- def “**sentence of imprisonment**” sub 1987 No. 14 s 3(a)(xi); 1997 No. 82 s 77(1)–(2)
- def “**State**” sub 1987 No. 14 s 3(a)(xi); 1995 No. 51 s 4 sch
- def “**State prisoner**” ins 1987 No. 14 s 3(a)(xi)
- def “**State sentence of imprisonment**” ins 1987 No. 14 s 3(a)(xi)
- def “**Supreme Court**” om 1987 No. 14 s 3(a)(xi)
- def “**Territory**” sub 1987 No. 14 s 3(a)(xi); 1995 No. 51 s 4 sch
- def “**translated sentence**” ins 1987 No. 14 s 3(a)(xi)

Meaning of “joint prisoner”

s 2A ins 1997 No. 82 s 78

Meaning of “sentence of imprisonment”

s 2B ins 1997 No. 82 s 78

Warrant of commitment issued by justice

prov hdg ins 1995 No. 58 s 4 sch 1

s 3 prev s 3 om R1 (see RA s 36)
 pres s 3 (prev s 4(2)) renum 1995 No. 58 s 4 sch 1

Sentences of imprisonment imposed by operation of law

prov hdg ins 1995 No. 58 s 4 sch 1

s 4 (1) renum as s 2 1995 No. 58 s 4 sch 1
 (2) renum as s 3 1995 No. 58 s 4 sch 1
 (4)–(5) amd 1987 No. 14 s 3(b)–(c)
 om 1995 No. 58 s 4 sch 1
 (6)–(7) renum as s 4A 1995 No. 58 s 4 sch 1
 (8) renum as s 4B 1995 No. 58 s 4 sch 1
 (3) renum as s 4 1995 No. 58 s 4 sch 1

Persons completed serving sentence

prov hdg ins 1995 No. 58 s 4 sch 1

s 4A s 4A (prev s 4(6)–(7)) renum 1995 No. 58 s 4 sch 1

References to release on parole

prov hdg ins 1995 No. 58 s 4 sch 1

s 4B s 4B (prev s 4(8)) renum 1995 No. 58 s 4 sch 1

Corresponding courts and interstate laws

s 5 amd 1987 No. 14 s 4
 sub 1995 No. 58 s 4 sch 1

PART 2—TRANSFER AT REQUEST OF PRISONER

pt hdg sub 2005 No. 70 s 128

Requests for, and orders of, transfer

s 6 sub 1987 No. 14 s 5
 amd 2005 No. 70 s 129

Effect of orders under this part on joint prisoners

s 7 sub 1987 No. 14 s 5

Repeated requests for transfer

s 8 amd 1987 No. 14 s 6

Receipt of request for transfer to Queensland

s 9 amd 1987 No. 14 s 7; 2005 No. 70 s 166 sch

Reports

s 10 amd 2000 No. 63 s 276 sch 2; 2005 No. 70 s 130

Matters that the Minister may have regard to

s 10A ins 2005 No. 70 s 131

Request for transfer of prisoner to participating State or to a Territory

prov hdg amd 1987 No. 14 s 8(a)

s 11 amd 1987 No. 14 s 8(b)–(d)

Necessary consents

s 12 amd 1987 No. 14 s 9

Order of transfer

s 14 amd 1987 No. 14 s 10

Review of decision of Magistrates Court

s 15 amd 1987 No. 14 s 11

Effect of orders under this part on joint prisoners

s 15A ins 1987 No. 14 s 12

Return of prisoner to participating State or to a Territory if no sentence or shorter sentence in Queensland

s 19 sub 1987 No. 14 s 13

Effect of orders under this part on joint prisoners

s 20 sub 1987 No. 14 s 13

Transfer after attending appeal

s 21 om 1987 No. 14 s 13

Provisions ancillary to ss 19 and 20

prov hdg amd 1987 No. 14 s 14(a)

s 22 amd 1987 No. 14 s 14(b)–(d); 2005 No. 70 s 132

Transfer in custody of escort

s 23 amd 1987 No. 14 s 15

Transfer of sentence with prisoner

s 24 amd 1987 No. 14 s 16

Sentence deemed to have been imposed in this State

s 26 amd 1987 No. 14 s 17

Provisions relating to translated sentences

prov hdg amd 1987 No. 14 s 18(a)

s 27 amd 1987 No. 14 s 18

Translated sentences—default imprisonment

prov hdg amd 1987 No. 14 s 19(a)

s 28 amd 1987 No. 14 s 19(b)–(c)

Lawful custody for transit through Queensland

s 30 amd 1987 No. 14 s 20

Escape from custody of person being transferred

s 31 amd 1987 No. 14 s 21

Escape from custody—penalty

s 32 amd 1987 No. 14 s 22

Revocation of order of transfer on escape from custody

s 33 amd 1987 No. 14 s 23

Regulation making power

s 34 sub 1995 No. 58 s 4 sch 1