

**PRISONERS (INTERSTATE TRANSFER) ACT 1982—
REGULATION**

(Prisoners (Interstate Transfer) Regulation 1994)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Prisoners (Interstate Transfer) Act 1982, has been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD, M.L.C.,
Minister for Justice.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Prisoners (Interstate Transfer) Regulation 1994.

Definitions

2. (1) In this Regulation:

“**additional term**” means an additional term set under Part 2 of the Sentencing Act 1989;

“**Commissioner**” means the Commissioner of Corrective Services;

“**Deputy Commissioner**” means a Deputy Commissioner of Corrective Services;

“**fixed term**” means a fixed term set under Part 2 of the Sentencing Act 1989;

“**minimum term**” means a minimum term set under Part 2 of the Sentencing Act 1989;

“Offenders Review Board” means the Offenders Review Board constituted by the Sentencing Act 1989;

“the Act” means the Prisoners (Interstate Transfer) Act 1982.

(2) In this Regulation, a reference to a form is a reference to a form set out in Schedule 1.

(3) A form containing any directions for its completion is to be completed in accordance with those directions.

PART 2—TRANSFER FOR PRISONER’S WELFARE

Request for transfer to a participating State: sec. 7

3. (1) For the purposes of section 7 of the Act, a written request to the Minister by a prisoner for transfer to a participating State (in this Part referred to as a **“prisoner’s request”**) is to be in or to the effect of Form 1.

(2) A prisoner’s request must be signed by the prisoner and must be forwarded through the gaoler of the prison where the prisoner is detained.

(3) A gaoler who receives a prisoner’s request must:

- (a) prepare and attach to the request a statement of convictions and sentences in respect of which the prisoner is currently detained in custody, setting out any minimum and additional terms or fixed term to which the prisoner has been sentenced and the current estimated date on which the prisoner will be eligible for release from prison or on parole; and
- (b) prepare and attach to the request a comprehensive report on the prisoner’s conduct and behaviour while in prison; and
- (c) forward a copy of the request to a parole officer and ask that officer to prepare and forward to the Commissioner:
 - (i) a detailed report on the request; and
 - (ii) an expression of opinion as to whether or not the transfer of the prisoner to the participating State would be in the interests of the welfare of the prisoner; and
- (d) forward the request to the Commissioner for consideration by the Minister.

Statements in support of prisoner’s request

4. A prisoner’s request must include statements as to:

- (a) family or near family support in the participating State, including the availability of accommodation on the prisoner’s release from prison; and

- (b) family or other social circumstances that may benefit the welfare of the prisoner either during imprisonment or following release from prison; and
- (c) medical reasons (if any) in support of the request; and
- (d) prospects of employment following release from prison; and
- (e) any other matters which the prisoner wishes to put forward in support of the request.

Consideration of requests

5. (1) For the purposes of the Minister's consideration of a prisoner's request, the Commissioner may (or, if the Minister so requests, must) supply to the Minister such medical, psychiatric or psychological reports or assessments in respect of the prisoner as are or may be made available to the Commissioner.

(2) There must be included in any report or assessment in respect of a prisoner furnished or caused to be furnished for the information of the Minister under this clause any further information available to the person or authority furnishing the report or assessment, or causing the same to be furnished, which may be of assistance to the Minister in considering the prisoner's request.

(3) Without affecting the Minister's powers to form an opinion or exercise a discretion under Part 2 of the Act, the Minister, in considering a prisoner's request, may have regard to the following matters:

- (a)** whether the statutory period during which an appeal against the prisoner's conviction or sentence may be made has expired;
- (b)** whether any appeal against the prisoner's conviction or sentence has been finally dealt with;
- (c)** whether, so far as the Minister is aware, every complaint or information alleging an offence by the prisoner against the law of New South Wales or the Commonwealth, or of any other State or of a Territory of Australia, has been finally dealt with;
- (d)** whether a petition for an inquiry, or an inquiry, under the laws of New South Wales into the prisoner's conviction or sentence is pending;
- (e)** the term of imprisonment remaining to be served by the prisoner compared with the estimated period for dealing with the request and issuing and executing an order of transfer.

Repeated requests for transfer

6. Without affecting the Minister's power to exercise a discretion under section 9 of the Act, the Minister may refuse to entertain a request for transfer made by a prisoner within one year of a similar request if there has not, in the Minister's opinion, been a substantial change in the circumstances which are likely to benefit the prisoner's welfare.

Request to corresponding Minister to accept transfer of prisoner

7. Where:

- (a) following consideration of a written request by a prisoner for transfer to a participating State, the Minister is of the opinion that the prisoner should be transferred in the interests of the welfare of the prisoner; and
- (b) the Minister makes a written request to the corresponding Minister of the participating State to accept the transfer of the prisoner, that written request must be accompanied by a copy of:
 - (c) the prisoner's written request for transfer; and
 - (d) the reports, assessments and other information referred to in clauses 3 and 5 in relation to the prisoner; and
 - (e) a statement setting out the matters on which the Minister's opinion is based.

Order of transfer: sec. 8

8. Where the Minister has received from a corresponding Minister of a participating State written notice of the corresponding Minister's consent to the transfer of a prisoner to that participating State as referred to in section 8 of the Act, the order of transfer which may be issued by the Minister is to be in or to the effect of Form 2.

Request for transfer to New South Wales

9. Where the Minister receives a written request referred to in section 10 of the Act from a corresponding Minister of a participating State asking the Minister to accept the transfer of an imprisoned person to New South Wales, the Minister may, prior to considering the matter, request:

- (a) the Offenders Review Board; and
- (b) the New South Wales Probation Service; and
- (c) the Commissioner; and
- (d) the Commissioner of Police,

to furnish reports on the merits or otherwise of the request for the transfer of the prisoner.

PART 3—TRANSFER FOR TRIAL**Request by Attorney General of a participating State for transfer of a prisoner**

10. (1) Where the Attorney General receives from the Attorney General of a participating State a written request referred to in section 12 (1) (a) of the Act for the transfer of a prisoner to that participating State for the purpose of being dealt with according to law, the Attorney General, prior to considering the request, may:

- (a) through the Minister, inform the prisoner of the substance of the request and seek the prisoner's comments in writing; and
- (b) obtain from the Minister a report relating to the prisoner, being a report in the same terms as a report which would be required to be sent in respect of the prisoner under section 26 (1) (c) of the Act if the prisoner were conveyed to the participating State.

(2) Any comments the prisoner desires to make must be made within 14 days of receipt by the prisoner of the advice of the substance of the request and must be forwarded to the Minister for reference to the Attorney General.

Request by prisoner for transfer to a participating State: sec. 12

11. (1) For the purposes of section 12 (1) (b) of the Act, a written request made by a prisoner to the Minister for the transfer of the prisoner to a participating State to be dealt with according to law is to be in or to the effect of Form 3.

(2) Where the Minister refers to the Attorney General a written request made by a prisoner for the transfer of the prisoner to a participating State to be dealt with according to law, the Minister must, at the same time, send to the Attorney General a report relating to the prisoner, being a report in the same term as a report which would be required to be sent in respect of the prisoner under section 26 (1) (c) of the Act if the prisoner were conveyed to the participating State.

(3) If the Attorney General consents to a prisoner's written request for transfer to a participating State to be dealt with according to law, the Attorney General must refer to the Attorney General of the participating State, with the written notice of the consent, the report referred to in subclause (2), together with the prisoner's written request for the transfer.

Certification of consent or request: sec. 13

12. (1) A certificate referred to in section 13 (2) of the Act in relation to a consent or request required under section 13 (1) of the Act is to be in or to the effect of Form 4.

(2) The prescribed officer for the purpose of signing a certificate referred to in section 13 (2) of the Act is the Director-General of the Attorney General's Department.

(3) On the signing of a certificate under section 13 (2) of the Act, it must be forwarded to the Commissioner for the purpose of making an application to a Local Court for the issue of an order of transfer.

Application to a court for issue of order of transfer: sec. 14

13. (1) An application to a Local Court under section 14 (1) of the Act for the issue of an order of transfer:

- (a) may be made by, or on behalf of, the Commissioner; and
- (b) is to be in or to the effect of Form 5; and
- (c) must be lodged in quadruplicate.

(2) Where, as a result of an application referred to in subclause (1), a court makes an order under section 14 (1) of the Act in relation to a prisoner, a copy of the application and notice of the order, together with a notice of hearing of the application, must be served, by or on behalf of the applicant, on:

- (a) the prisoner personally; and
- (b) the Attorney General.

Order to bring prisoner before court: secs. 14, 16

14. An order under section 14 (1) or 16 (2) of the Act, directing the gaoler of the prison where a prisoner is imprisoned to bring the prisoner before a court, is to be in or to the effect of Form 6.

Order of transfer: secs. 15, 16

15. (1) An order of transfer issued by a Local Court pursuant to section 15 (a) of the Act is to be in or to the effect of Form 7.

(2) An order of transfer issued by the Supreme Court pursuant to section 16 (6) of the Act is to be in or to the effect of Form 8.

Request for transfer to New South Wales by imprisoned person: sec. 19

16. Where the Attorney General has received from the Attorney General of a participating State, pursuant to section 19 of the Act, a notice in writing that the Attorney General of the participating State has consented to a request made by a person imprisoned in the participating State to be transferred to New South Wales to enable the person to be dealt with according to law, the Attorney General may, before considering the matter, obtain a report from the Commissioner of Police on the request.

PART 4—TRANSFER BACK TO ORIGINAL STATE**Return of person to participating State: sec. 20**

17. For the purposes of section 20 of the Act, an order of transfer returning a person to a participating State is to be in or to the effect of Form 9.

Inquiries before issue of order of transfer

18. Before issuing an order for the transfer of a person in accordance with the provisions of Part 4 of the Act, the Minister may inquire of

- (a) the person; and
- (b) the Commissioner of Police,

whether or not, as far as is known, every complaint or information alleging any offence by the person against the law of New South Wales or the Commonwealth has been finally dealt with according to law.

Request to serve imprisonment in New South Wales

19. (1) Where a person who is liable to be transferred to a participating State pursuant to an order of transfer which may be issued under section 20 of the Act makes a written request to the Minister to serve imprisonment in New South Wales, the request must:

- (a) be signed by the person; and
- (b) set out the grounds in support of the request; and
- (c) be forwarded through the gaoler of the prison where the person is detained.

(2) The provisions of clause 3 (3) apply to and in respect of a request referred to in subclause (1) in the same way as those provisions apply to and in respect of a prisoner's request to which clause 3 applies.

(3) The provisions of clause 5 (1)–(3) apply to and in respect of a request referred to in subclause (1) in the same way as those provisions apply to and in respect of a prisoner’s request to which clause 5 applies.

(4) If the Minister agrees to a person’s request referred to in subclause (1), the Minister must:

- (a) give written notice of the decision to the corresponding Minister of the participating State; and
- (b) enclose with the notice copies of the reports, information, documents and details which the Minister had regard to in considering the request; and
- (c) seek the advice of the corresponding Minister as to whether or not that Minister agrees to the person’s imprisonment being served in New South Wales.

Order following agreement under section 23 (1) (a)

20. If, on a person making a request referred to in section 23 (1) (a) of the Act, the Minister and the corresponding Minister of the participating State agree that it is in the interests of the welfare of the person that the person’s imprisonment should be served in New South Wales, the Minister must issue an order of imprisonment in or to the effect of Form 10.

Inquiries concerning persons liable to be transferred to New South Wales

21. The Minister in deciding whether or not to agree to a person imprisoned in a participating State serving imprisonment in that participating State (in pursuance of a request made under the provision of an interstate law that corresponds to section 23 (1) (a) of the Act), may inquire of the Commissioner of Police whether or not, as far as is known, every complaint or information alleging any offence by that person against the law of New South Wales or the Commonwealth has been finally dealt with according to law.

PART 5—MISCELLANEOUS

Escort arrangements

22. (1) Unless there is an agreement to the contrary between:

- (a) if the request is for the transfer of a State prisoner to a participating State—the Minister and the corresponding Minister of the participating State; or

- (b) if the request is for the transfer of a State prisoner to a Territory or for the transfer of a joint prisoner to a participating State or Territory—the Minister and the Attorney—General of the Commonwealth,

the cost of and responsibility for transferring a prisoner of a kind described in Column 1 of the Table to this clause from New South Wales pursuant to an order of transfer of a kind so described in relation to the prisoner is to be borne by the State or the Commonwealth as is specified in Column 2 of the Table opposite the description.

(2) In the Table to this clause, a reference to a sentence includes a reference to concurrent or cumulative sentences.

TABLE

Column 1	Column 2
Order for transfer of a State prisoner to a participating State or Territory for prisoner's welfare (Section 7 (2) of the Act)	New South Wales
Order for transfer to a participating State or Territory for welfare or trial of:	
(a) joint prisoner serving State and Commonwealth sentences for the same period;	Commonwealth
(b) joint prisoner serving longer Commonwealth sentence than State sentence; or	Commonwealth
(c) joint prisoner serving longer State sentence than Commonwealth sentence. (Section 7 (4) or (5). 15 or 16 of the Act)	Participating State
Order for transfer of a State prisoner to a participating State or Territory to be dealt with according to law of Commonwealth (Section 12 of the Act)	Commonwealth

Order for transfer of a State prisoner to a Participating State
participating State or Territory for
prisoner's trial
(Section 15 or 16 (6) of the Act)

Order for transfer to return prisoner to a New South Wales
participating State or Territory after
being dealt with according to law
(Section 20 of the Act)

Information relating to prisoner to be sent to participating State: sec. 26

23. Where a copy of an order of transfer or other document is to be sent, pursuant to section 26 (1) of the Act, to the corresponding Minister of a participating State, or to some person for the time being designated by the corresponding Minister, the copy must be certified by the Commissioner, a Deputy Commissioner or by the Assistant Commissioner, Operations, in the Department of Corrective Services.

Information relating to a person received from a participating State

24. Where:

- (a) under an interstate law, an order is issued for the transfer to New South Wales of a person imprisoned in a participating State; and
- (b) the person is brought into New South Wales pursuant to the order, the order and other documents (or copies of them) sent by the corresponding Minister to the Minister or other person for the time being designated by the Minister must, after completion of any action required in relation to them:
 - (c) be forwarded to the gaoler of the prison where the person is detained; and
 - (d) be retained with the person's warrant papers.

Lawful custody for transit through New South Wales

25. Where, pursuant to section 31 of the Act, a gaoler receives a person who is the subject of an order of transfer from one participating State to another participating State and detains that person in custody, the gaoler must endorse on the copy of the order of transfer delivered to the gaoler by the escort:

- (a) the time and date of the receipt of that person into custody; and
- (b) the time and date of the delivery of that person to the custody of the escort.

Return of person in transit to original State: sec. 32

26. (1) For the purposes of section 32 (2) of the Act, a warrant ordering a person to be returned to the participating State in which the order of transfer was issued is to be in or to the effect of Form 11.

(2) A warrant referred to in subclause (1) must direct that the person who is the subject of the warrant be returned to the prison in the participating State from which the person was transferred pursuant to the order of transfer.

Revocation of order of transfer: sec. 34

27. (1) For the purposes of section 34 of the Act, an application to a Local Court to revoke an order of transfer is to be in or to the effect of Form 12.

(2) An application referred to in subclause (1) may be made by the Commissioner, a Deputy Commissioner or by the Assistant Commissioner, Operations, in the Department of Corrective Services.

Procedure relating to property on transfer of prisoner

28. (1) Where a prisoner is about to be released from a prison for escort to a participating State pursuant to an order of transfer, or a warrant issued under the authority of the Act, the gaoler of the prison is to give or cause to be given to the prisoner, an opportunity to inspect:

- (a) the personal property, if any, belonging to the prisoner and in the custody of the gaoler; and
- (b) any official records at the prison relating to money, if any, belonging to the prisoner.

(2) Where a prisoner:

- (a) inspects the personal property, if any, belonging to the prisoner and in the custody of the gaoler of the prison and any records referred to in subclause (1) (b); and
- (b) wishes to make a complaint regarding the condition of, or any deficiency in, that property or any mistake in those records,

the prisoner may make a written complaint regarding the condition, deficiency or mistake, as the case requires.

(3) A prisoner who makes a complaint under subclause (2) must deliver it to:

- (a) the gaoler of the prison in which the prisoner is detained; or
- (b) a prison officer at that gaol who must, without unnecessary delay, convey the complaint to that gaoler.

- (4) The gaoler of a prison must:
- (a) investigate any complaint made by a prisoner under subclause (2) that is delivered or conveyed to the gaoler, or cause any such complaint to be investigated; and
 - (b) report the result, if any, of the investigation, or cause it to be reported, to the prisoner prior to the release of the prisoner for escort to a participating State.
- (5) Where it is brought to the attention of the gaoler of a prison that:
- (a) the result of an investigation carried out in response to a complaint made by a prisoner under subclause (2) is not to the satisfaction of the prisoner; or
 - (b) an investigation of a complaint made by a prisoner under subclause (2) has not been completed prior to the release of the prisoner for escort to a participating State,

the gaoler of the prison must, without unnecessary delay, notify the Commissioner of the complaint and the result of the investigation, or the fact that the investigation has not been completed, as the case requires.

Transfer of prisoner's property

29. (1) Where a prisoner is released from a prison and escorted to a participating State pursuant to an order of transfer, or a warrant issued under the authority of the Act, any money belonging to the prisoner which is in the control and custody of the gaoler of the prison in which the prisoner was detained must be remitted by the gaoler to the gaoler of the prison in the participating State to which the prisoner is to be escorted for credit to the prisoner's account.

(2) The gaoler of a prison in which a prisoner who is being transferred to a participating State under the Act was detained must inform the prisoner, or cause the prisoner to be informed, in writing, of the amount remitted to the gaoler of the prison in the participating State for credit to the prisoner's account.

(3) When being escorted to a participating State, a prisoner being transferred under the Act may be permitted to take so much personal clothing and other articles of personal property belonging to the prisoner as, in the opinion of the escort or escorts, can be safely and conveniently taken with the prisoner to the participating State.

(4) Articles of personal property belonging to a prisoner being transferred under the Act, being articles which are either in the prisoner's physical possession at a prison or in the custody of the gaoler of the prison and which are not taken with the prisoner, may be:

- (a) disposed of by the gaoler of the prison in accordance with written directions given by the prisoner; or
- (b) forwarded to the prisoner in the participating State, at the prisoner's risk and expense.

Repeal of Prisoners (Interstate Transfer) Regulation 1984

30. (1) The Prisoners (Interstate Transfer) Regulation 1984 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Prisoners (Interstate Transfer) Regulation 1984, had effect under that Regulation is taken to have effect under this Regulation.

SCHEDULE 1—FORMS

Form 1

(Clause 3 (l))

Request by a prisoner for transfer to a participating State for the prisoner's welfare
(Prisoners (Interstate Transfer) Act 1982—Section 7)

(l) Full name and aliases by which known.	I, (l) currently a prisoner held at Prison in the State of New South Wales, hereby request, in the interests of my welfare, to be considered for transfer to the State/Territory of a participating State for the purposes of the Prisoners (Interstate Transfer) Act 1982. to serve the balance of my sentence(s).
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(The following questions are to be answered by the prisoner)

- | | |
|---|----|
| Q. Has any appeal been lodged against the prisoner's conviction or sentence? | A. |
| Q. If so, has the appeal been determined? | A. |
| Q. Is there any outstanding charge, complaint or information against the prisoner under the law of New South Wales or the Commonwealth, or any other State or a Territory of Australia, yet to be dealt with? | A. |
| Q. Has there been any petition for, or is there pending, any inquiry into the prisoner's conviction or sentence? | A. |
-

(2) If space insufficient, set out grounds on additional sheet.

The request is made on the following grounds:⁽²⁾

(See clause 4 of the Prisoners (Interstate Transfer) Regulation 1994 printed below)

For the purposes of this request I consent to any reports, assessments or other information obtained or supplied in respect of me being sent to the appropriate Minister in the participating State.

I understand that, upon transfer:

- (a) the sentence(s) of imprisonment imposed upon me in New South Wales shall be deemed to have been imposed upon me in the participating State;
- (b) I will be subject to the provisions of any rules, regulations, etc., applying to prisoners in that State; and
- (c) I may be subject to reclassification under those provisions.

Signed

Date

Clause 4, Prisoners (Interstate Transfer) Regulation 1994:

Statements in support of prisoner's request

4. A prisoner's request must include statements as to:

- (a) family or near family support in the participating State, including the availability of accommodation on the prisoner's release from prison;
- (b) family or other social circumstances that may benefit the welfare of the prisoner either during imprisonment or following release from prison;
- (c) medical reasons (if any) in support of the request;
- (d) prospects of employment following release from prison; and
- (e) any other matters which the prisoner wishes to put forward in support of the request.

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Form 2

(Clause 8)

Order of transfer to participating State for prisoner's welfare

(Prisoners (Interstate Transfer) Act 1982—Section 8)

TO the gaoler of the prison at
in the State of New South Wales.

AND TO the escort(s) for the purposes of executing this order.

WHEREAS:

(1) Full
name.

(a)(1)

(in this order referred to as "the prisoner") was

(2) Date.

on (2)

(3) court.

at (3)

in the State of New South Wales for the

(4) Short
description.

offence(s) of (4)

(6) Aggregate
term.

sentenced to (5)

imprisonment:

(b) I, the Minister for Justice in the State of New South Wales, following receipt of a written request from the prisoner for transfer to a participating State, am of the opinion that, in the interest of the welfare of the prisoner, the prisoner should be transferred to the State/Territory of a participating State for the purposes of the prisoners (Interstate Transfer) Act 1982 (in this order referred to as "the Act"), to serve the balance of the sentence(s) of imprisonment in accordance with the interstate law of that participating State, as defined in section 5 (1) of the Act:

(c) The corresponding Minister of the participating State has given written consent to the transfer of the prisoner to the participating State.

NOW, THEREFORE, I HEREBY COMMAND YOU —

(d) The gaoler of the abovenamed prison in the State of New South Wales, to deliver the prisoner, together with this order, into the custody of the abovementioned escort(s):

(e) The abovementioned escort(s), forthwith to take and safely keep custody of the prisoner for the purpose of conveying the prisoner from the State of New South Wales to the participating State and there delivering the prisoner, together with this order, into the custody of the gaoler of the prison at in the participating State: and for your so doing, this order shall be your sufficient authority.

GIVEN under my hand this _____ day of _____ 19____,
at Sydney in the State of New South Wales.

Minister for Justice.

Form 3

(Clause 11 (I))

Request by prisoner for transfer to a participating State to be dealt with according to law

(Prisoners (Interstate Transfer) Act 1982—Section 12 (1) (b))

(1) Full name and aliases by which known. I, ⁽¹⁾ currently a prisoner held at Prison, in the State of New South Wales, hereby request that I be transferred to the State/Territory of a participating State for the purposes of the Prisoners (Intestate Transfer) Act 1982. to be dealt with in that participating State according to law for outstanding offence(s) alleged against me.

⁽²⁾ Give details of prosecutor; date and nature of the alleged offence(s); the Court, if any, at which the proceedings are pending; or details of any arrest warrant. Details of the outstanding offence(s) alleged against me are as follows: ⁽²⁾

There is no outstanding charge, complaint or information against me in New South Wales yet to be dealt with according to law, nor is there any appeal pending in respect of me in New South Wales.
(If any matters are outstanding or pending, delete paragraph and insert details hereunder.)

Signed

Date

NOTE: If outstanding offences alleged against the prisoner occurred in more than one participating State, a separate request is to be made in respect of each participating State.

Form 4

(Clause 12 (1))

Certificate of prescribed officer

(Prisoners (Interstate Transfer) Act 1982—Section 13 (2))

WHEREAS:

- (1) Full name. (a) ⁽¹⁾
- (2) Date. (in this certificate referred to as “the prisoner”) was on ⁽²⁾
- (3) Court. at ⁽³⁾ in the State of New South Wales for the offence(s)
- (4) Short description.
- (5) Aggregate term. sentenced to ⁽⁵⁾ imprisonment:

(b) The prisoner is the subject of an arrest warrant issued in accordance with the law of the State/Territory of participating State for the purposes of the Prisoners (Interstate Transfer) Act 1982 (in this certificate referred to as “the Act”):

(c) The Attorney General of New South Wales has received:

- * from the Attorney General of the participating State a written request given under the provision of an interstate law that corresponds to section 18 of the Act accompanied by a copy of the arrest warrant;
- * a written request made by the prisoner to the Minister for Justice and referred to the Attorney General of New South Wales;

being a request for the transfer of the prisoner to the participating State to be dealt with according to law.

NOW, I the Director-General of the Attorney General’s Department, the prescribed officer for the purposes of section 13 (2) of the Act, do hereby certify that the *consent(s) (and request) required under section 13 (1) of the Act have been given or made for the transfer of the prisoner to the participating State to be dealt with according to law.

GIVEN under my hand this _____ day of 19____, at Sydney in the State of New South Wales.

Director-General
of the Attorney General’s Department.

* Strike out whichever is not applicable.

Form 5

(Clause 13 (1))

Application to Local Court for the issue of an order of transfer

(Prisoners (Interstate Transfer) Act 1982—Section 14 (1))

(1) Name of applicant. I, ⁽¹⁾ of on behalf of the Commissioner of Corrective Services, hereby make application to the Local Court at in the State of New South Wales. for the issue of an order of transfer

(2) Full name. of ⁽²⁾

(in this application referred to as “the prisoner”), at present detained in the prison at in the State of New South Wales. to the State/Territory of a participating State for the purposes of the Prisoners (Interstate Transfer) Act 1982 (in this application referred to as “the Act”) to be dealt with according to law.

(3) Date. The prisoner was on ⁽³⁾

(4) Court at ⁽⁴⁾ in the State of New South Wales,

(5) Short description. for the offence(s) of ⁽⁵⁾

(6) Aggregate term. sentenced to ⁽⁶⁾ imprisonment.

The prisoner is the subject of an arrest warrant issued in accordance with the law of the participating State.

I attach a certificate issued in accordance with section 13 (2) of the Act certifying that the necessary *consent(s) (and request) required under section 13 (1) of the Act for the transfer of the prisoner to the participating State have been given or made.

I ask that an order in writing be issued by the court, in accordance with section 14 (1) of the Act, directing the gaoler of the abovenamed prison to bring the prisoner before the court for determination as to whether an order of transfer shall be issued.

Signed

Designation:

Date

*Strike out whichever is not applicable.

TAKE NOTICE that this application will be heard and determined at the Local Court at on the day of 19 at 10 a.m.

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Form 7

(Clause 15 (1))

Order of transfer to participating State for prisoner's trial (issued by Local Court)

(Prisoners (Interstate Transfer) Act 1982—Section 15)

TO the gaoler of the prison at
in the State of New South Wales.

AND TO the escort(s) for the purposes of executing this order.

WHEREAS:

(1) Full
name.

(a) (1)

(in this order referred to as "the prisoner")

(2) Date. was on (2)

(3) Court. at (3), in the State of New South Wales,

(4) Short description. for the offence(s) of (4)

(5) Aggregate term. sentenced to (5) imprisonment:

(b) It has been established to the satisfaction of the undersigned Magistrate constituting a Local Court

(6) Place. at (6) in the State of New South Wales that the prisoner is the subject of an arrest warrant issued in accordance with the law of the State/Territory of a participating State for the purposes of the Prisoners (Interstate Transfer) Act 1982, and that the Attorney General of New South Wales and the Attorney General of the participating State have consented to or requested, as the case may be, the transfer of the prisoner to the participating State to be dealt with according to law.

NOW, I, the undersigned Magistrate, constituting the abovenamed Local Court issue this order for the transfer of the prisoner to the participating State to be dealt with according to law.

I, THEREFORE, HEREBY COMMAND YOU:

(c) The gaoler of the abovenamed prison in the State of New South Wales, to deliver the prisoner, together with this order, into the custody of the abovementioned escort(s):

(d) The abovementioned escort(s), forthwith to take and safely keep custody of the prisoner for the purpose of conveying the prisoner from the State of New South Wales to the participating State and there delivering the prisoner, together with this order, into the custody of the gaoler of the prison at in the participating State: and for your so doing, this order shall be your sufficient authority.

GIVEN under my hand this day of 19 .
at the Local Court
in the State of New South Wales.

Magistrate.

Form 8

(Clause 15 (2))

Order of transfer to participating State for prisoner's trial (issued by Supreme Court)

(Prisoners (Interstate Transfer) Act 1982—Section 16 (6))

TO the gaoler of the prison at
in the State of New South Wales.

AND TO the escort(s) for the purposes of executing this order.

WHEREAS:

(1) Full name. (a) ⁽¹⁾
(in this order referred to as "the prisoner")
(2) Date. was on ⁽²⁾
(3) court. at ⁽³⁾ , in the State of New South Wales,
(4) Short description. for the offence(s) of ⁽⁴⁾
(5) Aggregate term. sentenced to ⁽⁵⁾ imprisonment:

(b) On ⁽²⁾

the Local Court at
in the State of New South Wales, on an application for the issue of an order for the transfer of the prisoner to the State/Territory of a participating State for the purposes of the Prisoners (Interstate Transfer) Act 1982 to be dealt with according to law, made the following order: ⁽⁶⁾

(6) Set out the substance of the order.

(7) Applicant for review. (c) The ⁽⁷⁾
was dissatisfied with the decision of the Local Court and applied to the Supreme Court of New South Wales for a review of the decision.

NOW, I, the undersigned Judge of the Supreme Court of New South Wales, having reviewed the decision of the Local Court, hereby quash the decision, AND, it having been established to my satisfaction that the prisoner is the subject of an arrest warrant issued in accordance with the law of the participating State and that the Attorney General of New South Wales and the Attorney General of the participating State have consented to or requested, as the case may be, the transfer of the prisoner to the participating State to be dealt with according to law, DO issue this order for the transfer of the prisoner to the participating State to be dealt with according to law.

I, THEREFORE, HEREBY COMMAND YOU:

(d) The gaoler of the abovenamed prison in the State of New South Wales, to deliver the prisoner, together with this order, into the custody of the abovementioned escort(s):

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(e) The abovementioned escort(s) forthwith to take and safely keep custody of the prisoner for the purpose of conveying the prisoner from the State of New South Wales to the participating State and there delivering the prisoner, together with this order, into the custody of the gaoler of the prison at in the participating State:

and for your so doing, this order shall be your sufficient authority.

GIVEN under my hand this _____ day of _____ 19 ____
at the Supreme Court at Sydney in the State of New South Wales.

Judge of the Supreme Court of New South Wales.

Form 9

(Clause 17)

Order of transfer to return person to participating State after being dealt with according to law

(Prisoners (Interstate Transfer) Act 1982—Section 20)

TO the gaoler of the prison at
in the State of New South Wales.

AND TO the escort(s) for the purposes of executing this order.

WHEREAS:

- (1) Full name. (a) ⁽¹⁾
(in this order referred to as “the prisoner”)
- (2) Date. was on ⁽²⁾
- (3) court. at ⁽³⁾ _____, in the State/Territory of _____, a participating State for the purposes of the Prisoners (Interstate Transfer) Act 1982 (in this order referred to as “the Act”),
- (4) Short description. for the offence(s) of ⁽⁴⁾
- (5) Aggregate term. sentenced to ⁽⁵⁾ _____ imprisonment:

(b) The prisoner was transferred to the State of New South Wales from the abovenamed participating State pursuant to an order of transfer issued under a provision of the interstate law of that participating State for the purpose of being dealt with according to law:

(c) So far as I, the Minister for Justice in the State of New South Wales, am aware, every complaint or information alleging any offence by the prisoner against the law of New South Wales or the Commonwealth has been finally dealt with according to law and as a result the prisoner:

(6) Strike out whichever is inapplicable. (6) did not become liable to serve any sentence of imprisonment in New South Wales: or (6) was on (2) at (3) in the State of New South Wales. for the offence(s) of (4) sentenced to (5) imprisonment,
AND the term of imprisonment remaining to be served in New South Wales is shorter than the period of imprisonment remaining to be served by the prisoner under any translated sentence or any sentence of imprisonment imposed for any other offence against a law of the Commonwealth or a Territory.

NOW, THEREFORE, I, the Minister for Justice in the State of New South Wales, pursuant to the provisions of section 20 of the Act, issue this order for the transfer of the prisoner to the participating State to serve the period of imprisonment remaining to be served by the prisoner in that State.

I HEREBY COMMAND YOU:

(d) The gaoler of the abovenamed prison in the State of New South Wales, to deliver the prisoner, together with this order into the custody of the abovementioned escort(s):

(e) The abovementioned escort(s), forthwith to take and safely keep custody of the prisoner for the purpose of conveying the prisoner from the State of New South Wales to the participating State and there delivering the prisoner, together with this order, into the custody of the gaoler of the prison at

in the participating State:

and for your so doing, this order shall be your sufficient authority.

GIVEN under my hand this day of 19 , at Sydney in the State of New South Wales.

Minister for Justice.

Form 10

(Clause 20)

Order of imprisonment following agreement of Ministers that a person should serve imprisonment in New South Wales

(Prisoners (Interstate Transfer) Act 1982—Section 23 (1) (a))

TO the gaoler of the prison at
in the State of New South Wales.

WHEREAS:

(1) Full name (a) (1)
(in this order referred to as “the prisoner”)

(2) Date Was on (2)

(3) Court at (3) in the State/Territory of
, a participating

(4) Short description. State for the purposes of the Prisoners (Interstate Transfer) Act 1982 (in this order referred to as “the Act”) for the offence(s) of (4)

AND M the escort(s) for the purposes of the Prisoners (Interstate Transfer) Act 1982 (in this warrant referred to as "the Act").

WHEREAS:

(a)

(in this warrant referred to as "the prisoner"), a person subject to an order of transfer issued under an interstate law of the State/Territory of _____ a participating State for the purposes of the Act, being a person in lawful custody pursuant to the provisions of section 31 of the Act for transit through New South Wales was just before a justice at _____ on _____ proved to have

*Strike out whichever is not applicable.

*escaped from such lawful custody; or attempted to have escaped from such lawful custody:

(b) Notwithstanding the terms of the order of transfer issued in the abovenamed participating State, it was ordered by that justice that the prisoner be returned to the participating State and, for that purpose, it was also ordered that the prisoner be delivered to an escort.

I, THEREFORE, HEREBY COMMAND YOU:

(c) The abovementioned senior officer of police and all other police officers in New South Wales, and the gaoler of the abovenamed prison, as the case may be, to receive the prisoner and detain the prisoner in your custody:

- (i) until the prisoner is delivered into the custody of the escort(s) to whom this warrant is directed, together with this warrant, for the purpose of being returned to the participating State; or
- (ii) until the expiration of a period of 7 days from the date of this warrant, whichever first occurs:

(d) The abovementioned escort(s), forthwith to take and safely keep custody of the prisoner for the purpose of conveying the prisoner from New South Wales to the participating State:

and for your so doing, this warrant shall be your sufficient authority.

In the event of the prisoner's not being delivered into the custody of an escort to whom this warrant is directed within a period of 7 days from the date of this warrant, the warrant shall have no further effect and the prisoner shall be discharged in respect thereof.

GIVEN under my hand this _____ day of _____ 19____, at _____ in the State of New South Wales.

Justice of the Peace.

Form 12

(Clause 27 (1))

Application to a Local Court to revoke an order of transfer

(Prisoners (Interstate Transfer) Act 1982—Section 34)

I
of
a _____, hereby make application
to the Local Court at _____ in
New South Wales for the revocation of the order of transfer issued by _____
on _____
the transfer of _____ (in this application
referred to as “the prisoner”) to the State/Territory of _____
a participating State for the purposes of the Prisoners (Interstate Transfer) Act
1982.

The application is made on the ground(s) that the prisoner has committed the
following offence(s):

Signed

Designation

Date

TAKE NOTICE that this application will be heard and determined at the Local
Court at _____ on the _____ day of
19 _____ at 10 am.

Clerk of the Local Court

at

Date

To the applicant.
the abovenamed prisoner.

NOTE: This application is to be filed at the Local Court in triplicate.

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SCHEDULE 1—FORMS

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake the provisions of the Prisoners (Interstate Transfer) Regulation 1984.

The Regulation provides for the following:

- (a) the form of requests for transfers by prisoners in New South Wales to other States and Territories;
- (b) matters to be considered by the Minister when determining transfer requests;
- (c) matters to accompany requests to Ministers of other States and Territories to accept prisoners;
- (d) the form of orders for transfer;
- (e) the form of certificates as to consents or requests;
- (f) procedures for applications for transfer orders for transfer for trial;
- (g) procedures for requests to serve imprisonment in New South Wales;
- (h) allocation of costs of transfer of prisoners;
- (i) transmission of information about transferred prisoners;
- (j) the form of warrants ordering the return of a transferred prisoner;
- (k) the form of applications for the revocation of a transfer order;
- (l) procedures for the inspection and transfer of the property of transferred prisoners;
- (m) the repeal of the Prisoners (Interstate Transfer) Regulation 1984.

The Regulation and the Prisoners (Interstate Transfer) Act 1982 form part of a scheme of uniform legislation for the transfer of prisoners between States and Territories.

The Regulation is made under the Prisoners (Interstate Transfer) Act 1982, including section 35 (the general regulation making power) and various other sections mentioned in the Regulation.

The Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
