

Western Australia

Parole Orders (Transfer) Act 1984

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Parole Orders (Transfer) Act 1984

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Parole Orders (Transfer) Act 1984

An Act relating to the reciprocal enforcement of parole orders.

1. Short title

This Act may be cited as the *Parole Orders (Transfer) Act 1984*¹.

2. Commencement

The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation¹.

3. Interpretation

In this Act, unless the contrary intention appears —

“**another State**” means any State of the Commonwealth other than Western Australia;

“**corresponding law**” means a law of another State or a Territory relating to the transfer of parole orders declared by the Minister, by notice published in the *Gazette*, to be a corresponding law for the purposes of this Act;

“**designated authority**” means, in relation to another State or a Territory, the person or body with powers under the corresponding law of that State or Territory that correspond to those of the Minister under section 5;

“**judgment or order**” includes a direction, declaration, calendar or list and certificate of the Clerk of Arraignment, warrant of commitment or any other authority;

“**Parole Board**” means the Parole Board established by the *Sentence Administration Act 2003*;

“parole order” means a parole order in force under the *Sentence Administration Act 2003* or under a law of another State or a Territory relating to parole, and includes —

- (a) an authority given under a law of Western Australia or a law of another State or a Territory for the release of a person from imprisonment or lawful detention, being an authority that is to be deemed to be such a parole order such a law; and
- (b) such a parole order or authority as varied from time to time;

“Registrar” means the Registrar of Transferred Parole Orders;

“sentence of imprisonment” includes an order, direction, declaration or other authority under which a person may be lawfully detained in a prison;

“Territory” means a Territory of the Commonwealth.

[Section 3 amended by No. 129 of 1987 s. 39; No. 33 of 1988 s. 3; No 78 of 1995 s. 101; No. 50 of 2003 s. 29(3).]

4. Appointment of Registrar

There shall be a Registrar of Transferred Parole Orders who shall be appointed by the Minister.

5. Requests for registration of transferred parole orders

- (1) The Minister may, at the request in writing of the designated authority for another State or a Territory, by instrument in writing, direct the Registrar to register under this Act a parole order that was in force at the time of the request under law of that State or Territory.
- (2) The Minister may, by instrument in writing addressed to the designated authority for another State or a Territory, request that a parole order that is in force under a law of Western Australia be registered under the corresponding law of that State or Territory.

6. Documents to accompany requests

- (1) Where the Minister requests the designated authority for another State or a Territory under section 5(2) to register a parole order under the corresponding law of that State or Territory, the Minister shall cause to be sent to the designated authority —
- (a) the parole order to which the request relates together with any variations of the order;
 - (b) the judgment or order by virtue of which the person to whom the parole order relates became liable to undergo the imprisonment to which the parole order relates;
 - (c) particulars in writing of the address of that person last known to the Minister; and
 - (d) a report in writing relating to that person containing such information and accompanied by such documents as appear to be likely to be of assistance to any court, authority or officer in that other State or Territory, including all documents that were before the body making the parole order, details of convictions, sentences of imprisonment, minimum terms of imprisonment, periods of imprisonment served, class of prisoner, remissions earned and other grants of parole.
- (2) A reference in subsection (1) (other than a reference in subsection (1)(a)) to an order, judgment or other document is a reference to the original or to a copy certified as a true copy by a person purporting to be the person in whose custody the original is entrusted.

7. Registration of parole orders in a State or Territory to be in interest of parolee, etc.

- (1) The Minister shall not direct under section 5(1) the registration under this Act of a parole order in force under a law of another State or a Territory unless —
- (a) he is satisfied, on consideration of relevant information and documents forwarded to him by the designated

authority for that State or Territory, that, having regard to the interests of the person to whom the parole order relates, it is desirable that the parole order be so registered; and

- (b) either —
 - (i) that person has given his consent to, or has requested, the registration of the parole order under this Act; or
 - (ii) that person is residing in Western Australia.
- (2) The Minister shall not make a request under section 5(2) for the registration under the corresponding law of another State or a Territory of a parole order in force under a law of Western Australia unless —
 - (a) he is satisfied that, having regard to the interests of the person to whom the parole order relates, it is desirable that the parole order be so registered; and
 - (b) either —
 - (i) that person has given his consent to, or has requested, the registration of the parole order under the corresponding law of that other State or Territory; or
 - (ii) there are reasonable grounds for believing that person is residing in that State or Territory.

8. Registration

- (1) When so directed under section 5(1), the Registrar shall register a parole order under this Act by —
 - (a) endorsing on the parole order a memorandum signed by him to the effect that the parole order is, on the date of the endorsement, registered under this Act; and
 - (b) keeping the endorsed parole order in a register together with the original or copy of the judgment or order sent by the designated authority, being the judgment or order by virtue of which the person to whom the parole order

relates became liable to undergo the imprisonment to which the parole order relates.

- (2) When the Registrar has registered a parole order, he shall —
- (a) forward to the chairperson of the Parole Board one copy of the parole order, being a copy on which is written a copy of the memorandum endorsed on the parole order in accordance with subsection (1), together with one copy of the judgment or order referred to in subsection (1)(b); and
 - (b) cause notice in writing of the fact and date of the registration of the parole order to be given to the designated authority who requested the registration of the parole order, and to be served personally on the person to whom the parole order relates.

[Section 8 amended by No. 78 of 1995 s. 101.]

9. Effect of registration

- (1) Subject to this section, while a parole order (including a parole order that was, at any time, in force in Western Australia) is registered under this Act, the laws of Western Australia apply to and in relation to the parole order and the person to whom the parole order relates.
- (2) If the parole order registered under this Act was made under a law of another State or a Territory, the laws of Western Australia apply under subsection (1) as if —
- (a) each sentence of imprisonment to which the person to whom the parole order relates was subject immediately before the making of the parole order had been imposed by the appropriate court of Western Australia;
 - (b) each period of imprisonment served by that person for the purpose of each such sentence had been served for the purpose of the sentence imposed by the appropriate court of Western Australia; and

- (c) the parole order had been made and were in force under a law of Western Australia.
- (3) For the purpose of subsection (2), the appropriate court of Western Australia, in relation to a sentence of imprisonment is —
 - (a) where the sentence was imposed by a court of summary jurisdiction or by a court on appeal from such a court — the Magistrates Court; and
 - (b) in any other case — the Supreme Court.
- (4) If the parole order registered under this Act has never before been in force in Western Australia the parole period from the day of registration shall be —
 - (a) where the person was undergoing imprisonment for life when the parole order was made — such period not exceeding 5 years as the Minister thinks fit and specifies in the instrument under section 5(1);
 - (b) where the person was undergoing detention for an indeterminate period when the parole order was made — such period not exceeding 2 years as the Minister thinks fit and specifies in the instrument under section 5(1);
 - (c) in any other case, whichever is the lesser of —
 - (i) the period by which the unexpired portion of the term of imprisonment exceeds the period that has elapsed since the person was released under the parole order; or
 - (ii) 2 years.
- (5) If the parole order registered under this Act has previously been in force in Western Australia the parole period from the day of registration shall be —
 - (a) in a case referred to in subsection (4)(a) or (b) — the portion of the previous parole period that remained to be completed when the parole order ceased to be in force in Western Australia;

- (b) in any other case, whichever is the least of —
 - (i) the portion of the previous parole period that had not been completed when the parole order ceased to be in force in Western Australia;
 - (ii) the period by which the unexpired portion of the term of imprisonment exceeds the period that has elapsed since the person was released under the parole order; or
 - (iii) 2 years.
- (6) In subsection (5) **“the previous parole period”** means —
 - (a) the parole period that was applicable to the parole order under the laws of Western Australia when the parole order was previously in force in Western Australia; or
 - (b) where the parole order has previously been in force in Western Australia during 2 or more separate periods, the parole period that was applicable to the parole order during the most recent of those periods.
- (7) Where a parole order registered under this Act is cancelled by or by operation of a law of Western Australia the person to whom the parole order related shall be liable —
 - (a) where the person was undergoing imprisonment for life when the parole order was made, to resume serving the sentence which imposed that imprisonment;
 - (b) where the person was undergoing detention for an indeterminate period when the parole order was made, to be further detained at the Governor’s pleasure;
 - (c) in any other case, to serve a period of imprisonment equal to the unexpired portion of the term of imprisonment less the reduction applicable under subsection (8) and any reduction applicable under subsection (10).

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- (8) The period to be served under subsection (7)(c) shall be reduced by the period beginning on the day on which the parole order was registered under this Act and ending —
- (a) where the parole order was cancelled under section 44 of the *Sentence Administration Act 2003* — on the day on which the cancellation took effect; or
 - (b) where the parole order was cancelled by operation of section 67 of the *Sentence Administration Act 2003* —
 - (i) on the day on which the offence that brought about the cancellation occurred; or
 - (ii) where the chief executive officer under that Act cannot ascertain the day referred to in subparagraph (i), on the latest day on which the offence that brought about the cancellation could have occurred.
- (9) Where a parole order has been registered under this Act on 2 or more occasions subsection (8) refers to the most recent registration.
- (10) The period to be served under subsection (7)(c) shall, in addition to the reduction under subsection (8), be reduced by the whole of each previous period (if any) for which the parole order was in force in Western Australia.
- (11) In subsections (4)(c)(i), (5)(b)(ii) and (7)(c) **“the unexpired portion of the term of imprisonment”** means the period of imprisonment which, at the time of the release of the person under the parole order, remained to be served before the expiration of the term of imprisonment.

[Section 9 amended by No. 129 of 1987 s. 40; No. 78 of 1995 s. 100; No. 50 of 2003 s. 29(3); No. 59 of 2004 s. 141.]

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

- (1) Upon the registration under a corresponding law of a parole order that, immediately before that registration, was in force under a law of Western Australia —
 - (a) the parole order ceases to be in force in Western Australia;
 - (b) in the case of a parole order that was registered under this Act, the parole order ceases to be so registered; and
 - (c) each sentence of imprisonment to which the person to whom the parole order relates was subject immediately before the registration under the corresponding law ceases to have effect in Western Australia.
- (2) Upon the subsequent registration under this Act of a parole order in relation to which subsection (1) has, at any time, applied —
 - (a) paragraphs (a) and (c) of that subsection cease to apply in relation to the parole order; and
 - (b) subject to section 9(5)(b), the force and effect that the parole order, and each sentence of imprisonment to which the person to whom the parole order relates was subject, had under a law of Western Australia immediately before the registration under the corresponding law revive and continue while the parole order is registered under this Act.

[Section 10 amended by No. 129 of 1987 s. 41.]

10A. Exclusion of rules of natural justice

The rules known as the rules of natural justice (including any duty of procedural fairness) do not apply to or in relation to a direction, request, or decision given or made by the Minister under this Act.

[Section 10A inserted by No. 129 of 1987² s. 42.]

11. Evidence

- (1) An instrument in writing that purports to be a copy of a memorandum endorsed on a parole order on a specified date under section 8(1) and to have been signed by the Registrar is evidence that the parole order was registered under this Act on that date.
- (2) A parole order made under a law of another State or a Territory and registered under this Act may be received in evidence in any court without further proof by the production of a copy of the parole order certified as a true copy by the Registrar, and such a copy is evidence of the matters stated in the parole order.

12. Delegation

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a public service officer within the meaning of the *Public Sector Management Act 1994* any of his powers under this Act, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power by the Minister.

[Section 12 amended by No. 32 of 1994 s. 19.]

13. Regulations

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

Notes

¹ This is a compilation of the *Parole Orders (Transfer) Act 1984* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Parole Orders (Transfer) Act 1984</i>	45 of 1984	5 Sep 1984	12 Oct 1984 (see s. 2 and <i>Gazette</i> 12 Oct 1984 p. 3255)
<i>Acts Amendment (Imprisonment and Parole) Act 1987</i> ²	129 of 1987	21 Jan 1988	15 Jun 1988 (see s. 2 and <i>Gazette</i> 20 May 1988 p. 1664)
<i>Parole Orders (Transfer) Amendment Act 1988</i>	33 of 1988	24 Nov 1988	24 Nov 1988 (see s. 2)
<i>Acts Amendment (Public Sector Management) Act 1994</i> Pt. 4	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Sentencing (Consequential Provisions) Act 1995</i> Pt. 60	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
Reprint of the <i>Parole Orders (Transfer) Act 1984</i> as at 9 Aug 2002 (includes amendments listed above)			
<i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 29(3)	50 of 2003	9 Jul 2003	31 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Aug 2003 p. 3833)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)

² The *Acts Amendment (Imprisonment and Parole) Act 1987* s. 10A(2) reads as follows:

“

- (2) The doing or omission of any act, matter, or thing before the commencement of subsection (1) shall be deemed to have always been as valid and effectual as it would have been if section 10A of the *Parole Orders (Transfer) Act 1984* as enacted by subsection (1) had been in operation when the act, matter, or thing was done or omitted.

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