

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Prisoners (International Transfer) Bill 1998

A BILL

FOR

**An Act relating to the transfer of prisoners to and
from Australia**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1. Short title

5 This Act may be cited as the *Prisoners (International Transfer) Act*
1998.

2. Commencement

(1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

10 (2) The remaining provisions commence on a day, or respective days,
fixed by the Minister by notice in the *Gazette*.

3. Object

The object of this Act is to give effect to the scheme for the international transfer of prisoners set out in the Commonwealth Act by enabling such prisoners to be transferred to and from the Territory.

4. Interpretation

(1) In this Act—

“Commonwealth Act” means the *International Transfer of Prisoners Act 1997* of the Commonwealth;

“corresponding law” means a law of a State or another Territory that provides for the international transfer of prisoners,

“function” includes a power, authority or duty.

(2) If an expression is defined in the Commonwealth Act and is also used in this Act, the expression as used in this Act has, unless the contrary intention appears, the same meaning as in that Act.

5. Powers and functions of Minister

The Minister may exercise and perform any function conferred on the Minister by or under the Commonwealth Act.

6. Powers and functions of prison officers, police officers and others

(1) A prison officer, police officer and any other officer of the Territory may exercise and perform any function conferred or expressed to be conferred on him or her—

(a) by or under the Commonwealth Act or a corresponding law; or

(b) in accordance with any arrangements made under section 7.

(2) It is lawful for a prison officer, police officer or other officer of the Territory—

(a) to hold and deal with any prisoner in accordance with the terms of a warrant issued under the Commonwealth Act in respect of the prisoner; and

(b) to take any action in respect of a prisoner transferred, or to be transferred, to or from Australia in accordance with the Commonwealth Act that the officer is authorised to take by or under that Act.

7. Arrangements for administration of Act

(1) The Chief Minister may, in accordance with section 50 of the Commonwealth Act, make arrangements for the administration of that Act including arrangements relating to the exercise by officers of the Territory of functions under the Commonwealth Act.

(2) An arrangement may be varied or terminated in accordance with the Commonwealth Act.

8. Prisoners transferred to Australia

5 (1) A prisoner who is transferred to Australia under the Commonwealth Act shall be treated for the purposes of a relevant enforcement law as if he or she were a federal prisoner serving a sentence of imprisonment that is imposed under a law of the Commonwealth.

10 (2) Without limiting subsection (1), enforcement laws relating to the following matters are applicable to a prisoner who is transferred to Australia under the Commonwealth Act:

- (a) conditions of imprisonment and treatment of prisoners;
- (b) release on parole of prisoners;
- (c) classification and separation of prisoners;
- (d) removal of prisoners between prisons, hospitals and other places;
- 15 (e) treatment of mentally impaired prisoners;
- (f) eligibility for participation in prison programs, including release under a pre-release permit scheme (however called);
- (g) temporary absence from prison (for example, to work or seek work, to attend a funeral or visit a relative suffering a serious illness, or to attend a place of education or training);
- 20 (h) transfer of prisoners between States and Territories.

(3) Any direction given by the Attorney-General of the Commonwealth under section 44 of the Commonwealth Act shall be given effect in the Territory.

25 (4) Any direction given by the Attorney-General of the Commonwealth, under section 49 of the Commonwealth Act, shall be given effect in the Territory.

(5) In this section—
“enforcement law” means—

- 30
- (a) any law of the Territory;
 - (b) any law of the Commonwealth, a State or another Territory; or
 - (c) any practice or procedure lawfully observed;
concerning the detention of prisoners.

35 **9. Prisoners transferred from Australia**

(1) The laws of the Territory relating to the enforcement of a sentence of imprisonment imposed by a court of the Territory on a person cease to apply

to a prisoner on whom such a sentence has been imposed who is transferred from Australia under the Commonwealth Act to complete serving such a sentence of imprisonment.

- 5 (2) Nothing in this section limits the power of the Executive to grant a pardon or remit a sentence of imprisonment or other penalty

10. Regulations

The Executive may make regulations for the purposes of this Act.