

Western Australia

Cross-border Justice Act 2008

## **Cross-border Justice Regulations 2009**

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## Cross-border Justice Regulations 2009

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### CONTENTS

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	<b>Part 1 — Preliminary matters</b>	
1.	Citation	1
2.	Commencement	1
	<b>Part 2 — Cross-border regions</b>	
3.	WA/SA/NT region	2
	<b>Part 3 — Modifications of other laws of State</b>	
	<b>Division 1 — Interpretation of modifications</b>	
4.	Terms used in modifications	3
	<b>Division 2 — <i>Aboriginal Affairs Planning Authority Act 1972</i> modifications</b>	
5.	Act modified	3
6.	Section 48 altered	3
	<b>Division 3 — <i>Bail Act 1982</i> modifications</b>	
7.	Act modified	3
8.	Section 3 altered	4
9.	Section 4AA inserted	6
10.	Schedule 1 Part D clause 2 altered	6
11.	Schedule 1 Part D clause 3 altered	8
	<b>Division 4 — <i>Children's Court of Western Australia Act 1988</i> modifications</b>	
12.	Act modified	8
13.	Section 10 altered	8
14.	Section 12 altered	9

	<b>Division 5 — <i>Community Protection (Offender Reporting) Act 2004</i> modifications</b>	
15.	Act modified	9
16.	Section 34 altered	9
	<b>Division 6 — <i>Criminal Investigation Act 2006</i> modifications</b>	
17.	Act modified	10
18.	Section 3 altered	10
19.	Section 27 deleted	11
20.	Sections 34 to 38 deleted	11
21.	Section 44 altered	12
22.	Section 47 altered	12
23.	Section 69 deleted	13
24.	Section 73 altered	13
25.	Section 97 altered	14
26.	Section 133 altered	15
27.	Section 135 altered	15
28.	Section 140 altered	15
	<b>Division 7 — <i>Criminal Investigation (Extra-territorial Offences) Act 1987</i> modifications</b>	
29.	Act modified	16
30.	Section 8A altered	16
	<b>Division 8 — <i>Criminal Investigation (Identifying People) Act 2002</i> modifications</b>	
31.	Act modified	17
32.	Section 3 altered	17
33.	Section 52 replaced	18
	<b>Division 9 — <i>Criminal Law (Mentally Impaired Accused) Act 1996</i> modifications</b>	
34.	Act modified	19
35.	Section 3 altered	19
36.	Section 5A inserted	21
37.	Section 5 altered	21
38.	Section 6 altered	22
39.	Section 23 altered	22
40.	Section 25 altered	23
41.	Section 26 altered	24
42.	Section 28 altered	25

43.	Section 32 replaced	26
44.	Section 35 altered	27
45.	Section 45 altered	28
46.	Section 49 altered	28
	<b>Division 10 — <i>Criminal Procedure Act 2004</i> modifications</b>	
47.	Act modified	29
48.	Section 77 altered	29
49.	Section 135 altered	29
50.	Section 172 altered	30
	<b>Division 11 — <i>Evidence Act 1906</i> modifications</b>	
51.	Act modified	30
52.	Section 121 altered	30
	<b>Division 12 — <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i> modifications</b>	
53.	Act modified	31
54.	Section 50 altered	31
55.	Section 53 altered	31
	<b>Division 13 — <i>Magistrates Court Act 2004</i> modifications</b>	
56.	Act modified	32
57.	Section 6 altered	32
58.	Schedule 1 clause 10 inserted	32
	<b>Division 14 — <i>Police Act 1892</i> modifications</b>	
59.	Act modified	34
60.	Section 36 altered	34
61.	Section 38C altered	34
	<b>Division 15 — <i>Prisoners (Interstate Transfer) Act 1983</i> modifications</b>	
62.	Act modified	34
63.	Section 5A inserted	34
64.	Section 5B inserted	35
65.	Section 7A inserted	36
	<b>Division 16 — <i>Prisons Act 1981</i> modifications</b>	
66.	Act modified	37
67.	Section 3 altered	37
68.	Section 33 altered	37

Contents

---

69.	Section 64 altered	38
70.	Section 69 altered	38
71.	Section 85 altered	38
72.	Section 86 altered	39
	<b>Division 17 — Prisons Regulations 1982 modifications</b>	
73.	Regulations modified	39
74.	Regulation 54W altered	39
	<b>Division 18 — Restraining Orders Act 1997 modifications</b>	
75.	Act modified	40
76.	Section 62E altered	40
77.	Section 62F altered	40
78.	Section 73A inserted	40
79.	Section 75 altered	41
80.	Section 76 altered	42
81.	Section 78 altered	42
82.	Section 79AA inserted	42
	<b>Division 19 — Road Traffic Act 1974 modifications</b>	
83.	Act modified	44
84.	Section 26 altered	44
85.	Section 49A altered	44
86.	Section 53 altered	44
87.	Section 56 altered	45
88.	Section 65 altered	45
89.	Section 66 altered	46
90.	Section 66B altered	46
91.	Section 66D altered	47
92.	Section 66E altered	47
93.	Section 78A altered	47
94.	Section 78C altered	48
95.	Section 80F altered	48
96.	Section 84 altered	48
97.	Section 86 altered	49
98.	Section 86A altered	49
99.	Section 102B altered	50
100.	Section 102C altered	50

<b>Division 20 — <i>Sentence Administration Act 2003</i></b>		
<b>modifications</b>		
101.	Act modified	51
102.	Section 4 altered	51
103.	Section 30 altered	51
104.	Section 55 altered	51
105.	Section 70 altered	52
106.	Section 84 altered	52
107.	Section 98AA inserted	52
<b>Division 21 — <i>Sentencing Act 1995</i></b>		
<b>modifications</b>		
108.	Act modified	53
109.	Section 14A altered	53
110.	Section 33D altered	53
111.	Section 63 altered	54
112.	Section 68A inserted	54
113.	Section 70 altered	55
114.	Section 75A inserted	56
115.	Section 83 altered	57
116.	Section 89A inserted	57
<b>Division 22 — <i>Young Offenders Act 1994</i></b>		
<b>modifications</b>		
117.	Act modified	58
118.	Section 3 altered	58
119.	Section 10 altered	60
120.	Section 11AA inserted	60
121.	Section 11A altered	60
122.	Section 17A altered	60
123.	Section 36 altered	61
124.	Section 48 altered	61
125.	Section 65A altered	61
126.	Section 65C altered	62
127.	Section 77 altered	62
128.	Section 92 altered	62
129.	Section 108 altered	63
130.	Section 136 altered	63
131.	Section 139 altered	63
132.	Section 161 altered	64
133.	Section 178 altered	64
134.	Section 194 altered	65

Contents

---

**Part 4 — Miscellaneous matters**

- |      |  |    |
|------|--|----|
| 135. | Authorised officers  | 67 |
| 136. | Custodial orders: recommendation about place of custody                | 67 |
| 137. | Reduction of fine when work performed under work and development order | 67 |

**Schedule 1 — WA/SA/NT region**

**Part A — Description of boundary line**

**Part B — Areas in respect of which police officers stationed or carry out duties**

**Notes**

- |  |                   |    |
|--|-------------------|----|
|  | Compilation table | 70 |
|--|-------------------|----|



## **Cross-border Justice Regulations 2009**

### **Part 1 — Preliminary matters**

**1. Citation**

These regulations are the *Cross-border Justice Regulations 2009*.

**2. Commencement**

These regulations come into operation as follows —

- (a) Part 3 Divisions 4 and 22 — on the day on which the *Cross-border Justice Act 2008* sections 67(b), 68(2)(b) and (e), 108, 110, 117, 119 and 137 and Part 15 Division 1 come into operation;
- (b) the rest of the regulations — on the day on which the *Cross-border Justice Act 2008* section 146 comes into operation.

## **Part 2 — Cross-border regions**

### **3. WA/SA/NT region**

- (1) The WA/SA/NT region is a cross-border region that —
  - (a) straddles the State's borders with South Australia and the Northern Territory; and
  - (b) is bounded by a line described in Schedule 1 Part A.
- (2) The map in Schedule 1 Part B is indicative of the areas in the WA/SA/NT region in respect of which police officers of participating jurisdictions may be stationed or carry out duties.

## **Part 3 — Modifications of other laws of State**

### **Division 1 — Interpretation of modifications**

#### **4. Terms used in modifications**

If a term is given a meaning in section 7 of the Act, it has the same meaning in a modification prescribed by these regulations unless the contrary intention appears in the modification.

Notes for Division 1:

1. Under section 14 of the Act, in order to give effect to the Act, a law of the State must be applied with the modifications prescribed by these regulations as if the law had been altered in that way.
2. If a modification is to replace or insert a numbered provision, the new provision is identified by the superscript 1M appearing after the provision number. If a modification is to replace or insert a definition, the new definition is identified by the superscript 1M appearing after the defined term.

### **Division 2 — *Aboriginal Affairs Planning Authority Act 1972* modifications**

#### **5. Act modified**

This Division prescribes modifications to the *Aboriginal Affairs Planning Authority Act 1972*.

#### **6. Section 48 altered**

In section 48 after “any court” insert:

(including cross-border proceedings of a prescribed court of the State)

### **Division 3 — *Bail Act 1982* modifications**

#### **7. Act modified**

This Division prescribes modifications to the *Bail Act 1982*.

**8. Section 3 altered**

- (1) In section 3(1) delete the definitions of:

*authorised police officer*

*court custody centre*

*judicial officer*

*lock-up*

- (2) In section 3(1) insert in alphabetical order:

*authorised police officer*<sup>1M</sup> means —

- (a) a police officer of the State who —

- (i) holds the rank of sergeant or a higher rank; or
- (ii) is for the time being in charge of a police station or lock-up in the State;

or

- (b) a police officer of another participating jurisdiction —

- (i) who —
- (I) holds the rank of sergeant or a higher rank; or
- (II) is for the time being in charge of a police station or lock-up in that other jurisdiction;

and

- (ii) who holds a secondary office as a police officer of the State;

*court custody centre*<sup>1M</sup> —

- (a) has the meaning given in the *Court Security and Custodial Services Act 1999* section 3; and

- (b) includes a part of court premises in another participating jurisdiction, other than the dock in a courtroom —
  - (i) that is set aside as a place where persons in custody are detained; and
  - (ii) that is not accessible to the members of the public without permission of the person in charge of the place;

**judicial officer**<sup>1M</sup> —

- (a) means any person empowered to exercise jurisdiction in a court whether or not he is sitting as a court; and
- (b) includes —
  - (i) a single justice; and
  - (ii) a magistrate of the State sitting in another participating jurisdiction; and
  - (iii) where the context so requires, the Court of Appeal exercising jurisdiction under this Act;

**justice**<sup>1M</sup>, except in section 26, includes a magistrate of the State in another participating jurisdiction;

**lock-up**<sup>1M</sup> includes —

- (a) a place prescribed as a lock-up for the purposes of the *Court Security and Custodial Services Act 1999*; and
- (b) a place in another participating jurisdiction that is a lock-up under the law of that other jurisdiction;

**place**<sup>1M</sup> includes a place in another participating jurisdiction;

**prison**<sup>1M</sup> includes a prison in another participating jurisdiction;

**9. Section 4AA inserted**

After section 4 insert:

**4AA.<sup>1M</sup> Application to accused in participating jurisdiction**

This Act applies in relation to an accused in a participating jurisdiction who has a connection with a cross-border region.

**10. Schedule 1 Part D clause 2 altered**

- (1) In Schedule 1 Part D clause 2(1a)(d) delete “institution; or” and insert:

institution (which may be in another participating jurisdiction); or

- (2) Delete Schedule 1 Part D clause 2(3a)(a) and insert:

- (a)<sup>1M</sup> that the accused be examined by a medical practitioner or authorised mental health practitioner under the *Mental Health Act 1996* for the purpose of deciding whether to make a referral under section 29 of that Act and that Act applies accordingly;
- (ba)<sup>1M</sup> that the accused be examined by a medical practitioner under the *Mental Health Act 1993* (South Australia) for the purpose of deciding whether to make an order under section 12(1) of that Act and that Act applies accordingly;
- (bb)<sup>1M</sup> that the accused be assessed by a medical practitioner, authorised psychiatric practitioner or designated mental health practitioner under the *Mental Health and Related Services Act* (Northern Territory) for the purpose of deciding whether to

make a recommendation under section 34(1) of that Act and that Act applies accordingly;

- (3) In Schedule 1 Part D clause 2(3a)(b) delete “hospital (as defined in the *Mental Health Act 1996*);” and insert:

hospital;

- (4) In Schedule 1 Part D clause 2(4) after “place” insert:

(which may be in another participating jurisdiction)

- (5) Delete Schedule 1 Part D clause 2(7) and insert:

- (7)<sup>1M</sup> In this clause, unless the contrary intention appears —

***authorised hospital***<sup>1M</sup> means —

- (a) an authorised hospital as defined in the *Mental Health Act 1996* section 3; or
- (b) an approved treatment centre as defined in the *Mental Health Act 1993* (South Australia) section 3; or
- (c) an approved treatment facility as defined in the *Mental Health and Related Services Act* (Northern Territory) section 4;

***medical practitioner***<sup>1M</sup> means —

- (a) a medical practitioner as defined in the *Medical Practitioners Act 2008* section 4; or
- (b) a medical practitioner who is registered on the general register under the *Medical Practice Act 2004* (South Australia); or
- (c) a medical practitioner who has a right of practice under the *Health Practitioners Act* (Northern Territory);

*psychiatrist*<sup>1M</sup> means —

- (a) a psychiatrist as defined in the *Mental Health Act 1996* section 3; or
- (b) a medical practitioner who is registered under the *Medical Practice Act 2004* (South Australia) as a specialist in psychiatry; or
- (c) a person who holds an appointment, or may be appointed, as an authorised psychiatric practitioner under the *Mental Health and Related Services Act* (Northern Territory) section 22.

**11. Schedule 1 Part D clause 3 altered**

In Schedule 1 Part D clause 3(3) delete paragraph (b).

**Division 4 — *Children's Court of Western Australia Act 1988* modifications**

**12. Act modified**

This Division prescribes modifications to the *Children's Court of Western Australia Act 1988*.

**13. Section 10 altered**

In section 10(5):

- (a) before “(4) and (5)” insert:

(4A),

- (b) delete “clause 9(9)) and 11” and insert:

clause 9(9)), 10 (except clause 10(7) and (8)) and 12

- (c) delete paragraph (b) and “and” after it and insert:



(b)<sup>1M</sup> each reference in those provisions to a magistrate of the Magistrates Court were a reference to a magistrate of the Children’s Court; and

**14. Section 12 altered**

After section 12(1a) insert:

(1B)<sup>1M</sup> Despite subsection (1), a cross-border magistrate appointed under the *Magistrates Court Act 2004* Schedule 1 clause 10(2) as applied by section 10(5) who is a magistrate of another participating jurisdiction may take the oath or affirmation of office in that other participating jurisdiction before a judge of the Supreme Court of that other jurisdiction.

**Division 5 — *Community Protection (Offender Reporting) Act 2004* modifications**

**15. Act modified**

This Division prescribes modifications to the *Community Protection (Offender Reporting) Act 2004*.

**16. Section 34 altered**

In section 34(1):

(a) in paragraph (a) after “station” insert:

in a participating jurisdiction that is

(b) in paragraph (b) after “place” insert:

in a participating jurisdiction that is

**Division 6 — *Criminal Investigation Act 2006* modifications**

**17. Act modified**

This Division prescribes modifications to the *Criminal Investigation Act 2006*.

**18. Section 3 altered**

(1) In section 3(1) delete the definition of *place*.

(2) In section 3(1) insert in alphabetical order:

*JP*<sup>1M</sup> includes a magistrate of the State in another participating jurisdiction;

*magistrate*<sup>1M</sup> includes a magistrate of the State in another participating jurisdiction;

*place*<sup>1M</sup> means —

(a) any land, building, structure, tent or mobile home in a participating jurisdiction; or

(b) a part of any land, building, structure, tent or mobile home in a participating jurisdiction;

(3) In section 3(1) in the definition of *mobile home* delete “vehicle —” and insert:

vehicle in a participating jurisdiction —

(4) In section 3(1) in the definition of *public open area*:

(a) in paragraph (a) after “an area” insert:

in a participating jurisdiction

(b) in paragraph (b) delete “an area of land —” and insert:

an area of land in a participating jurisdiction —

(5) In section 3(1) in the definition of **public place**:

(a) in paragraphs (a) and (b) after “a place” insert:

in a participating jurisdiction

(b) in paragraph (c) delete “education,” and insert:

education in a participating jurisdiction,

(6) In section 3(1) in the definition of **vehicle**:

(a) in paragraph (a) after “any thing” insert:

in a participating jurisdiction

(b) in paragraph (b) after “a mobile home” insert:

in a participating jurisdiction

**19. Section 27 deleted**

Delete section 27.

**20. Sections 34 to 38 deleted**

Delete sections 34 to 38.

**21. Section 44 altered**

In section 44(1) in the definition of *senior officer* delete paragraph (a) and insert:

- (a)<sup>1M</sup> in relation to a police officer of the State —
  - (i) a police officer of the State who is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; or
  - (ii) a police officer of another participating jurisdiction who —
    - (I) is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; and
    - (II) holds a secondary office as a police officer of the State;

**22. Section 47 altered**

In section 47(1) in the definition of *senior officer* delete paragraph (a) and insert:

- (a)<sup>1M</sup> in relation to a police officer of the State —
  - (i) a police officer of the State who is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; or
  - (ii) a police officer of another participating jurisdiction who —
    - (I) is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; and
    - (II) holds a secondary office as a police officer of the State;

**23. Section 69 deleted**

Delete section 69.

**24. Section 73 altered**

- (1) In section 73 delete the definitions of:

*dentist*

*doctor*

*nurse*

*qualified person*

- (2) In section 73 insert in alphabetical order:

*dentist*<sup>1M</sup> means —

- (a) an individual who is registered under the *Dental Act 1939*; or
- (b) a person who is registered as a dentist under the *Dental Practice Act 2001* (South Australia); or
- (c) a dentist or dental specialist who has a right of practice under the *Health Practitioners Act* (Northern Territory);

*doctor*<sup>1M</sup> means —

- (a) an individual who is a medical practitioner, as that term is defined in the *Medical Practitioners Act 2008* section 4; or
- (b) a medical practitioner who is registered on the general register under the *Medical Practice Act 2004* (South Australia); or
- (c) a medical practitioner who has a right of practice under the *Health Practitioners Act* (Northern Territory);

*nurse*<sup>1M</sup> means —

- (a) an individual who is registered under the *Nurses and Midwives Act 2006* Part 4; or

- (b) a registered nurse or enrolled nurse under the *Nursing and Midwifery Practice Act 2008* (South Australia); or
- (c) a registered or enrolled nurse who has right of practice under the *Health Practitioners Act* (Northern Territory);

**qualified person**<sup>1M</sup>, in relation to a forensic procedure, means —

- (a) a person in the State who is qualified under the regulations to do the procedure; or
- (b) a person in another participating jurisdiction who is authorised under the law of that other jurisdiction to do a procedure that is the same as or similar to the forensic procedure;

**25. Section 97 altered**

In section 97(1) in the definition of *senior officer* delete paragraph (a) and insert:

- (a)<sup>1M</sup> if an application is being made under this section by a police officer of the State —
  - (i) a police officer of the State who is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; or
  - (ii) a police officer of another participating jurisdiction who —
    - (I) is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; and
    - (II) holds a secondary office as a police officer of the State;

**26. Section 133 altered**

In section 133(1) in the definition of *senior officer* delete paragraph (a) and insert:

- (a)<sup>1M</sup> in relation to a police officer of the State —
  - (i) a police officer of the State who is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; or
  - (ii) a police officer of another participating jurisdiction who —
    - (I) is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; and
    - (II) holds a secondary office as a police officer of the State;

**27. Section 135 altered**

In section 135(2)(b) delete “place.” and insert:

place in a participating jurisdiction.

**28. Section 140 altered**

In section 140(1) in the definition of *senior officer* delete paragraph (a) and insert:

- (a)<sup>1M</sup> in the case of an arrested suspect who has been arrested by a police officer of the State —
  - (i) a police officer of the State who is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; or

**Cross-border Justice Regulations 2009**

**Part 3** Modifications of other laws of State

**Division 7** Criminal Investigation (Extra-territorial Offences) Act 1987  
modifications

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- (ii) a police officer of another participating jurisdiction who —
  - (I) is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; and
  - (II) holds a secondary office as a police officer of the State;

**Division 7 — *Criminal Investigation (Extra-territorial Offences) Act 1987* modifications**

**29. Act modified**

This Division prescribes modifications to the *Criminal Investigation (Extra-territorial Offences) Act 1987*.

**30. Section 8A altered**

After section 8A(9) insert:

- (10)<sup>1M</sup> To avoid doubt, a proceeding under this section in respect of a foreign offence is only a cross-border proceeding if —
  - (a) the offence is an offence under the law of another participating jurisdiction; and
  - (b) the person arrested for the offence has a connection with a cross-border region that is partly in that other jurisdiction.



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**Division 8 — *Criminal Investigation (Identifying People)*  
Act 2002 modifications**

**31. Act modified**

This Division prescribes modifications to the *Criminal Investigation (Identifying People) Act 2002*.

**32. Section 3 altered**

(1) In section 3(1) delete the definition of ***JP***.

(2) In section 3(1) insert in alphabetical order:

***JP***<sup>1M</sup> —

(a) means Justice of the Peace; and

(b) includes a magistrate of the State in another participating jurisdiction;

***magistrate***<sup>1M</sup> includes a magistrate of the State in another participating jurisdiction;

(3) In section 3(1) in the definition of ***senior officer*** delete paragraph (a) and insert:

(a)<sup>1M</sup> a police officer of the State who is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; or

(ba)<sup>1M</sup> a police officer of another participating jurisdiction who —

(i) is, or is acting as, a sergeant or an officer of a rank more senior than a sergeant; and

(ii) holds a secondary office as a police officer of the State;

or

**33. Section 52 replaced**

Delete section 52 and insert:

**52.<sup>1M</sup> Definitions**

In this Part —

**dentist**<sup>1M</sup> means —

- (a) an individual who is registered under the *Dental Act 1939*; or
- (b) a person who is registered as a dentist under the *Dental Practice Act 2001* (South Australia); or
- (c) a dentist or dental specialist who has a right of practice under the *Health Practitioners Act* (Northern Territory);

**doctor**<sup>1M</sup> means —

- (a) an individual who is a medical practitioner within the meaning of the *Medical Practitioners Act 2008*; or
- (b) a medical practitioner who is registered on the general register under the *Medical Practice Act 2004* (South Australia); or
- (c) a medical practitioner who has a right of practice under the *Health Practitioners Act* (Northern Territory);

**nurse**<sup>1M</sup> means —

- (a) an individual who is registered under the *Nurses and Midwives Act 2006* Part 4; or
- (b) a registered nurse or enrolled nurse under the *Nursing and Midwifery Practice Act 2008* (South Australia); or

- (c) a registered or enrolled nurse who has right of practice under the *Health Practitioners Act* (Northern Territory);

**qualified person**<sup>1M</sup>, in relation to an identifying procedure, means —

- (a) a person in the State who is qualified under the regulations to do the procedure; or
- (b) a person in another participating jurisdiction who is authorised under the law of that other jurisdiction to do a procedure that is the same as or similar to the identifying procedure.

**Division 9 — *Criminal Law (Mentally Impaired Accused) Act 1996* modifications**

**34. Act modified**

This Division prescribes modifications to the *Criminal Law (Mentally Impaired Accused) Act 1996*.

**35. Section 3 altered**

- (1) In section 3 delete the definitions of:

***involuntary patient***

***psychiatrist***

- (2) In section 3 insert in alphabetical order:

***authorised hospital***<sup>1M</sup> includes —

- (a) an approved treatment centre as defined in the *Mental Health Act 1993* (South Australia) section 3; and
- (b) an approved treatment facility as defined in the *Mental Health and Related Services Act* (Northern Territory) section 4;

***involuntary patient***<sup>1M</sup> —

- (a) has the same definition as in the *Mental Health Act 1996*; and
- (b) includes a person who is the subject of an order for detention in an approved treatment centre made under the *Mental Health Act 1993* (South Australia) section 12(5) or (6) or 13(1); and
- (c) includes an involuntary patient as defined in the *Mental Health and Related Services Act* (Northern Territory) section 4;

***mental health laws***<sup>1M</sup>, of a participating jurisdiction, means —

- (a) if the jurisdiction is the State — the *Mental Health Act 1996*; or
- (b) if the jurisdiction is South Australia — the *Mental Health Act 1993* (South Australia); or
- (c) if the jurisdiction is the Northern Territory — the *Mental Health and Related Services Act* (Northern Territory);

***psychiatrist***<sup>1M</sup> —

- (a) has the same definition as in the *Mental Health Act 1996*; and
- (b) except in Part 6, includes —
  - (i) a medical practitioner who is registered under the *Medical Practice Act 2004* (South Australia) as a specialist in psychiatry; and
  - (ii) a person who holds an appointment, or may be appointed, as an authorised psychiatric practitioner under the *Mental Health and Related Services Act* (Northern Territory) section 22;

**36. Section 5A inserted**

At the end of Part 1 insert:

**5A.<sup>1M</sup> Application to accused and mentally impaired  
accused in participating jurisdiction**

This Act applies in relation to an accused or mentally impaired accused in a participating jurisdiction who has a connection with a cross-border region.

**37. Section 5 altered**

Delete section 5(4) and insert:

- (4)<sup>1M</sup> Subject to this section, these things apply in relation to a hospital order —
- (a) if the order requires the accused to be examined by a psychiatrist as defined in the *Mental Health Act 1996* section 3, the order has effect as if the accused had been referred under section 29 of that Act for examination by a psychiatrist and that Act applies accordingly;
  - (b) if the order requires the accused to be examined by a psychiatrist under the law of South Australia, the order has effect as if an order under the *Mental Health Act 1993* (South Australia) section 12(1) had been made in respect of the accused and that Act applies accordingly;
  - (c) if the order requires the accused to be examined by a psychiatrist under the law of the Northern Territory, the order has effect as if a recommendation under the *Mental Health and Related Services Act* (Northern Territory)

**Cross-border Justice Regulations 2009**

**Part 3** Modifications of other laws of State

**Division 9** Criminal Law (Mentally Impaired Accused) Act 1996  
modifications

**r. 38**

---

section 34(1) had been made in respect of the accused and that Act applies accordingly.

**38. Section 6 altered**

In section 6(1) and (2) delete “the *Mental Health Act 1996*” and insert:

a participating jurisdiction’s mental health laws

Note: The heading to modified section 6 is to read:

**Relationship with mental health laws**

**39. Section 23 altered**

(1) In section 23 delete the definitions of:

*authorised hospital*

*detention centre*

*prison*

(2) In section 23 insert in alphabetical order:

*authorised hospital*<sup>1M</sup> means —

- (a) an authorised hospital as defined in the *Mental Health Act 1996* section 3; or
- (b) an approved treatment centre as defined in the *Mental Health Act 1993* (South Australia) section 3; or
- (c) an approved treatment facility as defined in the *Mental Health and Related Services Act* (Northern Territory) section 4;

*detention centre*<sup>1M</sup> means —

- (a) a detention centre as defined in the *Young Offenders Act 1994* section 3; or

- (b) a detention centre in another participating jurisdiction under its cross-border laws;

*prison*<sup>1M</sup> means —

- (a) a prison as defined in the *Prisons Act 1981* section 3(1); or
- (b) a prison in another participating jurisdiction under its cross-border laws.

- (3) In section 23 in the definition of ***declared place*** after “place” (first occurrence) insert:

in a participating jurisdiction

**40. Section 25 altered**

- (1) In section 25(1)(b) after “the place” insert:

(which may be in another participating jurisdiction)

- (2) After section 25(1) insert:

(2A)<sup>1M</sup> However, the Board cannot determine that the accused is to be detained at a place in another participating jurisdiction that is managed by or on behalf of a government department or agency of that other jurisdiction unless —

- (a) if that other jurisdiction is South Australia — the Chief Advisor in Psychiatry under the *Mental Health Act 1993* (South Australia) section 6; or
- (b) if that other jurisdiction is the Northern Territory — the CEO as defined in the *Mental*

**Cross-border Justice Regulations 2009**

**Part 3** Modifications of other laws of State

**Division 9** Criminal Law (Mentally Impaired Accused) Act 1996  
modifications

**r. 41**

---

*Health and Related Services Act* (Northern Territory) section 4,

consents to the accused being detained at that place.

(3) After section 25(2) insert:

(3A)<sup>1M</sup> However, the accused cannot be detained under subsection (2) in an authorised hospital, prison or detention centre in another participating jurisdiction that is managed by or on behalf of a government department or agency of that other jurisdiction unless —

(a) if that other jurisdiction is South Australia — the Chief Advisor in Psychiatry under the *Mental Health Act 1993* (South Australia) section 6; or

(b) if that other jurisdiction is the Northern Territory — the CEO as defined in the *Mental Health and Related Services Act* (Northern Territory) section 4,

consents to the accused being detained in that authorised hospital, prison or detention centre.

(4) In section 25(3)(a) delete “Part 3 of the *Mental Health Act 1996*,” and insert:

a participating jurisdiction’s mental health laws;

**41. Section 26 altered**

(1) In section 26 delete “The Board” and insert:



(1)<sup>IM</sup> The Board

(2) At the end of section 26 insert:

(2)<sup>IM</sup> However, the Board cannot amend its determination so that the accused is to be detained at a place in another participating jurisdiction that is managed by or on behalf of a government department or agency of that other jurisdiction unless —

- (a) if that other jurisdiction is South Australia — the Chief Advisor in Psychiatry under the *Mental Health Act 1993* (South Australia) section 6; or
- (b) if that other jurisdiction is the Northern Territory — the CEO as defined in the *Mental Health and Related Services Act* (Northern Territory) section 4,

consents to the accused being detained at that place.

**42. Section 28 altered**

(1) In section 28(4)(b) delete “a specified place;” and insert:

a specified place (which may be in another participating jurisdiction);

(2) After section 28(4) insert:

(5)<sup>IM</sup> However, the order cannot include a condition that the mentally impaired accused is to reside at a place in another participating jurisdiction that is managed by or

**Cross-border Justice Regulations 2009**

**Part 3** Modifications of other laws of State

**Division 9** Criminal Law (Mentally Impaired Accused) Act 1996  
modifications

**r. 43**

---

on behalf of a government department or agency of that other jurisdiction unless —

- (a) if that other jurisdiction is South Australia — the Chief Advisor in Psychiatry under the *Mental Health Act 1993* (South Australia) section 6; or
- (b) if that other jurisdiction is the Northern Territory — the CEO as defined in the *Mental Health and Related Services Act* (Northern Territory) section 4,

consents to the accused residing at that place.

**43. Section 32 replaced**

Delete section 32 and insert:

**32.<sup>1M</sup> Mental health and prisons laws do not apply**

- (1) In this section —  
*prisons laws*<sup>1M</sup>, of a participating jurisdiction, means —
  - (a) if the jurisdiction is the State — the *Prisons Act 1981*; or
  - (b) if the jurisdiction is South Australia — the *Correctional Services Act 1982* (South Australia); or
  - (c) if the jurisdiction is the Northern Territory — the *Prisons (Correctional Services) Act* (Northern Territory).
- (2) The provisions of a participating jurisdiction's mental health laws relating to the absence from an authorised hospital of an involuntary patient do not apply in

relation to the absence from an authorised hospital of a mentally impaired accused.

- (3) The provisions of a participating jurisdiction's prisons laws relating to the absence from a prison of a prisoner do not apply in relation to the absence from a prison of a mentally impaired accused unless the reason for the absence is —
- (a) the facilitation of the provision of medical or health services to the accused; or
  - (b) the furthering of the interests of justice.

**44. Section 35 altered**

- (1) In section 35(4)(b) delete “a specified place;” and insert:

a specified place (which may be in another participating jurisdiction);

- (2) After section 35(4) insert:

- (5A)<sup>1M</sup> However, the order cannot include a condition that the mentally impaired accused is to reside at a place in another participating jurisdiction that is managed by or on behalf of a government department or agency of that other jurisdiction unless —
- (a) if that other jurisdiction is South Australia — the Chief Advisor in Psychiatry under the *Mental Health Act 1993* (South Australia) section 6; or
  - (b) if that other jurisdiction is the Northern Territory — the CEO as defined in the *Mental Health and Related Services Act* (Northern Territory) section 4,

***Cross-border Justice Regulations 2009***

**Part 3** Modifications of other laws of State

**Division 9** Criminal Law (Mentally Impaired Accused) Act 1996  
modifications

**r. 45**

---

consents to the accused residing at that place.

**45. Section 45 altered**

- (1) In section 45(1) after “a person” insert:

in a participating jurisdiction

- (2) In section 45(3) delete “any person or a department of the Public Service or any statutory authority” and insert:

any person in, or government department or agency or statutory authority of, a participating jurisdiction

**46. Section 49 altered**

- (1) In section 49(4):

- (a) after “concerned” insert:

(whether the person concerned is in the State or another participating jurisdiction)

- (b) delete “warrant.” and insert:

warrant (which may be in another participating jurisdiction).

- (2) In section 49(5):

- (a) in paragraph (a) after “vessel” insert:

in a participating jurisdiction

- (b) in paragraph (b) after “place” insert:  
  
in a participating jurisdiction

**Division 10 — *Criminal Procedure Act 2004* modifications**

**47. Act modified**

This Division prescribes modifications to the *Criminal Procedure Act 2004*.

**48. Section 77 altered**

- (1) In section 77(1)(a) delete “charge or sentencing proceedings;” and insert:

charge;

- (2) Delete section 77(2) and insert:

- (2)<sup>1M</sup> If the accused’s appearance will be his or her first in relation to the charge, the person in charge of the accused must ensure the accused is brought before the court —
- (a) in person; or
  - (b) despite any warrant that requires the accused to be brought before the court, by means of a video link or audio link unless the court has ordered that the accused be brought before the court in person.

**49. Section 135 altered**

In section 135(2) delete “the State” and insert:

a participating jurisdiction

**50. Section 172 altered**

Delete section 172(3)(a) and insert:

- (a)<sup>1M</sup> on a prosecutor's behalf in a cross-border proceeding of a prescribed court of the State, if the prosecutor is the State or a police officer of the State acting in the course of duty, by —
- (i) a police officer of the State acting in the course of duty; or
  - (ii) a police officer of another participating jurisdiction acting in the course of duty, but only if the person who is the subject of the proceeding has a connection with a cross-border region that is partly in that other jurisdiction,
- despite the *Legal Profession Act 2008*;

**Division 11 — Evidence Act 1906 modifications**

**51. Act modified**

This Division prescribes modifications to the *Evidence Act 1906*.

**52. Section 121 altered**

- (1) Delete section 121(3) and insert:

- (3)<sup>1M</sup> If the proceeding is a cross-border proceeding of a prescribed court of the State, for the purposes of taking evidence or receiving a submission by video link or

audio link from a place in a participating jurisdiction (as defined in the *Cross-border Justice Act 2008* section 7(1)) in accordance with such a direction, the place shall be taken to be part of the court.

- (2) In section 121(4) delete “For” and insert:

If subsection (3) does not apply, for

**Division 12 — *Fines, Penalties and Infringement Notices Enforcement Act 1994* modifications**

**53. Act modified**

This Division prescribes modifications to the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

**54. Section 50 altered**

Delete section 50(1)(c) and “and” after it and insert:

- (c)<sup>IM</sup> must not leave the State except —
- (i) to go to another participating jurisdiction, but only if the offender has a connection with a cross-border region that is partly in that other jurisdiction; or
  - (ii) with the prior written permission of the supervisor of a community corrections centre;

and

**55. Section 53 altered**

After section 53(1) insert:

- (2A)<sup>1M</sup> A warrant of commitment issued under subsection (1) cannot commit an offender to prison in another participating jurisdiction.

**Division 13 — Magistrates Court Act 2004 modifications**

**56. Act modified**

This Division prescribes modifications to the *Magistrates Court Act 2004*.

**57. Section 6 altered**

After section 6(3) insert:

- (4A)<sup>1M</sup> Subsection (3) does not require a magistrate appointed under Schedule 1 clause 10(2) to obtain the Governor's approval to hold another public or judicial office or to perform another public function.

**58. Schedule 1 clause 10 inserted**

After Schedule 1 clause 9 insert:

**10.<sup>1M</sup> Cross-border magistrates**

- (1) In this clause —  
*cross-border magistrate*<sup>1M</sup> means a magistrate appointed under subclause (2);  
*magistrate*<sup>1M</sup>, of another participating jurisdiction, does not include a person who holds the office of magistrate of that other jurisdiction as a secondary office holder.
- (2) If the Governor is of the opinion that it is necessary to do so to facilitate the administration of justice in a cross-border



region, the Governor may appoint a magistrate of another participating jurisdiction to be a magistrate.

- (3) The instrument of appointment must specify —
  - (a) the period of the appointment; and
  - (b) any conditions on which the appointee holds office.
- (4) The Governor may vary any matter specified in the instrument of appointment other than the period of appointment.
- (5) The conditions of service (including remuneration as defined in clause 5(1)) of a cross-border magistrate are those that the cross-border magistrate is entitled to under the law of that other jurisdiction.
- (6) A cross-border magistrate has the same functions, protection and immunity as a magistrate.
- (7) Section 6 and clauses 4 and 12 to 16 apply (with the necessary modifications) in relation to a cross-border magistrate.
- (8) For the purpose of clause 4, a cross-border magistrate who is a magistrate of another participating jurisdiction may take the oath or affirmation of office in that other participating jurisdiction before a judge of the Supreme Court of that other jurisdiction.
- (9) A person who is a magistrate of another participating jurisdiction appointed as a cross-border magistrate ceases to be a cross-border magistrate if the person ceases to be a magistrate of that other jurisdiction.
- (10) If, at the end of the period of a cross-border magistrate's appointment, a case is pending before the magistrate —
  - (a) the cross-border magistrate must finish dealing with the case; and
  - (b) for that purpose, the appointment is taken to be extended until the cross-border magistrate has done so.

- (11) A reference in an enactment other than this Schedule to a magistrate includes a reference to a cross-border magistrate unless the contrary intention appears.

**Division 14 — *Police Act 1892* modifications**

**59. Act modified**

This Division prescribes modifications to the *Police Act 1892*.

**60. Section 36 altered**

In section 36(4)(c) delete “the State” and insert:

a participating jurisdiction

**61. Section 38C altered**

In section 38C(4)(c) delete “the State” and insert:

a participating jurisdiction

**Division 15 — *Prisoners (Interstate Transfer) Act 1983* modifications**

**62. Act modified**

This Division prescribes modifications to the *Prisoners (Interstate Transfer) Act 1983*.

**63. Section 5A inserted**

At the end of Part I insert:

**5A.<sup>1M</sup> Relationship with cross-border laws**

This Act does not apply in relation to the transfer from Western Australia to another participating jurisdiction of a person who —

- (a) is serving a sentence of imprisonment in Western Australia under a warrant of commitment issued under —
  - (i) the *Cross-border Justice Act 2008*; or
  - (ii) the *Cross-border Justice Act 2009* (South Australia); or
  - (iii) the *Cross-border Justice Act* (Northern Territory);and
- (b) has a connection with a cross-border region that is partly in that other jurisdiction.

**64. Section 5B inserted**

At the beginning of Part II insert:

**5B.<sup>1M</sup> Application of this Part to State prisoners imprisoned in another participating jurisdiction**

This Part applies in relation to a person who is serving in another participating jurisdiction a State sentence of imprisonment under a warrant of commitment issued under the *Cross-border Justice Act 2008* as if the person were a State prisoner serving a sentence of imprisonment in Western Australia.

**65. Section 7A inserted**

After section 6 insert:

**7A.<sup>1M</sup> Effect of orders under this Part on persons imprisoned under law of another participating jurisdiction**

- (1) Subsection (3) applies in relation to a person who is serving in Western Australia —
  - (a) a State sentence of imprisonment; and
  - (b) a sentence of imprisonment under a warrant of commitment issued under —
    - (i) the *Cross-border Justice Act 2009* (South Australia); or
    - (ii) the *Cross-border Justice Act* (Northern Territory).
- (2) Subsection (3) applies in relation to a person who is serving in another participating jurisdiction —
  - (a) a State sentence of imprisonment under a warrant of commitment issued under the *Cross-border Justice Act 2008*; and
  - (b) a sentence of imprisonment under the law of another participating jurisdiction.
- (3) An order of transfer issued under this Part (a ***State order*<sup>1M</sup>**) in relation to a person referred to in subsection (1) or (2) has no effect —
  - (a) to the extent that, but for this subsection, it authorises or requires the doing of an act or thing under this Act in relation to the person in the person's capacity as a person on whom a sentence of imprisonment under the law of the jurisdiction referred to in subsection (1)(b) or (2)(b) has been imposed; and

- (b) unless and until an order of transfer corresponding to the State order is in force under the interstate law of that jurisdiction.

**Division 16 — Prisons Act 1981 modifications**

**66. Act modified**

This Division prescribes modifications to the *Prisons Act 1981*.

**67. Section 3 altered**

In section 3(1) in the definition of *prisoner* after “Mercy” insert:

and includes a person who is in prison under a custodial order of a participating jurisdiction,

**68. Section 33 altered**

(1) In section 33:

(a) delete “Upon” and insert:

(1)<sup>IM</sup> Subject to subsection (2), upon

(b) delete “the State” (each occurrence) and insert:

a participating jurisdiction

(2) At the end of section 33 insert:

(2)<sup>IM</sup> Subsection (1) applies in relation to the return of a prisoner to another participating jurisdiction only if —

(a) immediately before the prisoner’s release from prison, the prisoner was serving a sentence of

imprisonment under a warrant of commitment issued under —

- (i) the *Cross-border Justice Act 2008*; or
- (ii) the *Cross-border Justice Act 2009* (South Australia); or
- (iii) the *Cross-border Justice Act* (Northern Territory);

and

- (b) the prisoner has a connection with a cross-border region that is partly in that other jurisdiction.

**69. Section 64 altered**

In section 64 delete “the State” and insert:

a participating jurisdiction

**70. Section 69 altered**

In section 69(k) delete “an order made under section 85” and insert:

a bring up order of a participating jurisdiction

**71. Section 85 altered**

In section 85(3) delete “an order has been made under this section.” and insert:

a bring up order of a participating jurisdiction has been made.

**72. Section 86 altered**

In section 86(2):

- (a) delete “an order has been made under section 85” and insert:

a bring up order of a participating jurisdiction has been made

- (b) in paragraph (a) delete “an officer; or” and insert:

an authorised officer; or

**Division 17 — *Prisons Regulations 1982* modifications**

**73. Regulations modified**

This Division prescribes modifications to the *Prisons Regulations 1982*.

**74. Regulation 54W altered**

In regulation 54W:

- (a) in paragraph (a) delete “a prison officer or officer” and insert:

an authorised officer

- (b) in paragraph (b)(i) delete “a prison officer, officer or police officer; and” and insert:

an authorised officer; and

- (c) in paragraph (b)(ii) after “matter” insert:

under the law of the State

(d) delete paragraph (c)(i) and “and” after it and insert:

- (i)<sup>1M</sup> be taken to and confined in a prison in a participating jurisdiction or be kept at a place in a participating jurisdiction in the charge of an authorised officer; and

**Division 18 — *Restraining Orders Act 1997* modifications**

**75. Act modified**

This Division prescribes modifications to the *Restraining Orders Act 1997*.

**76. Section 62E altered**

In section 62E(1) after “place” insert:

in a participating jurisdiction

**77. Section 62F altered**

In section 62F(1)(c) and (2)(a) after “place” insert:

(which may be in another participating jurisdiction)

**78. Section 73A inserted**

After section 72 insert:



**73A.<sup>1M</sup> Notification of restraining orders made in cross-border proceedings**

- (1) This section applies in relation to a restraining order made by a prescribed court of the State if —
  - (a) the order is made or varied in a cross-border proceeding for the purposes of which the person who is bound by the order has a connection with a cross-border region; and
  - (b) the person for whose benefit the order is made indicates at the time the order is made or varied that the person wants the order as made or varied to be registered in another participating jurisdiction; and
  - (c) the region is partly in that other jurisdiction.
- (2) A registrar of the court must cause a copy of the order as made or varied to be delivered to —
  - (a) if that other jurisdiction is South Australia — the Principal Registrar of the Magistrates Court of South Australia; and
  - (b) if that other jurisdiction is the Northern Territory — the Clerk of the Local Court of the Northern Territory.

**79. Section 75 altered**

- (1) In section 75(2) after “registration” insert:

made under subsection (1) or (1a)

- (2) After section 75(2) insert:

(3A)<sup>1M</sup> If a registrar of the Magistrates Court receives from a registrar of a prescribed court of another participating jurisdiction a copy of an interstate order as made or varied in a cross-border proceeding of that court, the registrar of the prescribed court is taken to have made an application for registration of the order on behalf of the person for whose benefit the order is made unless the order as made or previously varied is already registered under this Part.

**80. Section 76 altered**

Delete section 76(1)(b)(ii) and “and” after it and insert:

(ii)<sup>1M</sup> the person who applied for registration, unless that person is a registrar of the court in which the interstate order is made; and

**81. Section 78 altered**

After section 78(1) insert:

(2A)<sup>1M</sup> For the purposes of subsection (1), the registrar is taken to have received notice of the variation of a registered order that is varied in a cross-border proceeding of a prescribed court of another participating jurisdiction if the registrar receives from a registrar of the prescribed court a copy of the order as varied.

**82. Section 79AA inserted**

At the end of Part 7 insert:

**79AA.<sup>1M</sup> Enforcement of unregistered interstate orders**

- (1) In this section —  
*unregistered interstate order*<sup>1M</sup> means an interstate order that is not registered under this Part.
- (2) This section applies if a police officer reasonably believes —
  - (a) that a person in the State is a person against whom an unregistered interstate order made by a court of another participating jurisdiction is in force in that other jurisdiction; and
  - (b) that the person against whom, or for whose benefit, that unregistered interstate order is made ordinarily resides in a cross-border region that is partly in that other jurisdiction.
- (3) The police officer must as soon as practicable after forming that belief —
  - (a) make a declaration in writing stating the belief and setting out the grounds for the belief; and
  - (b) give the declaration to the Commissioner of Police.
- (4) The declaration is in force for 72 hours after it is made.
- (5) While the declaration is in force, the police officer may exercise powers in relation to the person against whom the unregistered interstate order is made as if the order were a violence restraining order.
- (6) In relation to the exercise of powers under subsection (5), Part 6 Division 3 has effect for all purposes in respect of any breach of the unregistered interstate order as if the order were a violence restraining order.

**Division 19 — Road Traffic Act 1974 modifications**

**83. Act modified**

This Division prescribes modifications to the *Road Traffic Act 1974*.

**84. Section 26 altered**

In section 26(1)(a) after “place” (each occurrence) insert:

in a participating jurisdiction

**85. Section 49A altered**

In section 49A(5) in the definition of *necessity permit* after “place” insert:

in a participating jurisdiction

**86. Section 53 altered**

After section 53(2) insert:

(3A)<sup>1M</sup> For the purposes of subsection (2), if at the time the requirement is made —

- (a) the vehicle is in a part of the State that is in a cross-border region; or
- (b) the driver ordinarily resides in a part of the State that is in a cross-border region,

the licence may be produced to the officer in charge of any police station in a participating jurisdiction.

**87. Section 56 altered**

- (1) Before section 56(1) insert:
- (1A)<sup>IM</sup> This section applies in relation to an incident that occurs in a part of the State that is in a cross-border region.
- (2) In section 56(1) and (4) delete “a police station.” and insert:
- a police station in a participating jurisdiction.

**88. Section 65 altered**

- (1) In section 65 delete the definitions of:
- medical practitioner*  
*registered nurse*
- (2) In section 65 insert in alphabetical order:
- medical practitioner*<sup>IM</sup> —
- (a) has the meaning given in the *Medical Practitioners Act 2008* section 4; and
- (b) except in sections 63(7)(a)(i) and (ii) and 64AB(8)(a)(i) and (ii), includes —
- (i) a medical practitioner who is registered on the general register under the *Medical Practice Act 2004* (South Australia); and
- (ii) a medical practitioner who has a right of practice under the *Health Practitioners Act* (Northern Territory);
- registered nurse*<sup>IM</sup> —

- (a) has the meaning given in the *Nurses and Midwives Act 2006* section 3; and
- (b) except in sections 63(7)(a)(i) and (ii) and 64AB(8)(a)(i) and (ii), includes —
  - (i) a registered nurse under the *Nursing and Midwifery Practice Act 2008* (South Australia); and
  - (ii) a registered nurse who has a right of practice under the *Health Practitioners Act* (Northern Territory);

**89. Section 66 altered**

- (1) In section 66(2) delete “a police station or some other place, and may require that person to wait at any such police station or place.” and insert:

a police station or other place in a participating jurisdiction, and may require that person to wait at the police station or place.

- (2) In section 66(9), (11) and (13) delete “a place,” and insert:

a place in a participating jurisdiction,

**90. Section 66B altered**

In section 66B(1) and (6) delete “a place,” and insert:

a place in a participating jurisdiction,

**91. Section 66D altered**

In section 66D(1) delete “a place,” and insert:

a place in a participating jurisdiction,

**92. Section 66E altered**

In section 66E(1) and (6) delete “a place,” and insert:

a place in a participating jurisdiction,

**93. Section 78A altered**

In section 78A delete the definition of *senior police officer* and insert:

*senior police officer*<sup>1M</sup> means —

- (a) a person appointed under the *Police Act 1892* Part I to be a member of the Police Force of Western Australia who is, or is acting as, an inspector or an officer of a rank more senior than an inspector; or
- (b) a police officer of another participating jurisdiction who —
  - (i) is, or is acting as, an inspector or an officer of a rank more senior than an inspector; and

- (ii) holds a secondary office as a police officer of the State;

**94. Section 78C altered**

- (1) In section 78C(1)(a) and (b) and (2)(a) and (b) after “the place” insert:

(which may be in another participating jurisdiction)

- (2) In section 78C(4):
  - (a) after “any premises” insert:

in a participating jurisdiction

- (b) in paragraph (b) after “place” insert:

(which may be in another participating jurisdiction)

**95. Section 80F altered**

In section 80F after “the place” insert:

(which may be in another participating jurisdiction)

**96. Section 84 altered**

After section 84(2) insert:

- (3A)<sup>1M</sup> For the purposes of subsection (2), if —



- (a) the bridge or culvert is in a part of the State that is in a cross-border region; and
- (b) the nearest police station is in another participating jurisdiction,

the damage or injury must be reported to the officer in charge of that police station.

**97. Section 86 altered**

Before section 86(4) insert:

(4A)<sup>1M</sup> For the purposes of subsection (3), if —

- (a) the vehicle is removed from land in a part of the State that is in a cross-border region; and
- (b) the police station nearest to the land is in another participating jurisdiction,

that police station is the police station —

- (c) to which the vehicle may be moved under subsection (3)(a)(ii); and
- (d) at which particulars must be given under subsection (3)(b).

**98. Section 86A altered**

- (1) In section 86A delete “Where” and insert:

(1)<sup>1M</sup> Where

- (2) At the end of section 86A insert:

- (2)<sup>1M</sup> For the purposes of subsection (1), if the person connected with the vehicle has a connection with a cross-border region, the vehicle may be driven or conveyed to any police station or other place in a participating jurisdiction.
- (3)<sup>1M</sup> The person connected with the vehicle is the person who —
- (a) is suspected of having committed; or
  - (b) is alleged to have committed; or
  - (c) has been found guilty of,
- an offence under the law of the State because of which the vehicle may be put into safe custody.

**99. Section 102B altered**

After section 102B(6) insert:

- (7A)<sup>1M</sup> For the purposes of subsection (6), if the statutory declaration is made by a person who ordinarily resides in a cross-border region, it may be delivered to a police station in a participating jurisdiction.

**100. Section 102C altered**

After section 102C(9) insert:

- (10)<sup>1M</sup> For the purposes of subsection (9), if the statutory declaration is made by a person who ordinarily resides in a cross-border region, it may be delivered to a police station in a participating jurisdiction.

**Division 20 — Sentence Administration Act 2003 modifications**

**101. Act modified**

This Division prescribes modifications to the *Sentence Administration Act 2003*.

**102. Section 4 altered**

In section 4(2) delete the definition of *community corrections officer* and insert:

*community corrections officer*<sup>1M</sup> means —

- (a) a person appointed as a community corrections officer under section 98, including as an honorary CCO; or
- (b) a person who holds office as a community corrections officer under section 98AA;

**103. Section 30 altered**

Delete section 30(f) and insert:

- (f)<sup>1M</sup> a requirement that the prisoner must not leave Western Australia except —
  - (i) to go to another participating jurisdiction, but only if the prisoner has a connection with a cross-border region that is partly in that other jurisdiction; or
  - (ii) with and in accordance with the written permission of the CEO;

**104. Section 55 altered**

Delete section 55(c) and insert:

- (c)<sup>1M</sup> must not leave the State except to go to another participating jurisdiction, but only if the prisoner has a connection with a cross-border region that is partly in that other jurisdiction;

**105. Section 70 altered**

In section 70(1) and (2) after “custody” insert:

in a participating jurisdiction

**106. Section 84 altered**

In section 84(1) after “any place” insert:

in a participating jurisdiction

**107. Section 98AA inserted**

After section 98 insert:

**98AA.<sup>1M</sup> Ex officio community corrections officers**

(1) In subsection (2) —

*community corrections officer*<sup>1M</sup>, of another participating jurisdiction, means —

- (a) if the jurisdiction is South Australia — a community corrections officer as defined in the *Correctional Services Act 1982* (South Australia) section 4(1); or
- (b) if the jurisdiction is the Northern Territory —

- (i) a parole officer as defined in the *Parole of Prisoners Act* (Northern Territory) section 3(1); or
  - (ii) a supervising officer or surveillance officer as respectively defined in the *Prisons (Correctional Services) Act* (Northern Territory) section 5.
- (2) A community corrections officer of another participating jurisdiction holds office as a community corrections officer for the purposes of this Act, the *Sentencing Act 1995* and the *Bail Act 1982*.

### **Division 21 — *Sentencing Act 1995* modifications**

**108. Act modified**

This Division prescribes modifications to the *Sentencing Act 1995*.

**109. Section 14A altered**

In section 14A(1) delete “this State.” and insert:

a participating jurisdiction.

**110. Section 33D altered**

Delete section 33D(c) and “and” after it and insert:

- (c)<sup>1M</sup> must not leave Western Australia except —
  - (i) to go to another participating jurisdiction, but only if the offender has a connection with a cross-border region that is partly in that other jurisdiction; or

- (ii) with, and in accordance with, the permission of a speciality court or the CEO (corrections);

and

**111. Section 63 altered**

Delete section 63(c) and “and” after it and insert:

- (c)<sup>1M</sup> must not leave Western Australia except —
    - (i) to go to another participating jurisdiction, but only if the offender has a connection with a cross-border region that is partly in that other jurisdiction; or
    - (ii) with, and in accordance with, the permission of the CEO (corrections);
- and

**112. Section 68A inserted**

At the end of Part 9 insert:

**68A.<sup>1M</sup> Hours of work under non-custodial orders made in cross-border proceedings**

- (1) This section applies if an offender —
  - (a) is convicted of one or more offences in a cross-border proceeding of a prescribed court of the State; and
  - (b) the court makes a non-custodial order for one or more of those offences under which the offender is required to do work.

- (2) If, at the time of conviction, the offender is doing or yet to do work under one or more non-custodial orders of another participating jurisdiction (the *interstate orders*<sup>1M</sup>), the hours of work done under the interstate orders count as hours of work done under each of the non-custodial orders referred to in subsection (1)(b) (the *State orders*<sup>1M</sup>) unless the court specifies differently under subsection (3).
- (3) The court may specify the number of hours of work to be done under one or more of the State orders that are additional to any hours the offender has to do under the interstate orders.
- (4) For the purposes of subsection (3), an offender cannot do the additional hours of work under a State order until the offender has done the hours of work under the interstate orders or the interstate orders have ceased to be in force, whichever is earlier.
- (5) To avoid doubt, section 67(5) applies in relation to work done under non-custodial orders of the State and does not apply in relation to work done under non-custodial orders of another participating jurisdiction.

**113. Section 70 altered**

Delete section 70(c) and “and” after it and insert:

- (c)<sup>1M</sup> must not leave Western Australia except —
- (i) to go to another participating jurisdiction, but only if the offender has a connection with a cross-border region that is partly in that other jurisdiction; or
  - (ii) with, and in accordance with, the permission of the CEO (corrections);

and

**114. Section 75A inserted**

After section 74 insert:

**75A.<sup>1M</sup> Hours of work under non-custodial orders made in cross-border proceedings**

- (1) This section applies if an offender —
  - (a) is convicted of one or more offences in a cross-border proceeding of a prescribed court of the State; and
  - (b) the court makes a non-custodial order for one or more of those offences under which the offender is required to do work.
- (2) If, at the time of conviction, the offender is doing or yet to do work under one or more non-custodial orders of another participating jurisdiction (the *interstate orders*<sup>1M</sup>), the hours of work done under the interstate orders count as hours of work done under each of the non-custodial orders referred to in subsection (1)(b) (the *State orders*<sup>1M</sup>) unless the court specifies differently under subsection (3).
- (3) The court may specify the number of hours of work to be done under one or more of the State orders that are additional to any hours the offender has to do under the interstate orders.
- (4) For the purposes of subsection (3), an offender cannot do the additional hours of work under a State order until the offender has done the hours of work under the interstate orders or the interstate orders have ceased to be in force, whichever is earlier.



- (5) To avoid doubt, section 74(5) applies in relation to work done under non-custodial orders of the State and does not apply in relation to work done under non-custodial orders of another participating jurisdiction.

**115. Section 83 altered**

Delete section 83(1)(c) and “and” after it and insert:

- (c)<sup>1M</sup> must not leave Western Australia except —
- (i) to go to another participating jurisdiction, but only if the offender has a connection with a cross-border region that is partly in that other jurisdiction; or
  - (ii) with, and in accordance with, the permission of a speciality court or the CEO (corrections);
- and

**116. Section 89A inserted**

After section 88 insert:

**89A.<sup>1M</sup> Commencement of sentences imposed in cross-border proceedings**

- (1) This section applies if an offender —
- (a) is convicted of one or more offences in a cross-border proceeding of a prescribed court of the State; and
  - (b) is sentenced to imprisonment for one or more of those offences.

- (2) If, at the time of conviction, the offender is serving or yet to serve one or more sentences of imprisonment under the law of another participating jurisdiction (the *interstate sentences*<sup>1M</sup>), each of the sentences referred to in subsection (1)(b) (the *State sentences*<sup>1M</sup>) is to be served concurrently with the interstate sentences unless the court specifies differently under subsection (3).
- (3) The court may specify when one or more of the State sentences commences.
- (4) For the purposes of subsection (3) —
  - (a) none of the State sentences can commence later than the end of the last interstate sentence to end; and
  - (b) if a non-parole period applies in respect of any of the interstate sentences — the first State sentence to commence after the end of the non-parole period must commence immediately after the end of that period.

**Division 22 — *Young Offenders Act 1994* modifications**

**117. Act modified**

This Division prescribes modifications to the *Young Offenders Act 1994*.

**118. Section 3 altered**

- (1) In section 3 delete the definitions of:  
*Aboriginal community*  
*detainee*
- (2) In section 3 insert in alphabetical order:

***Aboriginal community***<sup>1M</sup> —

- (a) has the meaning given in the *Aboriginal Communities Act 1979* section 3; and
- (b) includes an Aboriginal community as defined in the *Aboriginal Lands Trust Act 1966* (South Australia) section 21(9); and
- (c) includes an Aboriginal community in —
  - (i) an area covered by paragraph (a) of the definition of ***Aboriginal land*** in the *Aboriginal Land Rights (Northern Territory) Act 1976* (Commonwealth) section 3(1); or
  - (ii) land granted to an association under the *Lands Acquisition Act* (Northern Territory) section 46(1A), including that land as held by a successor to an association;

***detainee***<sup>1M</sup> —

- (a) means a person who is detained in a detention centre; and
- (b) includes a person who is in custody in a detention centre under a custodial order of a participating jurisdiction;

***juvenile justice officer***<sup>1M</sup> means —

- (a) an officer of the Department whose duties include the supervision of offenders in the community under this Act; or
- (b) a person who holds office as a juvenile justice officer under section 11AA;

**119. Section 10 altered**

In section 10 delete “Department,” and insert:

Department or a person who holds office under section 11AA,

**120. Section 11AA inserted**

After section 11 insert:

**11AA.<sup>1M</sup> Ex officio juvenile justice officers**

The following persons hold office as juvenile justice officers for the purposes of this Act —

- (a) public sector employees of South Australia whose duties include the supervision of offenders in the community under the *Young Offenders Act 1993* (South Australia);
- (b) public sector employees of the Northern Territory whose duties include the supervision of offenders in the community under the *Youth Justice Act* (Northern Territory).

**121. Section 11A altered**

In section 11A delete “section 11 — ” and insert:

section 11 and every person who holds office under section 11AA —

**122. Section 17A altered**

In section 17A delete the definition of *the council* and insert:

*the council*<sup>1M</sup>, of an Aboriginal community —

- (a) means the council of management or other governing body of the community; and
- (b) if the community is in the Northern Territory, includes the council for the local government area under the *Local Government Act* (Northern Territory) in which the community is located.

**123. Section 36 altered**

- (1) In section 36(1) delete “an officer of the Department” and insert:

a juvenile justice officer

- (2) After section 36(2) insert:

- (3)<sup>1M</sup> The chief executive may appoint any other person in a participating jurisdiction to be a Juvenile Justice Team Coordinator on a paid or honorary basis, and may revoke any such appointment.

**124. Section 48 altered**

In section 48(3) after “Department” insert:

or a person who holds office under section 11AA

**125. Section 65A altered**

In section 65A(4) delete “The chief executive officer or another officer of the Department” and insert:

The chief executive officer, another officer of the Department or a person who holds office under section 11AA

**126. Section 65C altered**

In section 65C(4) after “imprisonment” insert:

under the law of a participating jurisdiction

**127. Section 77 altered**

In section 77:

(a) delete “an officer of the Department” and insert:

a juvenile justice officer

(b) delete “another officer of the Department” and insert:

another juvenile justice officer

**128. Section 92 altered**

In section 92 delete “an officer of the Department,” and insert:

a juvenile justice officer,

Note: The heading to modified section 92 is to read:

**Offender to attend before juvenile justice officer**

**129. Section 108 altered**

In section 108:

(a) delete “an officer of the Department” and insert:

a juvenile justice officer

(b) delete “another officer of the Department” and insert:

another juvenile justice officer

**130. Section 136 altered**

In section 136(a) delete “an officer of the Department;” and insert:

a juvenile justice officer;

**131. Section 139 altered**

In section 139:

(a) delete “an officer of the Department” and insert:

a juvenile justice officer

(b) delete “another officer of the Department” and insert:

another juvenile justice officer

**132. Section 161 altered**

After section 161(1) insert:

- (2A)<sup>1M</sup> If the matter involves a person who has a connection with a cross-border region, that person or a responsible adult may attend before the Board by video link if the person or responsible adult is in —
- (a) a part of the State that is in the region; or
  - (b) another participating jurisdiction in which part of the region is included.

**133. Section 178 altered**

(1) Before section 178(1) insert:

- (1A)<sup>1M</sup> In this section —
- prisons laws***<sup>1M</sup>, of a participating jurisdiction, means —
- (a) if the jurisdiction is the State — the *Prisons Act 1981*; or
  - (b) if the jurisdiction is South Australia — the *Correctional Services Act 1982* (South Australia); or
  - (c) if the jurisdiction is the Northern Territory — the *Prisons (Correctional Services) Act* (Northern Territory).
- (1B)<sup>1M</sup> This section applies in relation to an offender in a detention centre in a participating jurisdiction who has a connection with a cross-border region.

(2) In section 178(1) after “centre” and insert:



in a participating jurisdiction

- (3) In section 178(3) delete “under the *Prisons Act 1981*” and insert:

in a participating jurisdiction

- (4) After section 178(4) insert:

(5A)<sup>1M</sup> A direction under subsection (3) that the offender be transferred to a prison in another participating jurisdiction can only be made if the offender has a connection with a cross-border region that is partly in that other jurisdiction.

- (5) In section 178(5) delete paragraph (a) and “and” after it and insert:

(a)<sup>1M</sup> while the offender is in a prison in a participating jurisdiction, the prisons laws of the jurisdiction apply to and in respect of the offender; and

**134. Section 194 altered**

- (1) In section 194 delete “A person” and insert:

(1)<sup>1M</sup> A person

- (2) At the end of section 194 insert:

***Cross-border Justice Regulations 2009***

**Part 3** Modifications of other laws of State

**Division 22** Young Offenders Act 1994 modifications

**r. 134**

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- (2)<sup>1M</sup> A person, not being an office holder under section 11AA, who takes the name, designation, or description of such an office holder or otherwise pretends to be such an office holder commits an offence.

## Part 4 — Miscellaneous matters

### 135. Authorised officers

For the definition of *authorised officer* in section 7(1) of the Act, an office holder of a participating jurisdiction is an authorised officer for the purpose of carrying out a custodial order if the office holder is authorised under the law of the jurisdiction to carry out in that jurisdiction an order or other authority made or otherwise given under that law that is to the same or similar effect as the custodial order.

### 136. Custodial orders: recommendation about place of custody

A judicial officer or registrar who issues —

- (a) a warrant of commitment under section 99 of the Act; or
- (b) a remand warrant under section 101 of the Act,

may note on the warrant any recommendation about the place at which the person who is the subject of the warrant should be kept in custody under the warrant.

### 137. Reduction of fine when work performed under work and development order

For section 130(2)(c)(iii) of the Act, the amount by which a fine is reduced because an offender has satisfactorily performed all or some of the required hours of a work and development order made under the Fines Enforcement Act section 48 must be calculated in accordance with the *Fines, Penalties and Infringement Notices Enforcement Regulations 1994* regulation 6B.

## Schedule 1 — WA/SA/NT region

[r. 3]

### Part A — Description of boundary line

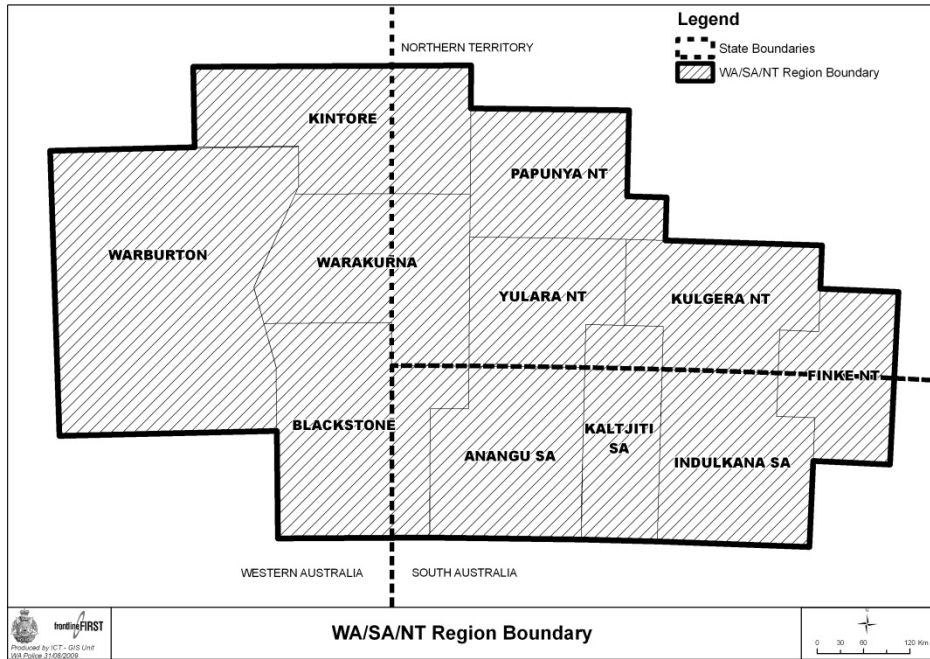
The WA/SA/NT region is bounded by a line starting at point 1 in the sequence specified in the Table then, initially in an easterly direction, along a straight line between each of the points in the sequence to point 18 then in a straight line to point 1.

**Table**

Point no.	Longitude (E)	Latitude (S)
1	124°40'9.726"	-23°26'26.696"
2	126°29'59.085"	-23°26'50.559"
3	126°30'2.638"	-22°30'0.724"
4	129°59'43.09"	-22°29'59.842"
5	130°0'0.315"	-22°59'58.596"
6	131°59'59.524"	-22°59'59.741"
7	132°0'3.867"	-24°0'0.641"
8	132°29'45.2"	-24°0'5.62"
9	132°30'4.694"	-24°29'40.966"
10	134°30'1.249"	-24°30'0.759"
11	134°30'4.258"	-25°0'5.185"
12	135°30'0.12"	-25°0'1.22"
13	135°30'7.027"	-26°59'43.989"
14	134°30'13.305"	-27°0'11.385"
15	134°30'51.407"	-28°0'11.092"
16	127°30'0.049"	-28°0'0.49"
17	127°30'3.326"	-26°45'5.594"
18	124°39'56.52"	-26°44'1.484"

Note: Coordinate references are to Geocentric Datum of Australia 1994 (GDA94) coordinates.

**Part B — Areas in respect of which police officers stationed or carry out duties**



**Notes**

<sup>1</sup> This is a compilation of the *Cross-border Justice Regulations 2009*. The following table contains information about those regulations.

**Compilation table**

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<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Cross-border Justice Regulations 2009</i>	28 Oct 2009 p. 4225-302	Pt. 1-2, Pt. 3 Div. 1-3 and 5-21 and Pt. 4: 1 Nov 2009 (see r. 2(b) and <i>Gazette</i> 9 Oct 2009 p. 3991) Pt. 3 Div. 4 and 22: 1 Dec 2009 (see r. 2(a) and <i>Gazette</i> 9 Oct 2009 p. 3991)

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