



Prisoners International Transfer (Queensland) Act 1997

Current as at 17 October 1998—revised version

Reprint note

The attachment, which contained a copy of Commonwealth legislation, has been omitted from this version of this reprint. The attachment did not form part of the Act.

For an up-to-date version of the Commonwealth legislation, see the Federal Register of Legislation (ComLaw) website.

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Queensland

Prisoners International Transfer (Queensland) Act 1997

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Prisoners International Transfer (Queensland) Act 1997

An Act relating to the transfer of prisoners to and from Australia

Part 1 Preliminary

1 Short title

This Act may be cited as the *Prisoners International Transfer (Queensland) Act 1997*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Object of Act

The object of this Act is to give effect to the scheme for the international transfer of prisoners set out in the Commonwealth Act by enabling prisoners to be transferred to and from this jurisdiction under the scheme.

4 State bound

This Act binds the State.

5 Dictionary

The dictionary in the schedule defines words used in this Act.

Part 2 Conferral of functions

6 Functions of Minister

- (1) A Minister of this jurisdiction may perform any function conferred or expressed to be conferred on the Minister under the Commonwealth Act.
- (2) The Minister may delegate a function mentioned in subsection (1) to the chief executive or an appropriately qualified person who is an officer of the department.
- (3) For subsection (2), the Minister may delegate all necessary power under the *Acts Interpretation Act 1954*, section 27A.
- (4) In this section—

appropriately qualified, of a person, includes having the qualifications, experience or standing to perform the function.

Example of standing—

A person's classification level in the entity in which the person is employed.

7 Functions of prison officers, police officers and others

- (1) A prison officer, police officer or another official of this jurisdiction may perform any function conferred or expressed to be conferred on the official under—
 - (a) the Commonwealth Act or a corresponding law; or
 - (b) an arrangement mentioned in section 8.

Editor's note—

A number of provisions of the Commonwealth Act require State officials to perform functions. For example, a warrant may be issued under section 30 of the Commonwealth Act requiring a prison officer, police officer or other person to escort a prisoner who is being transferred. A police officer of this jurisdiction may arrest a person escaping from custody under section 56 of the Commonwealth Act.

- (2) It is lawful for a prison officer, police officer or another official of this jurisdiction—

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- (a) to hold and deal with a prisoner under the terms of a warrant issued under the Commonwealth Act for the prisoner; and
 - (b) to take any action in relation to a prisoner transferred, or to be transferred, to or from Australia under the Commonwealth Act that the official is authorised to take under that Act.

8 Arrangements for administration of this Act

- (1) The Governor may, under the Commonwealth Act, section 50 make arrangements for the administration of that Act, including arrangements relating to the performance by officers of this jurisdiction of functions under the Commonwealth Act.
- (2) An arrangement may be varied or terminated as provided under the Commonwealth Act.

Part 3 Enforcement of sentences of imprisonment of transferred prisoners

9 Prisoners transferred to Australia

- (1) A relevant enforcement law applies in relation to a prisoner who is transferred to Australia under the Commonwealth Act to complete serving a term of imprisonment in this jurisdiction that was imposed by a court or tribunal of a transfer country (or by a war crimes tribunal) in the same way as the enforcement law applies in relation to a federal prisoner serving a sentence of imprisonment in this jurisdiction that is imposed under a law of the Commonwealth.

Editor's note—

See the *Crimes Act 1914* (Cwlth), part 1B in relation to the imprisonment and release of prisoners. In particular see sections 19 (Cumulative, partly cumulative or concurrent sentences) and 19AA

[s 9]

(Remissions and reductions of sentences) and division 5 (Conditional release on parole or licence).

- (2) Without limiting subsection (1), enforcement laws about the following are applicable to a prisoner or tribunal prisoner who is transferred to Australia under the Commonwealth Act—
 - (a) conditions of imprisonment and treatment of prisoners;
 - (b) release on parole of prisoners;
 - (c) classification and separation of prisoners;
 - (d) removal of prisoners from 1 prison to another;
 - (e) removal of prisoners between prisons and hospitals or other places or between 1 hospital or other place and another;
 - (f) treatment of mentally impaired prisoners;
 - (g) eligibility for participation in prison programs, including release under a pre-release permit scheme (however called);
 - (h) temporary absence from prison including for example, to seek work, to attend a funeral or visit a relative suffering a serious illness or to attend a place of education or training;
 - (i) transfer of prisoners between States.
- (3) A direction given by the Attorney-General of the Commonwealth under the Commonwealth Act, section 44 about the enforcement of the sentence of imprisonment is to be given effect in this jurisdiction.
- (4) A direction given by the Attorney-General of the Commonwealth under the Commonwealth Act, section 49 about a prisoner mentioned in subsection (1) who is pardoned or granted amnesty or commutation of sentence of imprisonment as mentioned in that section is to be given effect in this jurisdiction.
- (5) In this section—
enforcement law means—

- (a) a law of this jurisdiction; or
 - (b) a law of the Commonwealth or another State; or
 - (c) a practice or procedure lawfully observed;
- about the detention of prisoners.

10 Prisoners transferred from Australia

- (1) Other than as provided by subsection (2), the laws of this jurisdiction about the enforcement of a sentence of imprisonment imposed by a court of this jurisdiction on a person stop applying to a prisoner on whom the sentence is imposed who is transferred from Australia under the Commonwealth Act to complete serving the sentence of imprisonment.
- (2) Subsection (1) does not limit the power of the Governor or of a court or tribunal of this jurisdiction to pardon, grant amnesty or commute the sentence of imprisonment.

Part 4 Miscellaneous

11 Regulation-making power

The Governor in Council may make regulations under this Act.

12 Attachment—Commonwealth Act

- (1) Attached to this Act is a copy of the Commonwealth Act.
- (2) The attachment is not part of this Act.
- (3) The attachment must be revised so that it is an accurate copy of the Commonwealth Act as amended from time to time.
- (4) The revision under subsection (3) must happen in the first reprint of this Act after an amendment of the Commonwealth Act.

Editor's note—

The attachment has been omitted from this reprint. For an up-to-date version of the Commonwealth legislation, see the Federal Register of Legislation (ComLaw) website.

Schedule Dictionary

section 5

Commonwealth Act means the *International Transfer of Prisoners Act 1997* (Cwlth).

corresponding law means a law of another State that provides for the international transfer of prisoners.

federal prisoner see the Commonwealth Act, section 4.

function includes power.

mentally impaired prisoner see the Commonwealth Act, section 4.

performance of a function, includes the exercise of a power.

prison officer see the Commonwealth Act section 4.

prisoner see the Commonwealth Act, section 4.

release on parole see the Commonwealth Act, section 4.

sentence of imprisonment see the Commonwealth Act, section 4.

this jurisdiction means Queensland.

transfer country see the Commonwealth Act, section 4.

tribunal prisoner see the Commonwealth Act, section 4.

under the Commonwealth Act, includes—

- (a) by; and
- (b) for the purposes of; and
- (c) in accordance with; and
- (d) within the meaning of;

the Commonwealth Act.

war crimes tribunal means the Former Yugoslavia Tribunal or Rwanda Tribunal within the meaning of the Commonwealth Act.