

Parole Orders (Transfer) Ordinance 1983

No. 10 of 1983

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 29 June 1983.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

LIONEL BOWEN
Minister of State for Trade
for and on behalf of the Attorney-General

An Ordinance relating to the reciprocal enforcement of parole orders

Short title

1. This Ordinance may be cited as the *Parole Orders (Transfer) Ordinance 1983*.¹

Commencement

2. (1) Section 1 and this section shall come into operation on the date on which this Ordinance is notified in the *Gazette*.

(2) The remaining sections of this Ordinance shall come into operation on such date as is, or such dates as respectively are, fixed by the Minister of State for Territories and Local Government by notice in the *Gazette*.

Interpretation

3. In this Ordinance, unless the contrary intention appears—

“corresponding law”, in relation to a State or another Territory, means a law of that State or Territory specified in a notice under section 4;

“designated authority”, in relation to a State or another Territory, means the person or body with powers under the corresponding law of that State or Territory that correspond to those of the Attorney-General under section 6;

"Parole Board" means the Parole Board of the Australian Capital Territory established by section 9 of the *Parole Ordinance 1976*;

"parole order" means—

- (a) a parole order under the *Parole Ordinance 1976* or under a law of a State or another Territory relating to parole; or
- (b) an authority under a law of a State or another Territory for the release on parole of a person from imprisonment or lawful detention,

and includes such a parole order or authority as varied from time to time;

"Registrar" means the person appointed as Registrar of Transferred Parole Orders under sub-section 5 (1);

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

Declaration of corresponding laws

4. The Attorney-General may, by notice in the *Gazette*, declare any law of a State or another Territory relating to the transfer of parole orders to be a corresponding law for the purposes of this Ordinance.

Registrar of Transferred Parole Orders

5. (1) The Attorney-General shall, by instrument in writing, appoint a person as the Registrar of Transferred Parole Orders.

(2) A person is not eligible for appointment as Registrar unless that person is an officer or employee within the meaning of the *Public Service Act 1922*.

Requests for registration of transferred parole orders

6. (1) The Attorney-General may, on the request in writing of the designated authority for a State or another Territory, by instrument in writing, direct the Registrar to register under this Ordinance a parole order that was, on the date of the request, in force under a law of that State or Territory.

(2) The Attorney-General may, by instrument in writing addressed to the designated authority for a State or another Territory, request that a parole order that is in force in the Australian Capital Territory be registered under the corresponding law of that State or Territory.

Documents to accompany requests

7. (1) Where the Attorney-General makes a request under sub-section 6 (2), he shall cause to be sent to the designated authority for the relevant State or Territory—

- (a) the parole order to which the request relates;
- (b) the judgment or order by virtue of which the parolee became liable to the imprisonment to which the parole order relates;
- (c) particulars in writing of the address of the parolee last known to the Attorney-General;

- (d) all documents relating to the parolee that were before the Parole Board or other body that made the parole order and any other documents relating to the parolee that appear to be likely to be of assistance to any relevant court, authority or officer of that State or Territory including, in particular, details as to class of prisoner and of any convictions, sentences of imprisonment, minimum terms of imprisonment, periods of imprisonment served, remissions earned and other grants of parole; and
- (e) a report in writing relating to the parolee containing such additional information as appears to be likely to be of assistance to any relevant court, authority or officer in that State or Territory.

(2) A reference in sub-section (1) to a parole order, judgment, order or other document shall be read as a reference to the original or to a copy certified as a true copy by the person to whose custody the original is entrusted.

Regard for interests of parolee

8. (1) The Attorney-General shall not direct the registration of a parole order under this Ordinance unless he is satisfied, after having considered the relevant documents forwarded to him by the designated authority for the relevant State or Territory, that, having regard to the interests of the parolee, it is desirable that the parole order be so registered and the parolee—

- (a) has consented to, or has requested, the registration of the parole order under this Ordinance; or
- (b) is residing in the Australian Capital Territory.

(2) The Attorney-General shall not make a request for the registration of a parole order under the corresponding law of a State or another Territory unless he is satisfied that, having regard to the interests of the parolee, it is desirable that the parole order be so registered and—

- (a) the parolee has consented to, or has requested, the registration of the parole order under that corresponding law; or
- (b) there are reasonable grounds for believing that the parolee is residing in that State or Territory.

Registration

9. (1) When directed to do so under sub-section 6 (1), the Registrar shall register a parole order by endorsing on the parole order or a copy of the parole order a memorandum signed by him to the effect that the parole order was, on the date of the endorsement, registered under this Ordinance.

(2) Where the Registrar has registered a parole order pursuant to sub-section (1), he shall—

- (a) cause notice in writing of the fact and date of the registration of the parole order—
 - (i) to be served personally on the parolee; and
 - (ii) to be forwarded to the designated authority for the relevant State or Territory;

- (b) forward to the Chairman of the Parole Board a copy of the documents to be kept in a register pursuant to paragraph (c); and
- (c) while the parole order is in force in the Australian Capital Territory, but subject to sub-section 7 (1), keep in a register—
 - (i) the endorsed parole order or endorsed copy of the parole order; and
 - (ii) the judgment or order by virtue of which the parolee became liable to imprisonment, or a copy of that judgment or order.

(3) A reference in this section to a copy of a parole order or a copy of a judgment or order shall be read as a reference to a copy certified as a true copy by the person to whose custody the original is entrusted.

Effect of registration

10. (1) Subject to this section, while a parole order (including a parole order that was, at any time, in force in the Australian Capital Territory) is registered under this Ordinance, the laws of the Australian Capital Territory apply in relation to the parole order and the parolee.

(2) Where a parole order registered under this Ordinance was made under a law of a State or another Territory, sub-section (1) has effect as if—

- (a) each sentence of imprisonment to which the parolee was subject immediately before the making of the parole order had been imposed by the appropriate court of the Australian Capital Territory;
- (b) each period of imprisonment served by the parolee for the purpose of such a sentence had been served for the purpose of a sentence imposed by the appropriate court of the Australian Capital Territory; and
- (c) the parole order had been made and were in force under the *Parole Ordinance 1976*.

(3) For the purpose of sub-section (2), the appropriate court of the Australian Capital Territory in relation to a sentence of imprisonment is—

- (a) where the sentence was imposed by a court of summary jurisdiction or by a court on appeal from a court of summary jurisdiction—the Court of Petty Sessions; and
- (b) in any other case—the Supreme Court.

(4) Where a parole order registered under this Ordinance is revoked or is to be deemed to have been revoked under the *Parole Ordinance 1976*, the parolee shall be liable to serve a period of imprisonment equal to the period for which he was liable, on the date on which he was released on parole under the order, to be imprisoned.

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

11. Upon the registration under a corresponding law of a State or another Territory of a parole order that was, immediately before that registration, in force in the Australian Capital Territory—

- (a) the parole order ceases to be in force in the Australian Capital Territory;

- (b) where the parole order was registered under this Ordinance—the parole order ceases to be so registered; and
- (c) each sentence of imprisonment to which the parolee was subject immediately before that registration ceases to have effect in the Australian Capital Territory.

Evidence

12. (1) An instrument in writing that purports to be a memorandum endorsed on a parole order on a specified date under sub-section 9 (1) and to have been signed by the Registrar is evidence that the parole order was registered under this Ordinance on that date.

(2) A parole order registered under this Ordinance is admissible in evidence in any court by the production of a copy of the parole order certified as a true copy by the Registrar, and such a copy is evidence of the matters stated in the parole order.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 30 June 1983.