

## CLAUSE NOTES

### **INTERSTATE TRANSFERS (MISCELLANEOUS AMENDMENTS) BILL 2013**

- Clause 1:** Short title.
- Clause 2:** Allows the Act to commence by proclamation.
- Clause 3:** Provides that the principal Act for the purposes of Part 2 (clauses 3 – 7 of the Bill) is the *Interstate Transfer (Community-based Sentences) Act 2009*.
- Clause 4:** Amends section 3 to insert a series of definitions clarifying the terms used in the Act, including defining the ‘local authority’ as the Director of Corrective Services, and ‘local law enforcement officer’ as a corrections officer, probation officer or police officer.
- Clause 5:** Amends section 12 to clarify that breaches that took place before the registration of a sentence of an interstate offender in Tasmania cannot be dealt with in Tasmania, and that sentences that impose a monetary penalty or the making of financial reparation cannot be transferred and must be enforced from the originating jurisdiction. This is mirrored by Clause 7.
- Clause 6:** Inserts a new Part 3A concerned with reciprocal arrangements for the temporary administration of transferred sentences, for instance where an offender is travelling between their original State and another. The part includes provisions that allow for:

- the Minister to enter into arrangements with the corresponding interstate Minister to both send and receive offenders in Tasmania;
- the local authority to exercise such powers as needed to administer the sentences of interstate offenders travelling to Tasmania, and to delegate those powers where suitable;
- anything that is done by an interstate jurisdiction in the administration of the Tasmanian offender's sentence to be deemed to have been done under Tasmanian law;
- the issue, variation and revocation of an interstate travel permit to a local offender;
- The notice requirements of an interstate travel permit;
- the conditions of an interstate travel permit and any compliance or non-compliance of an offender to be considered conditions or compliance or non-compliance under a Tasmanian sentence;
- the local authority to issue a warrant where an interstate offender has had their permit revoked by their original jurisdiction or has breached the conditions of the permit;
- an interstate law enforcement officer to convey an offender subject to an interstate warrant within or across Tasmanian state lines in order to fulfil the warrant; and
- this Act not to affect the operation of the *Service and Execution of Process Act 1992* of the Commonwealth.

- Clause 7:** Amends section 18 to clarify that breaches that took place before the registration of a sentence of a Tasmanian offender interstate cannot be dealt with by that jurisdiction, and that sentences that impose a monetary penalty or the making of financial reparation cannot be transferred and must be enforced from the originating jurisdiction.
- Clause 8:** Amends section 23 to allow the ‘local authority’ to delegate powers under the Act in the same terms as the Minister or Registrar.
- Clause 9:** Provides that the principal Act for the purposes of Part 3 (clauses 8 – 21 of the Bill) is the *Parole Orders (Transfer) Act 1983*.
- Clause 10:** Inserts a heading to divide the Act for ease of use: ‘Part 1 – Preliminary’.
- Clause 11:** Alters existing and inserts new definitions relating to the terms used in the Act, including defining the ‘Director’ as the Director of Corrective Services, and ‘local law enforcement officer’ as a corrections officer, probation officer or police officer. Also amends the definition of ‘parole order’ to include an order that has been made but is not yet in in force.
- Clause 12:** Inserts a heading to divide the Act for ease of use: ‘Part 2 – Registration of Parole Orders’.
- Clause 13:** Amends section 5 to require the consent of a person to whom the parole order relates to the registration of a parole order being transferred.

- Clause 14:** Amends section 6 to confirm that the secretary of the Parole Board is the person who has custody of the original parole order, and to ensure that a copy of a parole order which has the same effect as the original is acceptable for the purposes of the section.
- Clause 15:** Substitutes for section 7 a section that simplifies the matters to which the Minister is to have regard in making a decision to approve a transfer into 4 categories – the interests of the parolee, the administration of justice, the protection of the community and any other matters the Minister considers relevant.
- Clause 16:** Amends section 8 to require a parolee must be present in Tasmania in order to have their parole order registered here.
- Clause 17:** Inserts a subsection into section 9 to clarify that any breach of the parole order that occurs after a person has left another State and before the order is registered in Tasmania may be dealt with in Tasmania. It also removes subsection 4 of that section which has the effect of confirming that the remainder of the parole at the time of a breach in Tasmania is to be calculated in accordance with Tasmanian law.
- Clause 18:** Inserts a subsection into section 10 to provide that no proceedings for breach may be commenced from Tasmania once the parole order after registration in another State.

**Clause 19:** Inserts a heading to divide the Act for ease of use: 'Part 3 - Reciprocal Arrangements for Administration of Tasmanian and Interstate Parole Orders'.

**Clause 20:** Inserts a new Part 3 into the Act concerned with reciprocal arrangements for the temporary administration of transferred parole orders, for instance where a parolee is travelling between their original State and another.

The part includes provisions that allow for:

- the Minister to enter into arrangements with the corresponding interstate Minister to both send and receive parolees in Tasmania;
- the Secretary of the Parole Board to exercise such powers as needed to administer the sentences of interstate parolee travelling to Tasmania;
- anything that is done by an interstate jurisdiction in the administration of the Tasmanian parolee's order to be deemed to have been done under Tasmanian law;
- the issue, variation and revocation of an interstate travel permit to a Tasmanian parolee;
- The notice requirements of an interstate travel permit;
- the conditions of an interstate travel permit and any compliance or non-compliance of a parolee to be considered conditions or compliance or non-compliance under a Tasmanian order;
- the Parole Board to issue a warrant where an interstate offender has had their permit revoked by their original jurisdiction or has breached the conditions of the permit

- an interstate law enforcement officer to convey an offender subject to an interstate warrant within or across Tasmanian state lines in order to fulfil the warrant; and
- this Act not to affect the operation of the *Service and Execution of Process Act 1992* of the Commonwealth.

**Clause 21:** Inserts a heading to divide the Act for ease of use: 'Part 4 – Miscellaneous'.

**Clause 22:** Inserts a new section 11A that allows for the minister to inform his or her decision making by means of documents and information without compromising the privacy of the parolee.

**Clause 23:** Provides that the principal Act for the purposes of Part 4 (clauses 22 – 26 of the Bill) is the *Prisoners (Interstate Transfer) Act 1982*.

**Clause 24:** Amends section 3 to define 'local prisons authority' as the Director of Corrective Services, and to clarify who the corresponding authorities are for the States and Territories.

**Clause 25:** Inserts a new subsection in section 22 to clarify that an order of transfer is satisfied by the delivery of the prisoner into the custody of an escort authorised by the relevant State or Territory, at a place authorised for that purpose.

**Clause 26:** Amends section 29 to improve the wording of the section and support the change to section 22.

**Clause 27:** Amends section 30 to address a gap in the principal Act in relation to an escape of a prisoner while under escort. A prisoner can be in “interstate custody” in the local jurisdiction either while being delivered to a local prison (section 22) or while passing through in the course of being transferred from one jurisdiction to another.

**Clause 28:** Repeals the Amendment Act after one year.