

# PRISONERS (INTERSTATE TRANSFER) ACT 1983.

(No. 75 of 1983.)

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## ARRANGEMENT.

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# PRISONERS (INTERSTATE TRANSFER).

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No. 75 of 1983

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AN ACT relating to the transfer interstate of prisoners.

[Assented to 22 December 1983.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I—PRELIMINARY.

1. This Act may be cited as the *Prisoners* Short title.  
*(Interstate Transfer) Act 1983.*

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation. Commence-  
ment.

Interpreta-  
tion.

3. (1) In this Act, unless the contrary intention appears—

“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”—

- (a) in relation to the Australian Capital Territory, means the Attorney-General of the Commonwealth; and
- (b) in relation to the Northern Territory, means the person holding Ministerial office, as defined in section 4 (1) of the Northern Territory (Self-Government) Act 1978 of the Parliament of the Commonwealth, who is, under that Act, designated for the time being as the holder of the office of Attorney-General;

“corresponding court of Western Australia”, in relation to a court of a participating State, means a court of Western Australia that is, under an order in force under section 4 (1), declared to be a corresponding court in relation to the court of the participating State;

“corresponding Minister”, in relation to a participating State, means—

- (a) except where the participating State is the Australian Capital Territory

or the Northern Territory—the Minister of the Crown of that participating State charged for the time being with the administration of the interstate law of that participating State;

- (b) where the participating State is the Australian Capital Territory—the Attorney-General of the Commonwealth; and
- (c) where the participating State is the Northern Territory—the person holding Ministerial office, as defined in section 4 (1) of the Northern Territory (Self-Government) Act 1978 of the Parliament of the Commonwealth, who is charged for the time being with the administration of the interstate law of the Northern Territory;

“court of petty sessions” means a court of petty sessions constituted by a stipendiary magistrate sitting alone;

“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 recognizance to keep the peace or to be of good behaviour;

“Director” means Director of the Western Australia Prisons Department;

“Governor”—

- (a) in relation to the Australian Capital Territory, means the Governor-General of Australia; and

(b) in relation to the Northern Territory, means the Administrator, as defined in section 4 (1) of the Northern Territory (Self-Government) Act 1978 of the Parliament of the Commonwealth;

“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 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;

“interstate law” means a law that, under an order in force under section 4 (1), is declared to be an interstate law for the purposes of this Act;

“order of transfer” means an order issued under section 6, 13, 14 (6), 18, 19 or 20 for the transfer of a prisoner to a participating State;

“participating State” means any State or Territory of the Commonwealth in which there is in force an interstate law;

“prison” means a prison as defined in section 3 of the Prisons Act 1981;

“prison officer” means a person who is a prison officer under the Prisons Act 1981;

“prisoner” means a person serving a sentence of imprisonment in a prison in Western Australia other than a person serving or sentenced to serve a sentence of imprisonment imposed for an offence against a law of the Commonwealth;

“section” means a section of this Act;

“section 25 sentence” means a sentence of imprisonment deemed by section 25 to have been imposed on a person by a court of Western Australia;

“sentence of imprisonment” includes a sentence of penal servitude, a sentence by which default imprisonment is ordered, an indeterminate sentence and a section 25 sentence, but does not include detention imposed under any Act relating to the punishment of persons who committed offences when they were under the age of 18 years;

“subsection” means a subsection of the section in which the term is used;

“superintendent”, in relation to a prison, means the person who, under the Prisons Act 1981, is the superintendent of the prison.

(2) Where a justice of a participating State, in the exercise of his 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.

(3) 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.

(4) A reference in this Act to an Act of the Parliament of the Commonwealth includes a reference to an Act amending or replacing that Act.

Corresponding courts and interstate laws.

4. (1) Subject to subsection (2), the Governor may, by order published in the *Gazette*, declare that—

- (a) a law of a State (other than Western Australia), the Australian Capital Territory or the Northern Territory is an interstate law for the purposes of this Act; and
- (b) a specified court of Western Australia or any court belonging to a specified class or description of courts of Western Australia is, for the purposes of this Act, a corresponding court in relation to a specified court of a participating State or in relation to any court belonging to a specified class or description of courts of a participating State.

(2) An order shall not be made under subsection (1) in respect of a law of another State or a Territory of the Commonwealth unless the Governor is satisfied that that law substantially corresponds to the provisions of this Act and contains provisions that are referred to in this Act as provisions of an interstate law that correspond to specified provisions of this Act.

(3) Notwithstanding subsection (2), an order may be made under subsection (1) in respect of a law of the Australian Capital Territory if the Governor is satisfied that, if that law contained—

- (a) provisions corresponding to the provisions contained in Part II of this Act and other provisions relating to the transfer of prisoners on grounds referred to in section 5; and
- (b) provisions that are referred to in this Act as provisions of an interstate law that correspond to specified provisions of this Act (those specified provisions being provisions corresponding to provisions referred to in paragraph (a) of this subsection),

that law would be a law referred to in subsection (2).



PART II—TRANSFER FOR PRISONER'S WELFARE.

5. Where the Minister—

Proposal to  
transfer  
interstate.

- (a) receives a written request made by a prisoner 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 in the interests of the welfare of the prisoner,

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

6. (1) Where the Minister—

Order of  
transfer.

- (a) has given to a corresponding Minister of a participating State a written request under section 5 in respect of a prisoner; and
- (b) has received from that corresponding Minister written notice (being a notice given under the provision of an interstate law that corresponds to section 8) of his consent to the transfer of the prisoner to that participating State,

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

(2) A decision to issue, or not to issue, an order under subsection (1) is not reviewable by a court or tribunal.

7. A request made by a prisoner for his transfer to a participating State need not be entertained by the Minister if it is made within one year after a similar request was made by the prisoner.

Repeated  
requests for  
transfer.

Receipt of  
request for  
transfer to  
Western  
Australia.

8. Where the Minister receives a written request given under the provision of an interstate law that corresponds to section 5 asking him to accept the transfer of an imprisoned person to Western Australia, 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 written notice of his refusal or consent.

Reports.

9. (1) For the purpose of forming an opinion or exercising any discretion under this Part of this Act, the Minister may inform himself as he thinks fit and, in particular, may have regard to reports of parole and prison authorities of Western Australia and of any participating State.

(2) Reports of parole and prison authorities may be sent to a corresponding Minister for the purpose of assisting him to form an opinion or to exercise a discretion under the interstate law administered by him.

#### PART III—TRANSFER FOR TRIAL.

Request for  
transfer of  
prisoner to  
participat-  
ing State.

10. (1) Where a person the subject of an arrest warrant issued in accordance with the law of a participating State is a prisoner and the Attorney General receives—

- (a) from the Attorney-General of the participating State a written request given under the provision of an interstate law that corresponds to section 16, accompanied by a copy of the warrant; or
- (b) a written request made by the prisoner to the Minister and referred to the Attorney General,

being in either case a request for the transfer of the prisoner to the participating State to be dealt with according to law, the Attorney General shall either refuse to consent, or consent, to the transfer

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and shall give to the Attorney-General of the participating State or to the Minister, as the case may be, written notice of his 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 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 his transfer to a participating State need not be referred by the Minister to the Attorney General if it is made within one year after a similar request was made by the prisoner.

11. (1) An order of transfer shall be issued under this Part of this Act only if—

Necessary consents.

- (a) the Attorney General has, in writing, consented to the transfer of the prisoner to whom the order relates to the participating State; and
- (b) the Attorney-General of a participating State has, in writing, either consented to or requested that 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 specified in the certificate has been given or made is, in the absence of evidence to the contrary, proof that the consent or request has been given or made.

12. (1) A court of petty sessions, upon proof to its satisfaction that the conditions precedent specified in section 11 (1) have been complied with, shall by order in writing direct the superintendent of the prison where the prisoner to whom the certificate relates is then imprisoned to bring the

Prisoner to be brought before court of petty sessions.

prisoner before a court of petty sessions 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, the Director 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 may be represented by a legal practitioner; and
- (b) the Attorney General may appear or be represented.

Order of transfer.

13. The court of petty sessions before which the prisoner is brought pursuant to an order made under section 12 (1) shall—

- (a) issue an order for the transfer of the prisoner to the participating State specified in the certificate issued in accordance with section 11 (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 that the trivial nature of the charge or complaint against the prisoner does not warrant the transfer, refuse to issue such an order.

Review of decision of court of petty sessions.

14. (1) Where the Attorney General, the Attorney-General of the participating State or the prisoner is dissatisfied with the decision of the court of petty sessions under section 13, the Attorney General, the Attorney-General of the participating

State or the prisoner, 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 may be represented by a legal practitioner at the review and for that purpose any court or a person authorized by the rules of the Supreme Court may, by order in writing, direct the superintendent 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 the Attorney-General of the participating State 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 court of petty sessions 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.

15. Where an order is made under section 12 (1) or 14 (2)—

Prisoner brought to be returned to custody.

(a) the superintendent to whom it is directed shall execute the order or may charge any prison officer or, subject to section 33, member of the police force with the execution of the order; and

(b) the prisoner shall, while the order is being executed, be kept in the charge of the superintendent, prison officer or member of the

police force acting under or in execution of the order, who shall in due course return the prisoner to the custody from which he has been brought.

Request for transfer of imprisoned person to Western Australia.

16. Where a person who is the subject of an arrest warrant issued in accordance with the laws of Western Australia 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 Western Australia to be dealt with according to law.

Request for transfer to Western Australia by imprisoned person.

17. Where—

- (a) a person is imprisoned in a participating State;
- (b) he is the subject of an arrest warrant issued in accordance with the laws of Western Australia; and
- (c) the Attorney-General of the participating State has given a notice, in writing, to the Attorney General that he has consented to a request made by the person to be transferred to Western Australia to enable him 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 his refusal or consent.

#### PART IV—TRANSFER BACK TO ORIGINAL STATE.

Return of prisoner to participating State if no sentence or shorter sentence in Western Australia.

18. Where a person is transferred to Western Australia from a participating State pursuant to an order issued under the provision of the interstate law of that participating State that corresponds to section 13 or 14 (6) and, so far as the Minister is

aware, every complaint or information alleging any offence by the person against the law of Western Australia has been finally dealt with according to law and as a result—

- (a) the person did not become liable to serve any sentence of imprisonment in Western Australia; or
- (b) the person did become liable to serve in Western Australia one 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 him under any section 25 sentence or section 25 sentences,

the Minister shall, subject to section 21, issue an order for the transfer of the person to the participating State.

19. Where a person is transferred to Western Australia from a participating State pursuant to an order issued under the provision of an interstate law that corresponds to section 6, 13 or 14 (6) and—

Transfer to  
attend  
appeal.

- (a) so far as the Minister is aware, every complaint or information alleging any offence by the person against the law of Western Australia has been finally dealt with;
- (b) the person is serving a sentence of imprisonment;
- (c) under a law of the participating State the person is entitled to be present at proceedings in the participating State with respect to—
  - (i) any application for leave or other proceeding preliminary or incidental to an appeal against or review of; or

(ii) an appeal against or review of, a conviction of him, or sentence of imprisonment imposed on him, or both; and

(d) the person applies in writing to the Minister to be present at the proceedings,

the Minister shall, unless in his opinion it is contrary to the public interest to do so, issue an order for the transfer of the person to the participating State.

Transfer  
after  
attending  
appeal.

20. Where—

(a) a person is, pursuant to an order issued under the provision of an interstate law that corresponds to section 19, transferred to Western Australia from a participating State to enable him to attend proceedings in Western Australia;

(b) those proceedings (including any retrial that may have been ordered and any appeal or review arising from those proceedings or any such retrial) have been determined; and

(c) either—

(i) the person is liable to serve a section 25 sentence or section 25 sentences and is not liable to serve in Western Australia any other sentence of imprisonment; or

(ii) the period of imprisonment remaining to be served by the person under any section 25 sentence or section 25 sentences is longer than any period of imprisonment which he is liable to serve in Western Australia under any other sentence or sentences of imprisonment,



the Minister shall, subject to section 21, issue an order for the transfer of the person to the participating State.

21. (1) The provisions of section 18 or 20 do not apply in respect of a person if—

Provisions  
ancillary to  
sections 18,  
19 and 20.

- (a) the Minister receives a written request made by the person, being a request for the person to serve his imprisonment in Western Australia, and the Minister and the corresponding Minister of the participating State from which the person was transferred agree in writing that it is in the interests of the welfare of the person that he should serve his imprisonment in Western Australia; or
- (b) an indeterminate sentence (not being a section 25 sentence) is imposed upon the person by a court of Western Australia.

(2) For the purpose of sections 18 and 19, a complaint or information 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 or information is withdrawn or a *nolle prosequi* or similar instrument is filed in respect of the offence.

(3) For the purpose of determining which of the periods referred to in section 18 (b) or 20 (c) (ii) 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 18 (b), and the expression “other sentence or sentences of imprisonment” in section 20 (c) (ii), include a section 25 sentence that was originally imposed by a court of Western Australia;
- (d) the expression “section 25 sentence or section 25 sentences” in sections 18 (b) and 20 (c) (ii) does not include a section 25 sentence that was originally imposed by a court of Western Australia; and
- (e) where a sentence of imprisonment imposed upon a person in Western Australia (not being a section 25 sentence) is cumulative with a section 25 sentence or section 25 sentences originally imposed by a court other than a court of Western Australia, that section 25 sentence or those section 25 sentences shall be deemed—
  - (i) not to be a section 25 sentence or section 25 sentences, as the case may be; and
  - (ii) to be a sentence or sentences, as the case may be, which the person is liable to serve in Western Australia.

PART V—EFFECT OF ORDER OF TRANSFER.

22. (1) An order of transfer—

Transfer in  
custody of  
escort.

- (a) shall direct the Director to deliver the prisoner into the custody of an escort and shall be sufficient authority to the Director so to deliver the prisoner; and
- (b) authorizes the escort to take and keep custody of the prisoner for the purpose of conveying him from Western Australia to such prison in a participating State as is specified in the order and there delivering him into the custody of the gaoler or superintendent of that prison.

(2) A reference in subsection (1) to an escort is a reference to a prison officer, a member of the police force or a person appointed by the Minister by an instrument in writing to be an escort for the purposes of this Act, or any 2 or more of them.

(3) Where—

- (a) under an interstate law an order is issued for the transfer to Western Australia of a person imprisoned in the participating State where the order is issued; and
- (b) pursuant to the order an escort brings the person into Western Australia,

the escort, while in Western Australia, is authorized to hold, take and keep custody of the person for the purpose of conveying him to such prison in Western Australia as is specified in the order and there delivering him into the custody of the Director.

23. Where pursuant to an order of transfer a prisoner is conveyed to a participating State specified in the order, then from the time the prisoner arrives in the participating State every sentence

Transfer of  
sentence  
with  
prisoner.

of imprisonment imposed upon the prisoner by a court of Western Australia, including a section 25 sentence, ceases to have effect in Western Australia 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 Western Australia;
- (b) in relation to any period of imprisonment served by the prisoner in Western Australia;
- 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 Western Australia.

Informa-  
tion to be  
sent to the  
participat-  
ing State.

24. (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 him—

- (a) the order of transfer;
- (b) the warrant of, or other authority for, commitment for any sentence of imprisonment which the prisoner was, immediately before he left Western Australia, serving or liable to serve;
- (c) a report relating to the prisoner, which shall contain such information and be accompanied by such documents available in Western Australia 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, minimum terms of imprisonment, 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.

25. Where under an interstate law an order is issued for the transfer to Western Australia of a person imprisoned in a participating State and the person is brought into Western Australia pursuant to the order, then from the time the person arrives in Western Australia—

Sentence deemed in have been imposed in Western Australia.

- (a) any sentence of imprisonment imposed upon him by a court of the participating State (including 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 him; and
- (b) any direction or order given or made by a court of the participating State with respect to when that sentence shall commence shall, so far as practicable, be deemed to have been given or made,

by a corresponding court of Western Australia and, except as otherwise provided in this Act, shall be given effect to in Western Australia, and the laws of Western Australia 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.

Provisions  
relating to  
section 25  
sentences.

26. (1) Where under a law of a participating State there has been fixed by a court in respect of a section 25 sentence a minimum term of imprisonment (being a shorter term than the section 25 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 Western Australia.

(2) Where a section 25 sentence or a minimum term deemed under subsection (1) to have been fixed by a corresponding court of Western Australia—

(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 Western Australia;

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 Western Australia.

(3) Nothing in this Act operates to permit in Western Australia 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 section 25 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 section 25 sentence as if the person were—

(i) an offender convicted in a court of Western Australia; or

(ii) an offender convicted within Western Australia before a judge or magistrate of Western Australia; 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 Western Australia.

(6) A person who is subject to a section 25 sentence—

(a) shall be deemed to have served in Western Australia such period of the section 25 sentence as, up to the time of his transfer to Western Australia, he 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 Western Australia);

(b) shall be deemed to be entitled under the Prisons Act 1981 to any remission of his

sentence of imprisonment for which, up to the time of his transfer to Western Australia, he was eligible in respect of that sentence of imprisonment in the participating State (including any remission of sentence deemed by an interstate law to have been earned in a participating State), except that if the remission of sentence to which a person would otherwise be deemed to be eligible under this paragraph relates to or is conferred or calculated by reference to a period of his sentence greater than that which he has served prior to the time of his transfer to Western Australia, he shall be deemed to be entitled under the Prisons Act 1981 to such proportionate amount of that period of remission of sentence as the period of sentence served by him prior to his transfer to Western Australia bears to the period by reference to which the remission to which he would otherwise have been deemed to be eligible was calculated; and

- (c) shall be entitled, in addition to the remission to which he is deemed to be entitled under paragraph (b) of this subsection, to further remission of sentence under the Prisons Act 1981 which shall be calculated with reference to the balance of the term of his sentence remaining to be served from the time of the arrival of that person in Western Australia.

Section 25  
sentences—  
default  
imprison-  
ment.

27. (1) Where a section 25 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 superintendent of the prison in which he is imprisoned—

- (a) the term of default imprisonment shall be reduced by a period which bears to the term of default imprisonment the same propor-



tion 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 superintendent to the corresponding Minister of the participating State where the sentence, by which default imprisonment was ordered, was originally imposed.

(2) Where a section 25 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 to the term of default imprisonment the same proportion as the amount of the reduction bears to the total amount that was payable and, subject to any other sentence of imprisonment that may be imposed on him, the prisoner shall be entitled to be released on the expiry of that reduced period; or
- (b) the prisoner shall, where the obligation to pay the amount is quashed, thereupon, subject to any other sentence of imprisonment that may be imposed on him, be entitled to be released.

#### PART VI—MISCELLANEOUS.

28. The Attorney General shall, when he makes a decision in respect of a prisoner for the purposes of this Act advise that prisoner of that decision.

Notification  
to prisoners  
of certain  
decisions.

Lawful  
custody for  
transit  
through  
Western  
Australia.

29. (1) Where, in relation to a person imprisoned in a participating State, an order is made under an interstate law for the transfer of that person to another participating State and in the course of conveying the person to the participating State pursuant to the order an escort brings the person into Western Australia, then—

(a) while in Western Australia the escort is authorized to hold, take and keep custody of the person for the purpose of conveying him from Western Australia to such prison in the participating State as is specified in the order and there delivering him into the custody of the gaoler or superintendent; and

(b) any superintendent is authorized upon—

(i) the request of the escort;

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

(iii) subject to the approval of the Director,

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

(2) Where a superintendent has the charge of a person under subsection (1) (b), the superintendent is authorized, 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.

30. (1) A person in the custody of an escort pursuant to section 29 who escapes from that custody may be apprehended without warrant by the escort, any member of the police force or any other person.

Escape from custody of person being transferred.

(2) Where a person in custody pursuant to section 29—

(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 warrant under his hand—

(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.

(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 prisoner until he 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 his 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;
- (b) a prison officer or a 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.

Escape  
from  
custody—  
penalty.

31. (1) Any person who, being a person in custody under an order of transfer, escapes or attempts to escape from that custody while he is not within Western Australia or the participating State to which he was being conveyed under that order is guilty of a crime and is liable to imprisonment for a term not exceeding 3 years, to be served after the expiration of any term of imprisonment, penal servitude or detention to which he was subject at the time of his escape or attempt to escape.

(2) Without limiting the generality of section 146 of The Criminal Code, that section applies to a person—

- (a) who is in custody under an order of transfer; and
- (b) who escapes from that custody while he is not within Western Australia or the participating State to which he 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 Western Australia.

32. Any court of petty sessions 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 his being conveyed in accordance with that order, committed—

Revocation  
of order of  
transfer on  
escape from  
custody.

- (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 Western Australia or of a participating State; or
- (d) a charge has been laid or a conviction secured in respect of the offence or not.

33. Subject to the directions of the Commissioner of Police, a police officer may, upon the request of the Director or a prison officer, assist in the exercise or performance of any power or duty conferred or imposed by this Act and when so acting a police officer, in addition to the powers and duties conferred and imposed on him by or under any other law, shall have the powers and be subject to the responsibilities and shall receive the protection from liability which in like circumstances would be conferred or imposed on a prison officer.

Assistance  
by police  
officers.

Regulations.

34. The Governor may make regulations for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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