

NORTHERN TERRITORY OF AUSTRALIA

CROSS-BORDER JUSTICE ACT 2009

As in force at 1 November 2009

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ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 November 2009

CROSS-BORDER JUSTICE ACT

An Act to facilitate the administration of justice in regions straddling the Territory's borders with South Australia and Western Australia, and for related purposes

Part 1 Introduction

Division 1 Preliminary matters

1 Short title

This Act may be cited as the *Cross-border Justice Act 2009*.

2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

3 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

Division 2 Object of this Act

4 Act gives effect to cooperative schemes

This Act gives effect to 1 or more cooperative schemes between the Territory and 1 or both of the other participating jurisdictions for facilitating the administration of justice in 1 or more cross-border regions.

5 Object and achievement of Act

- (1) The object of this Act is to facilitate the administration of justice in the cross-border regions.

- (2) The object is to be achieved mainly by enabling the following things to be done:
- (a) police officers, magistrates and other office holders of the Territory to exercise their powers under the law of the Territory in another participating jurisdiction;
 - (b) police officers, magistrates and other office holders of the Territory to hold offices and exercise powers under the law of another participating jurisdiction;
 - (c) police officers, magistrates and other office holders of another participating jurisdiction to exercise their powers under the law of the other jurisdiction in the Territory;
 - (d) police officers, magistrates and other office holders of another participating jurisdiction to hold offices and exercise powers under the law of the Territory;
 - (e) prescribed courts of the Territory to hear and determine proceedings, and to otherwise exercise their jurisdiction and powers under the law of the Territory, in another participating jurisdiction;
 - (f) the sentences, orders and other decisions made by those courts under the law of the Territory to be served, carried out or otherwise given effect to by persons in another participating jurisdiction;
 - (g) the courts of summary jurisdiction of another participating jurisdiction to hear and determine proceedings, and to otherwise exercise their jurisdiction and powers under the law of the other jurisdiction, in the Territory;
 - (h) the sentences, orders and other decisions made by those courts under the law of the other jurisdiction to be served, carried out or otherwise given effect to by persons in the Territory;
 - (i) any other persons who are required under the law of the Territory to do things to do the things in another participating jurisdiction;
 - (j) any other persons who are required under the law of another participating jurisdiction to do things to do the things in the Territory.

6 **How this Act is to be construed**

This Act is to be construed as enabling:

- (a) office holders and courts of the Territory and other persons to exercise powers they have under the law of the Territory within the geographical area of another participating jurisdiction; and
- (b) office holders and courts of another participating jurisdiction and other persons to exercise powers they have under the law of the other jurisdiction within the geographical area of the Territory.

Note for Division 2

A person who has a connection with a cross-border region may be (but is not required to be) dealt with under the Territory's cross-border laws. In deciding whether or not to deal with the person under the Territory's cross-border laws, an office holder or prescribed court of the Territory will have regard to what best facilitates the administration of justice in the region.

If, for example, an offence is alleged to have been committed in the cross-border region where the alleged offender and the witnesses to the alleged offence ordinarily reside, dealing with the offender under the Territory's cross-border laws is likely to facilitate the administration of justice in the region.

However, the administration of justice is not likely to be facilitated in a cross-border region if the alleged offender is arrested in the region but the offence is alleged to have been committed in, and the alleged offender and the witnesses to the alleged offence ordinarily reside in, Darwin.

Division 3 Interpretation

7 **Definitions**

- (1) In this Act:

another participating jurisdiction means:

- (a) South Australia; or
- (b) Western Australia.

appropriate modifications:

- (a) of a law of the Territory – see section 13; or
- (b) of a law of another participating jurisdiction – means appropriate modifications of the law under the jurisdiction's cross-border laws.

arrest includes to apprehend and to take into custody.

authorised officer, of a participating jurisdiction, means:

- (a) a police officer of the jurisdiction; or
- (b) an office holder of the jurisdiction prescribed by regulation.

bring up order, of a participating jurisdiction, means:

- (a) for the Territory:
 - (i) an order made under section 58 of the *Prisons (Correctional Services) Act*; or
 - (ii) an order made under section 102 of this Act; or
 - (iii) another order made under the law of the Territory directing that a person who is in custody be brought before a judicial body as defined in section 102(5); or
- (b) for another participating jurisdiction – a bring up order of the jurisdiction under its cross-border laws.

carry out, an order, includes to comply with the requirements of, and to perform the obligations under, the order.

connection with a cross-border region, see Part 2, Division 2.

community corrections officer, of a participating jurisdiction, means:

- (a) for the Territory:
 - (i) a parole officer as defined section 3(1) of in the *Parole of Prisoners Act*; or
 - (ii) a supervising officer or surveillance officer as defined in section 5 of the *Prisons (Correctional Services) Act*; or
 - (iii) a juvenile justice officer for the Territory; or
- (b) for another participating jurisdiction – a community corrections officer of the other jurisdiction under its cross-border laws.

Note

This definition is affected by section 10.

court document, of a prescribed court of a participating jurisdiction, means a document that is filed, served or issued in a cross-border proceeding of the court.

cross-border jurisdiction, of a prescribed court of a participating jurisdiction, means the court's jurisdiction in relation to a cross-border proceeding of the court.

cross-border laws, of a participating jurisdiction, see section 8.

cross-border proceeding, of a prescribed court of a participating jurisdiction, means:

- (a) for a prescribed court of the Territory – a proceeding of the court mentioned in section 68(2) that may be heard and determined by the court in another participating jurisdiction under section 68(1); or
- (b) for a prescribed court of another participating jurisdiction – a cross-border proceeding of that court under the jurisdiction's cross-border laws.

cross-border region, see section 19.

custodial order, of a participating jurisdiction, means:

- (a) for the Territory:
 - (i) a warrant of commitment issued under section 98; or
 - (ii) a remand warrant issued under section 100; or
 - (iii) a bring up order of the Territory; or
- (b) for another participating jurisdiction – a custodial order of the jurisdiction under its cross-border laws.

detention centre, in a participating jurisdiction, means:

- (a) for the Territory – a detention centre as defined in section 5(1) of the *Youth Justice Act*; or
- (b) for another participating jurisdiction – a detention centre in the jurisdiction under its cross-border laws.

drink or drug-driving laws, of a participating jurisdiction, means the provisions of the law of the jurisdiction relating to a person driving or attempting to drive a vehicle:

- (a) while under the influence of or impaired by alcohol, drugs or both; or

- (b) while alcohol, drugs or both are present in the person's oral fluid or blood.

Note

This definition is affected by subsection (2).

drink or drug-driving offence, under the law of a participating jurisdiction, means an offence under the law of the jurisdiction the elements of which include a person driving or attempting to drive a vehicle:

- (a) while under the influence of or impaired by alcohol, drugs or both; or
- (b) while alcohol, drugs or both are present in the person's oral fluid or blood.

Note

This definition is affected by subsection (2).

exercise, a power, includes to perform a function or duty.

file, a document, includes lodge the document.

forfeiture includes confiscation.

juvenile justice officer, of a participating jurisdiction, means:

- (a) for the Territory – a probation officer or surveillance officer as defined in section 5(1) of the *Youth Justice Act*; or
- (b) for another participating jurisdiction – a juvenile justice officer of the jurisdiction under its cross-border laws.

magistrate, of a participating jurisdiction, means:

- (a) for the Territory – a magistrate of a prescribed court of the Territory; or
- (b) for another participating jurisdiction – a magistrate of the jurisdiction under its cross-border laws.

Note

This definition is affected by section 10.

non-custodial order, of a participating jurisdiction, means:

- (a) for the Territory:
 - (i) a sentence imposed on, or an order made against, a person in relation to an offence or alleged offence under the law of the Territory, other than a sentence or order requiring the person to be kept in custody or to pay a fine; or
 - (ii) a community work order made under section 77 of the *Fines and Penalties (Recovery) Act*; or
 - (iii) an order prescribed by regulation; or
- (b) for another participating jurisdiction – a non-custodial order of the jurisdiction under its cross-border laws.

NT/SA region means a cross-border region straddling the Territory's border with South Australia.

NT/SA/WA region means a cross-border region straddling the Territory's borders with South Australia and Western Australia.

NT/WA region means a cross-border region straddling the Territory's border with Western Australia.

office holder, of a participating jurisdiction, means:

- (a) for the Territory – a person who holds an office under the law of the Territory; or
- (b) for another participating jurisdiction – a person who holds an office under the law of the jurisdiction.

Note

This definition is affected by sections 9 and 10.

participating jurisdiction means:

- (a) the Territory; or
- (b) another participating jurisdiction.

police officer, of a participating jurisdiction, means:

- (a) for the Territory – a member of the Police Force appointed or holding office under the *Police Administration Act*; or

- (b) for another participating jurisdiction – a police officer of the jurisdiction under its cross-border laws.

Note

This definition is affected by section 10.

power includes a function and a duty.

preliminary alcohol or drug test, under a participating jurisdiction's drink or drug-driving laws, means a test that may be conducted under the laws for providing a preliminary indication of whether or not alcohol, drugs or both are present in the blood of the driver or person in charge of a vehicle.

prescribed court, of a participating jurisdiction, means:

- (a) for the Territory:
 - (i) the Court of Summary Jurisdiction established by section 41A of the *Justices Act*; or
 - (ii) the Youth Justice Court continued in existence by section 45 of the *Youth Justice Act*; or
 - (iii) for a proceeding mentioned in section 68(2)(g) – the Local Court; or
 - (iv) the Alcohol Court established by section 6 of the *Alcohol Court Act*; or
- (b) for another participating jurisdiction – a prescribed court of the jurisdiction under its cross-border laws.

prison, in a participating jurisdiction, means:

- (a) for the Territory – a prison as defined in section 5 of the *Prisons (Correctional Services) Act*; or
- (b) for another participating jurisdiction – a prison in the jurisdiction under its cross-border laws.

registrar, of a prescribed court of a participating jurisdiction, means:

- (a) for:
 - (i) the Court of Summary Jurisdiction – a person who holds office as a clerk of the Court; or

- (ii) the Youth Justice Court – a person who holds office as a Registrar of the Court; or
 - (iii) the Local Court – a person who holds office as a Registrar of the Court; or
 - (iv) the Alcohol Court – a person who holds office as a Registrar of the Court.
- (b) for a prescribed court of another participating jurisdiction – a registrar of the court under the jurisdiction's cross-border laws.

remand facility, in a participating jurisdiction, means a police station, lock-up, prison, detention centre or other place in the jurisdiction in which persons on remand may be kept in custody.

restraining order, of a participating jurisdiction, means:

- (a) for the Territory:
- (i) a court DVO or police DVO as defined in section 4 of the *Domestic and Family Violence Act*; or
 - (ii) a personal violence restraining order as defined in section 4 of the *Justices Act*; or
- (b) for another participating jurisdiction – a restraining order of the jurisdiction under its cross-border laws.

restraining orders laws, of a participating jurisdiction, means:

- (a) for the Territory:
- (i) the Domestic and Family Violence Act; or
 - (ii) the *Justices Act*; or
- (b) for another participating jurisdiction – the restraining orders laws of the jurisdiction under its cross-border laws.

secondary office, see section 128(2).

secondary office holder, see section 128(1).

subsidiary legislation, of a participating jurisdiction, means:

- (a) for the Territory – subordinate legislation as defined in section 17 of the *Interpretation Act*; or

- (b) for another participating jurisdiction – an instrument made under any written law of the other jurisdiction and having legislative effect.

take action means to do an act or make an omission.

vehicle impounding laws, of a participating jurisdiction, means the provisions of the law of the jurisdiction relating to the impounding or forfeiture of vehicles used in connection with driving offences under the law.

vehicle or driver licensing laws, of a participating jurisdiction, means the provisions of the law of the jurisdiction relating to the licensing of vehicles or drivers.

written law, of a participating jurisdiction, means an Act or subsidiary legislation of the jurisdiction for the time being in force.

- (2) In paragraph (b) of the definitions **drink or drug-driving laws** and **drink or drug-driving offence**, the reference to the presence of alcohol in a person's oral fluid or blood includes a reference to the presence of a quantity of alcohol in the person's oral fluid or blood that equals or exceeds a specified quantity.

8 Cross-border laws

- (1) The following laws are the Territory's cross-border laws:
 - (a) this Act;
 - (b) any other written law of the Territory that makes express provision in order to give effect to this Act;
 - (c) any other law of the Territory with any appropriate modifications;
 - (d) any other law of the Territory to the extent its application is necessary to give effect to a law mentioned in paragraph (a), (b) or (c).
- (2) The following laws are South Australia's cross-border laws:
 - (a) the *Cross-border Justice Act 2009* (SA);
 - (b) any other written law of South Australia that makes express provision in order to give effect to that Act;
 - (c) any other law of South Australia with any appropriate modifications;

- (d) any other law of South Australia to the extent its application is necessary to give effect to a law mentioned in paragraph (a), (b) or (c).
- (3) The following laws are Western Australia's cross-border laws:
 - (a) the *Cross-border Justice Act 2008* (WA);
 - (b) any other written law of Western Australia that makes express provision in order to give effect to that Act;
 - (c) any other law of Western Australia with any appropriate modifications;
 - (d) any other law of Western Australia to the extent its application is necessary to give effect to a law mentioned in paragraph (a), (b) or (c).

9 Persons who exercise powers are office holders

For the Territory's cross-border laws, a person on whom a power is conferred under the law of a participating jurisdiction is taken to hold an office under the law.

10 References to office holders

- (1) In this Act, unless the contrary intention appears, a reference to an office holder (however described) of a participating jurisdiction includes a reference to a person who holds an office under the law of the jurisdiction as a secondary office holder.
- (2) In this Act, unless the contrary intention appears, a reference to an office holder (however described) of another participating jurisdiction whose office no longer exists is a reference to an office holder of the other jurisdiction who for the time being has the powers of that office.

11 References to written laws of another participating jurisdiction

- (1) A reference in this Act to a written law of another participating jurisdiction, or to a provision of such a law, is read as including a reference to the law or provision as amended from time to time.
- (2) In this section:

amended:

- (a) means replaced, substituted (in whole or part), added to or varied; and

- (b) includes any 2 or more of those things done simultaneously or by the same written law.

12 Use of notes and examples

A note or example set out at the foot of a provision of this Act is provided to help understanding and is not part of the provision.

Division 4 Modifications of other laws of Territory

13 Appropriate modifications

Appropriate modifications of a law of the Territory are:

- (a) any modifications of the law prescribed by regulation; and
- (b) any other modifications of the law that are necessary or convenient to give effect to this Act.

14 Effect of modifications

In order to give effect to this Act, a law of the Territory must be applied with any appropriate modifications as if the law had been altered in that way.

Division 5 Relationship between Territory's cross-border laws and other laws

15 Law of another participating jurisdiction: office holders, prescribed courts, persons serving sentences

- (1) The Territory's cross-border laws do not authorise an office holder of the Territory to exercise a power in another participating jurisdiction unless the law of the other jurisdiction allows the office holder to exercise the power in the other jurisdiction.
- (2) The Territory's cross-border laws do not allow an office holder of another participating jurisdiction to exercise a power in the Territory unless the law of the other jurisdiction authorises the office holder to exercise the power in the Territory.
- (3) The Territory's cross-border laws do not authorise a prescribed court of the Territory to hear and determine a proceeding, or to otherwise exercise its jurisdiction or a power, in another participating jurisdiction unless the law of the other jurisdiction allows the court to hear and determine the proceeding, or to exercise the jurisdiction or power, in the other jurisdiction.

- (4) The Territory's cross-border laws do not allow a prescribed court of another participating jurisdiction to hear and determine a proceeding, or to otherwise exercise its jurisdiction or a power, in the Territory unless the law of the other jurisdiction authorises the court to hear and determine the proceeding, or to exercise the jurisdiction or power, in the Territory.
- (5) The Territory's cross-border laws do not authorise a sentence imposed on, or an order made or issued against, a person in relation to an offence or alleged offence under the law of the Territory to be served or carried out in another participating jurisdiction unless the law of the other jurisdiction allows the sentence or order to be served or carried out in the other jurisdiction.
- (6) The Territory's cross-border laws do not allow a sentence imposed on, or an order made or issued against, a person in relation to an offence or alleged offence under the law of another jurisdiction to be served or carried out in the Territory unless the law of the other jurisdiction authorises the sentence or order to be served or carried out in the Territory.

16 Law of another participating jurisdiction: other persons required to do things

- (1) This section applies in relation to a person other than an office holder, court or other person in relation to whom section 15 applies.
- (2) The Territory's cross-border laws do not authorise a person who is required under the law of the Territory to do something to do that thing in another participating jurisdiction unless the law of the other jurisdiction allows the person to do the thing in the other jurisdiction.
- (3) The Territory's cross-border laws do not allow a person who is required under the law of another participating jurisdiction to do something to do that thing in the Territory unless the law of the other jurisdiction authorises the person to do the thing in the Territory.

17 Service and Execution of Process Act 1992 (Cth)

The Territory's cross-border laws are intended to provide alternative procedures to those under the *Service and Execution of Process Act 1992* (Cth) and do not purport to exclude or limit the operation of that Act.

Note

If the Service and Execution of Process Act 1992 (Cth) provides that it does not apply to a matter covered by the Territory's cross-border laws, an office holder or prescribed court of the Territory will proceed under the laws instead of that Act.

Division 6 Application

18 Offences, orders and requirements for which Territory's cross-border laws apply

- (1) The Territory's cross-border laws apply in relation to an offence under the law of a participating jurisdiction whether the offence is suspected of having been committed, or is alleged or found to have been committed, before or after the commencement of this Act.
- (2) The Territory's cross-border laws apply in relation to an order made under the law of a participating jurisdiction whether the order was made before or after the commencement of this Act.
- (3) The Territory's cross-border laws apply in relation to a requirement to do something under the law of a participating jurisdiction whether the requirement arose before or after the commencement of this Act.

Part 2 Cross-border regions

Division 1 Prescribing cross-border regions

19 Cross-border regions to be prescribed

A cross-border region is a region that:

- (a) straddles the border between the Territory and 1 or both of the other participating jurisdictions; and
- (b) is prescribed by regulation to be a cross-border region.

Division 2 Connection with cross-border region

20 Persons suspected of, alleged to have committed or found guilty of offences

- (1) This section applies to a person who:
 - (a) is suspected of having committed an offence under the law of a participating jurisdiction; or
 - (b) is alleged to have committed an offence under the law of a participating jurisdiction; or
 - (c) has been found guilty of an offence under the law of a participating jurisdiction.

- (2) The person has a connection with a cross-border region if:
- (a) the offence is suspected of having been committed, or is alleged or was found to have been committed, in the region; or
 - (b) at the time of the person's arrest for the offence:
 - (i) the person is or was in the region; or
 - (ii) the person ordinarily resides or resided in the region; or
 - (c) when the offence is suspected of having been committed, or is alleged or was found to have been committed, the person ordinarily resides or resided in the region.
- (3) For a proceeding of a prescribed court of a participating jurisdiction in relation to the offence, the person also has a connection with a cross-border region if:
- (a) when the proceeding is heard, the person ordinarily resides in the region; or
 - (b) the proceeding is heard with another cross-border proceeding of the court for which the person has a connection with the region.

Note for section 20

For deciding whether or not a person has committed an offence under the law of a participating jurisdiction:

- (a) for the Territory – section 15 of the Criminal Code applies; or*
- (b) for South Australia – section 5G of the Criminal Law Consolidation Act 1935 (SA) applies; or*
- (c) for Western Australia – section 12 of the Criminal Code (WA) applies.*

21 Persons against whom orders of prescribed courts are in force

- (1) This section applies to a person against whom an order made by a prescribed court of a participating jurisdiction is in force.
- (2) Subsections (3) and (4) apply if the person:
- (a) is suspected of having breached the order; or
 - (b) is alleged to have breached the order; or
 - (c) has been found to have breached the order.

- (3) The person has a connection with a cross-border region if:
- (a) the breach is suspected of having occurred, or is alleged or was found to have occurred, in the region; or
 - (b) at the time of the person's arrest for the breach:
 - (i) the person is or was in the region; or
 - (ii) the person ordinarily resides or resided in the region; or
 - (c) when the breach is suspected of having occurred, or is alleged or was found to have occurred, the person ordinarily resides or resided in the region; or
 - (d) when the order or a previous amendment or variation of the order was made, the person ordinarily resided in the region; or
 - (e) the order or a previous amendment or variation of the order was made in, or another breach of the order has been the subject of, another cross-border proceeding of the court for which the person had a connection with the region.
- (4) For a proceeding of the court in relation to the breach, the person also has a connection with a cross-border region if:
- (a) when the proceeding is heard, the person ordinarily resides in the region; or
 - (b) the proceeding is heard with another cross-border proceeding of the court for which the person has a connection with the region.
- (5) The person has a connection with a cross-border region for a proceeding of the court for the amendment, variation or revocation of the order if:
- (a) when the order or a previous amendment or variation of the order was made, the person ordinarily resided in the region; or
 - (b) the order or a previous amendment or variation of the order was made in, or any breach of the order has been the subject of, another cross-border proceeding of the court for which the person had a connection with the region; or
 - (c) when the proceeding is heard, the person ordinarily resides in the region; or

- (d) the proceeding is heard with another cross-border proceeding of the court for which the person has a connection with the region.

22 Connection for purposes of making restraining orders

- (1) This section applies to a person against whom a restraining order is sought or proposed to be made under a participating jurisdiction's restraining orders laws.
- (2) The person has a connection with a cross-border region, including for a proceeding in a prescribed court of the jurisdiction for the making of the order, if:
 - (a) the person ordinarily resides in the region; or
 - (b) the person for whose benefit the order is sought or is proposed to be made ordinarily resides in the region.

23 Persons serving sentences or carrying out orders for offences or alleged offences

- (1) This section applies to a person on whom a sentence is imposed, or against whom an order is made or issued, for an offence or alleged offence under the law of a participating jurisdiction.
- (2) The person has a connection with a cross-border region if:
 - (a) the sentence was imposed, or the order was made or issued, in:
 - (i) a cross-border proceeding of a prescribed court of the participating jurisdiction for which the person had a connection with the region; or
 - (ii) an appeal from such a proceeding; or
 - (b) if the order was made or issued for enforcing a fine – the fine was imposed in a proceeding or appeal mentioned in paragraph (a); or
 - (c) the person ordinarily resides in the region.

24 Other persons required to do things

- (1) This section applies to a person if sections 20 to 23 do not apply to the person.

- (2) A person who is required to do something under the law of a participating jurisdiction has a connection with a cross-border region if:
- (a) the requirement is made of the person in the region; or
 - (b) the requirement relates to an event, matter or thing in the region; or
 - (c) the person ordinarily resides in the region.

25 Connections are not mutually exclusive

A connection with a cross-border region that a person has because of a provision of this Division does not exclude or limit a connection with a cross-border region that the person has because of another provision of this Division.

Division 3 Proving connection with cross-border region

26 Definition

In this Division:

proceeding means:

- (a) a cross-border proceeding of a prescribed court of the Territory; or
- (b) a proceeding before a court of the Territory relating to an action taken or purportedly taken under this Act by an office holder of a participating jurisdiction.

27 Onus of proving person's whereabouts at time of arrest

- (1) If whether a person was in a cross-border region at the time of the person's arrest is in issue in a proceeding, the person has the onus of proving on the balance of probabilities the person was not in the region at the time.
- (2) If whether a person ordinarily resided in a cross-border region at the time of the person's arrest is in issue in a proceeding, the person has the onus of proving on the balance of probabilities the person did not ordinarily reside in the region at the time.

28 Onus of proving person's residency during cross-border proceeding

- (1) Subsection (2) applies if either of the following are in issue in a proceeding:
 - (a) for a cross-border proceeding – whether the person who is the subject of the proceeding ordinarily resides or resided in a cross-border region at a particular time during the proceeding;
 - (b) for another proceeding – whether the person who is the subject of the proceeding ordinarily resides or resided in a cross-border region at a particular time during a cross-border proceeding.
- (2) The person has the onus of proving on the balance of probabilities the person does not or did not ordinarily reside in the region at the time.

Division 4 Multiple cross-border regions

29 Application of Division

This Division applies if there are 2 or more cross-border regions of which:

- (a) 1 is partly in all 3 participating jurisdictions; and
- (b) the other or others are partly in only 2 of the 3 participating jurisdictions.

30 Office holders, prescribed courts, persons serving sentences

- (1) The Territory's cross-border laws do not authorise an office holder of the Territory to exercise a power under the law of the Territory in another participating jurisdiction unless the power is to be exercised in relation to a person who has a connection with a cross-border region that is partly in the other jurisdiction.
- (2) The Territory's cross-border laws do not allow an office holder of another participating jurisdiction to exercise a power under the law of the other jurisdiction in the Territory unless the power is to be exercised in relation to a person who has a connection with a cross-border region that is partly in the other jurisdiction.
- (3) The Territory's cross-border laws do not authorise a prescribed court of the Territory to hear and determine a proceeding, or to otherwise exercise its jurisdiction or a power, in another participating jurisdiction unless the person who is the subject of the proceeding to which the exercise of that jurisdiction or power

relates has a connection with a cross-border region that is partly in the other jurisdiction for that proceeding.

- (4) The Territory's cross-border laws do not allow a prescribed court of another participating jurisdiction to hear and determine a proceeding, or to otherwise exercise its jurisdiction or a power, in the Territory unless the person who is the subject of the proceeding to which the exercise of that jurisdiction or power relates has a connection with a cross-border region that is partly in the other jurisdiction for that proceeding.
- (5) The Territory's cross-border laws do not authorise a sentence imposed on, or an order made or issued against, a person in relation to an offence or alleged offence under the law of the Territory to be served or carried out in another participating jurisdiction unless the person has a connection with a cross-border region that is partly in the other jurisdiction.
- (6) The Territory's cross-border laws do not allow a sentence imposed on, or an order made or issued against, a person in relation to an offence or alleged offence under the law of another participating jurisdiction to be served or carried out in the Territory unless the person has a connection with a cross-border region that is partly in the other jurisdiction.

31 Other persons required to do things

- (1) This section applies in relation to a person other than an office holder, court or other person in relation to whom section 30 applies.
- (2) The Territory's cross-border laws do not authorise a person who is required under the law of the Territory to do something to do that thing in another participating jurisdiction unless the person has a connection with a cross-border region that is partly in the other jurisdiction.
- (3) The Territory's cross-border laws do not allow a person who is required under the law of another participating jurisdiction to do something to do that thing in the Territory unless the person has a connection with a cross-border region that is partly in the other jurisdiction.

Note for Division 4

A person may have a connection with more than 1 cross-border region. An office holder or prescribed court of the Territory may deal with the person under the Territory's cross-border laws on the basis of the person's connection with 1 or another of the regions, having regard to what best facilitates the administration of justice in the regions.

Part 3 Police officers of Territory exercising powers in another participating jurisdiction

Division 1 Powers generally

32 Arrest without warrant

- (1) A police officer of the Territory may arrest a person in another participating jurisdiction without a warrant if:
 - (a) under the law of the Territory, the police officer would have been able to arrest the person in the Territory without a warrant; and
 - (b) the person has a connection with a cross-border region.
- (2) The law of the Territory applies (with any appropriate modifications) in relation to the arrest.

33 Arrest under warrant

- (1) A police officer of the Territory may arrest a person in another participating jurisdiction under a warrant if:
 - (a) under the law of the Territory, the police officer would have been able to arrest the person in the Territory under a warrant; and
 - (b) the person has a connection with a cross-border region.
- (2) A magistrate of the Territory:
 - (a) may issue in another participating jurisdiction a warrant for the arrest of a person under the law of the Territory if the person has a connection with a cross-border region; and
 - (b) for that purpose, may exercise in the other jurisdiction any of the powers the magistrate has under the law of the Territory for issuing warrants for the arrest of persons.
- (3) The law of the Territory applies (with any appropriate modifications) in relation to the arrest and the warrant.

Examples for section 33

- 1 A person is suspected of committing an offence under NT law in the NT portion of the NT/SA/WA region. An NT magistrate anywhere in the NT, SA or WA may issue a warrant for the person's arrest. An NT police officer may arrest the person under the warrant anywhere in the NT, SA or WA.

- 2 *A person who ordinarily resides in the NT/SA region is suspected of committing an offence under NT law at a place in the NT outside the cross-border region. An NT magistrate anywhere in the NT or SA may issue a warrant for the person's arrest. An NT magistrate in WA cannot issue a warrant. An NT police officer may arrest the person under the warrant anywhere in the NT or SA but not in WA.*
- 3 *A person who ordinarily resides in the NT/WA region is suspected of committing an offence under NT law in the NT portion of the NT/SA region. An NT magistrate anywhere in the NT, SA or WA may issue a warrant for the person's arrest. An NT police officer may arrest the person under the warrant anywhere in the NT, SA or WA.*

34 Person taken into custody

- (1) Subsection (2) applies if:
- (a) a police officer of the Territory arrests a person under the law of the Territory:
 - (i) whether with or without a warrant; and
 - (ii) whether in the Territory or another participating jurisdiction; and
 - (b) the person has a connection with a cross-border region.
- (2) A police officer of the Territory may:
- (a) keep the person in custody in another participating jurisdiction; and
 - (b) while the person is in custody, take the person to a police station, court or other place in another participating jurisdiction for any purpose authorised under the law of the Territory as applied by subsection (3).
- (3) The law of the Territory applies (with any appropriate modifications) in relation to the custody.

35 Investigation of suspected or alleged offence or breach of order

- (1) This section applies if:
- (a) a police officer of the Territory:
 - (i) suspects a person of having committed, or has alleged that a person has committed, an offence under the law of the Territory; or

- (ii) suspects a person of having breached, or has alleged that a person has breached, an order made under the law of the Territory; and
 - (b) the person has a connection with a cross-border region.
- (2) A police officer of the Territory may:
- (a) investigate the offence or breach in another participating jurisdiction; and
 - (b) for that purpose, may exercise in the other jurisdiction any of the powers the police officer has under the law of the Territory for investigating the offence or breach.
- (3) Without affecting subsection (2), those powers may include powers in relation to any of the following:
- (a) interviewing people;
 - (b) searching people;
 - (c) taking photographs of people or parts of people's bodies;
 - (d) taking prints of parts of people's bodies (for example, fingerprints, handprints and footprints);
 - (e) taking samples of things, and removing things, from the external and internal parts of people's bodies;
 - (f) entering and searching places and vehicles;
 - (g) taking photographs of places and vehicles;
 - (h) inspecting, and taking extracts from or copies of, documents found at places or in vehicles;
 - (i) taking samples of things, and seizing things, from places and vehicles;
 - (j) carrying out warrants or orders authorising the police officer to do any of the things mentioned in paragraphs (a) to (i);
 - (k) requiring people to assist the police officer to do any of the things mentioned in paragraphs (a) to (j).

- (4) For the investigation of the offence or breach by a police officer of the Territory in the Territory or another participating jurisdiction, a magistrate of the Territory:
 - (a) may issue in another participating jurisdiction a warrant or order under the law of the Territory to be carried out in the Territory or another participating jurisdiction; and
 - (b) for that purpose, may exercise in the other participating jurisdiction any of the powers the magistrate has under the law of the Territory for issuing warrants or orders for the investigation by police officers of the Territory of offences or breaches of orders.
- (5) The law of the Territory applies (with any appropriate modifications) in relation to the investigation and the warrant or order.

Examples for section 35

- 1 *A person is suspected of committing an offence under NT law in the NT portion of the NT/SA/WA region. An NT police officer may investigate the alleged offence anywhere in the NT, SA or WA. For the investigation of the alleged offence, an NT magistrate anywhere in the NT, SA or WA may issue a warrant to search premises anywhere in the NT, SA or WA.*
- 2 *A person is arrested in the NT/SA region for an offence under NT law alleged to have been committed in a place in the NT outside the cross-border region. An NT police officer may investigate the alleged offence anywhere in the NT or SA but not in WA. For the investigation of the alleged offence, an NT magistrate anywhere in the NT or SA may issue a warrant to search premises anywhere in the NT or SA but not in WA. An NT magistrate in WA cannot issue a warrant.*
- 3 *A person is suspected of committing an offence under NT law in the NT portion of the NT/WA region and is subsequently arrested for the alleged offence in the NT/SA region. An NT police officer may investigate the alleged offence anywhere in the NT, SA or WA. For the investigation of the alleged offence, an NT magistrate anywhere in the NT, SA or WA may issue a warrant to search premises anywhere in the NT, SA or WA.*

36 Return of person not charged to place of arrest or other place

- (1) Subsection (2) applies if a person being kept in custody by a police officer of the Territory in another jurisdiction under section 34(2)(a) is released without charge.
- (2) A police officer of the Territory must take reasonable steps to ensure the person is taken, at the person's election:
 - (a) back to the place where the person was arrested; or
 - (b) to a place reasonably nominated by the person.

- (3) Subsection (2) does not require the person to be taken to a place if to do so is likely to endanger the person's or another person's safety.

37 Relationship of Part with *Criminal Investigation (Extra-territorial Offences) Act*

This Part does not affect the operation of the *Criminal Investigation (Extra-territorial Offences) Act*.

Division 2 Road traffic powers

Subdivision 1 Vehicle or driver licensing laws

38 Powers in relation to offences

- (1) Subsection (2) applies if:
- (a) a police officer of the Territory suspects a person of having committed, or has alleged that a person has committed, an offence under the Territory's vehicle or driver licensing laws; and
 - (b) the person has a connection with a cross-border region.
- (2) A police officer of the Territory may exercise in another participating jurisdiction any of the powers the police officer has under the law of the Territory in relation to the offence.

39 Other powers

- (1) A police officer of the Territory may exercise in another participating jurisdiction any of the police officer's licensing powers in relation to a person who ordinarily resides in a part of the Territory that is in a cross-border region.
- (2) In this section:

licensing powers, of a police officer of the Territory, means any of the powers the police officer has under the Territory's vehicle or driver licensing laws other than a power to which section 38(2) applies.

Subdivision 2 Drink or drug-driving laws

40 Definitions

In this Subdivision:

sample means a sample of a person's breath, oral fluid, blood or urine.

test means to provide or take, and test or analyse, a sample.

testing procedures, under a participating jurisdiction's drink or drug-driving laws, means the requirements for providing or taking, and testing or analysing, a sample under the jurisdiction's drink or drug-driving laws.

41 Conduct of preliminary alcohol or drug test in cross-border region

(1) This section applies if a police officer of the Territory requires a person in a part of the Territory that is in a cross-border region to provide a sample of breath or oral fluid for a preliminary alcohol or drug test under the Territory's drink or drug-driving laws.

(2) If:

(a) the person is required to provide the sample in accordance with the testing procedures under another participating jurisdiction's drink or drug-driving laws; and

(b) the region is partly in the other jurisdiction;

the person is taken to be required to provide the sample in accordance with the testing procedures under the Territory's drink or drug-driving laws.

(3) If:

(a) the sample is tested in accordance with the testing procedures for a preliminary alcohol or drug test under another participating jurisdiction's drink or drug-driving laws; and

(b) the region is partly in the other jurisdiction;

the sample is taken to have been tested in accordance with the testing procedures for a preliminary alcohol or drug test under the Territory's drink or drug-driving laws.

Examples for section 41

- 1 *An NT police officer requires a person in the NT portion of the NT/SA region to provide a sample of breath for a preliminary alcohol test under the NT's drink-driving laws. The police officer may require the person to provide the sample in accordance with the testing procedures under SA's drink-driving laws.*
- 2 *An NT police officer requires a person in the NT portion of the NT/SA region to provide a sample of breath for a preliminary alcohol test under the NT's drink-driving laws. The sample may be tested in accordance with the testing procedures under SA's drink-driving laws.*

42 Powers that may be exercised in another participating jurisdiction

- (1) Subsection (3) applies if a police officer of the Territory has required a person in a part of the Territory that is in a cross-border region to provide a sample of breath or oral fluid for a preliminary alcohol or drug test under the Territory's drink or drug-driving laws.
- (2) Subsection (3) applies if:
 - (a) a police officer of the Territory suspects a person of having committed, or has alleged that a person has committed, a drink or drug-driving offence under the law of the Territory; and
 - (b) the person has a connection with a cross-border region.
- (3) Subject to section 44, a police officer of the Territory may exercise in another participating jurisdiction any of the powers the police officer has under the Territory's drink or drug-driving laws in relation to the person.

Example for section 42

An NT police officer has required a person in the NT portion of the NT/WA region to provide a sample of oral fluid for a preliminary drug test under the NT's drug-driving laws. The police officer suspects the person has committed a drug-driving offence in the NT portion of the NT/WA region under the law of the NT. The police officer may require the person to provide a blood sample under the NT's drug-driving laws in WA.

43 Providing or taking sample in another participating jurisdiction

- (1) This section applies if a police officer of the Territory acting under section 42(3) requires a person to provide or allow to be taken a sample under the Territory's drink or drug-driving laws in another participating jurisdiction.
- (2) If the person is required to provide the sample or allow the sample to be taken in accordance with the testing procedures under the other jurisdiction's drink or drug-driving laws, the person is taken to be required to provide the sample or allow the sample to be taken in accordance with the testing procedures under the Territory's drink or drug-driving laws.
- (3) If the sample is tested in accordance with the testing procedures under the other jurisdiction's drink or drug-driving laws, the following provisions apply:
 - (a) the sample is taken to have been tested in accordance with the testing procedures under the Territory's drink or drug-driving laws;
 - (b) a certificate relating to the testing procedures under the other jurisdiction's drink or drug-driving laws that would be prima facie evidence of a matter stated in the certificate in a proceeding for an offence under the law of the other jurisdiction is prima facie evidence of the matter in a proceeding for an offence under the law of the Territory;
 - (c) if a sample of breath or blood is tested, the analysis result is taken to be the analysis result for the law of the Territory.
- (4) This section does not prevent the sample from being required to be provided or allowed to be taken, or from being tested, in accordance with the testing procedures under the Territory's drink or drug-driving laws.

Examples for section 43

- 1 *An NT police officer requires a person in WA to provide a blood sample under the NT's drug-driving laws. The police officer may require the person to provide the sample in accordance with the testing procedures under WA's drug-driving laws.*
- 2 *An NT police officer requires a person in WA to provide a blood sample under the NT's drug-driving laws. The sample may be tested in accordance with the testing procedures under WA's drug-driving laws.*

44 Preliminary alcohol or drug test cannot be conducted in another participating jurisdiction

This Subdivision does not authorise a police officer of the Territory to require a person in another participating jurisdiction to provide a sample of breath or oral fluid for a preliminary alcohol or drug test under the Territory's drink or drug-driving laws.

Subdivision 3 Vehicle impounding laws

45 Powers

- (1) A police officer of the Territory may exercise in relation to a vehicle in another participating jurisdiction any of the powers the police officer has under the Territory's vehicle impounding laws in relation to a vehicle if:

- (a) the person connected with the vehicle has a connection with a cross-border region; and
- (b) if the exercise of the power is for giving effect to a court order – the order was made by a prescribed court of the Territory.

- (2) In this section:

person, connected with a vehicle, means the person who:

- (a) is suspected of having committed; or
- (b) is alleged to have committed; or
- (c) has been found guilty of;

the offence for which the vehicle may or is required to be impounded or confiscated.

Subdivision 4 Miscellaneous matters

46 Law of Territory applies

The law of the Territory applies (with any appropriate modifications) in relation to the powers in relation to which this Division applies.

47 Relationship with Division 1

The powers that a police officer of the Territory is authorised under this Division to exercise in another participating jurisdiction are in addition to, and do not exclude or limit, any of the powers the police officer is authorised under Division 1 to exercise in the other jurisdiction.

Division 3 Restraining orders laws

48 Definition

In this Division:

NT police order means a police DVO made by a police officer of the Territory under the *Domestic and Family Violence Act*.

49 Making of NT police orders

- (1) A police officer of the Territory may make an NT police order in another participating jurisdiction if the person against whom the order is sought or proposed to be made has a connection with a cross-border region.
- (2) The law of the Territory applies (with any appropriate modifications) in relation to the making of the order.

Note for section 49

For deciding whether or not the person against whom the NT police order is sought or proposed to be made has a connection with a cross-border region, section 22 and Part 2, Division 4, apply.

50 Enforcement of NT police orders

- (1) This section applies if:
 - (a) a person in another participating jurisdiction is a person against whom an NT police order is in force; and
 - (b) the person against whom, or for whose benefit, the order is made ordinarily resides in a cross-border region.
- (2) A police officer of the Territory may exercise the police officer's powers in relation to the person against whom the order is made.
- (3) In relation to the exercise of the powers, sections 120 to 122 of the *Domestic and Family Violence Act* have effect for all purposes in relation to a contravention of the order in the other jurisdiction.

- (4) The law of the Territory applies (with any appropriate modifications) in relation to the powers.

Division 4 Offence

51 Offence to interfere with exercise of power

- (1) Subsection (2) applies if a person in another participating jurisdiction takes action in relation to the exercise of a power under this Part that would, if the action were to be taken in relation to the exercise of the power in the Territory, constitute an offence under the law of the Territory (a ***Territory offence***).
- (2) The person commits an offence under this Act punishable by the same penalty as is prescribed for the Territory offence.
- (3) If the Territory offence is an indictable offence, the offence under subsection (2) is also an indictable offence.

Part 4 Police officers of another participating jurisdiction exercising powers in Territory

Division 1 Powers generally

52 Arrest without warrant

- (1) A police officer of another participating jurisdiction may arrest a person in the Territory without a warrant if:
- (a) under the law of the other jurisdiction, the police officer would have been able to arrest the person in the other jurisdiction without a warrant; and
- (b) the person has a connection with a cross-border region.
- (2) The law of the Territory does not apply in relation to the arrest.

53 Arrest under warrant

- (1) A police officer of another participating jurisdiction may arrest a person in the Territory under a warrant if:
- (a) under the law of the other jurisdiction, the police officer would have been able to arrest the person in the other jurisdiction under a warrant; and
- (b) the person has a connection with a cross-border region.

- (2) A magistrate of another participating jurisdiction:
 - (a) may issue in the Territory a warrant for the arrest of a person under the law of the other jurisdiction if the person has a connection with a cross-border region; and
 - (b) for that purpose, may exercise in the Territory any of the powers the magistrate has under the law of the other jurisdiction for issuing warrants for the arrest of persons.
- (3) The law of the Territory does not apply in relation to the arrest or the warrant.

Examples for section 53

- 1 *A person is suspected of committing an offence under SA law in the SA portion of the NT/SA/WA region. An SA magistrate anywhere in the NT may issue a warrant for the person's arrest. An SA police officer may arrest the person under the warrant anywhere in the NT.*
- 2 *A person who ordinarily resides in the NT/WA region is suspected of committing an offence under WA law in a place in WA outside the cross-border region. A WA magistrate anywhere in the NT may issue a warrant for the person's arrest. A WA police officer may arrest the person under the warrant anywhere in the NT.*
- 3 *A person who ordinarily resides in the NT/SA region is suspected of committing an offence under SA law in a place in SA outside the cross-border region. An SA magistrate anywhere in the NT may issue a warrant for the person's arrest. An SA police officer may arrest the person under the warrant anywhere in the NT.*

54 Person taken into custody

- (1) Subsection (2) applies if:
 - (a) a police officer of another participating jurisdiction (the **arresting jurisdiction**) arrests a person under the law of the arresting jurisdiction:
 - (i) whether with or without a warrant; and
 - (ii) whether in the Territory or another participating jurisdiction; and
 - (b) the person has a connection with a cross-border region.
- (2) A police officer of the arresting jurisdiction may:
 - (a) keep the person in custody in the Territory; and

- (b) while the person is in custody, take the person to a police station, court or other place in the Territory for any purpose authorised under the law of the arresting jurisdiction as applied by its cross-border laws.

- (3) The law of the Territory does not apply in relation to the custody.

55 Investigation of suspected or alleged offence or breach of order

- (1) This section applies if:

- (a) a police officer of another participating jurisdiction (the *investigating jurisdiction*):

- (i) suspects a person of having committed, or has alleged that a person has committed, an offence under the law of the investigating jurisdiction; or
 - (ii) suspects a person of having breached, or has alleged that a person has breached, an order made under the law of the investigating jurisdiction; and

- (b) the person has a connection with a cross-border region.

- (2) A police officer of the investigating jurisdiction may:

- (a) investigate the offence or breach in the Territory; and
- (b) for that purpose, may exercise in the Territory any of the powers the police officer has under the law of the investigating jurisdiction for investigating the offence or breach.

- (3) Without affecting subsection (2), those powers may include powers in relation to any of the following:

- (a) interviewing people;
- (b) searching people;
- (c) taking photographs of people or parts of people's bodies;
- (d) taking prints of parts of people's bodies (for example, fingerprints, handprints and footprints);
- (e) taking samples of things, and removing things, from the external and internal parts of people's bodies;
- (f) entering and searching places and vehicles;

- (g) taking photographs of places and vehicles;
 - (h) inspecting, and taking extracts from or copies of, documents found at places or in vehicles;
 - (i) taking samples of things, and seizing things, from places and vehicles;
 - (j) carrying out warrants or orders authorising the police officer to do any of the things mentioned in paragraphs (a) to (i);
 - (k) requiring people to assist the police officer to do any of the things mentioned in paragraphs (a) to (j).
- (4) For the investigation of the offence or breach by a police officer of the investigating jurisdiction in the Territory or another participating jurisdiction, a magistrate of the investigating jurisdiction:
- (a) may issue in the Territory a warrant or order under the law of the investigating jurisdiction to be carried out in the Territory or another participating jurisdiction; and
 - (b) for that purpose, may exercise in the Territory any of the powers the magistrate has under the law of the investigating jurisdiction for issuing warrants or orders for the investigation by police officers of that jurisdiction of offences or breaches of orders.
- (5) The law of the Territory does not apply in relation to the investigation or the warrant or order.

Examples for section 55

- 1 *A person is suspected of committing an offence under SA law in the SA portion of the NT/SA/WA region. An SA police officer may investigate the alleged offence anywhere in the NT. For the investigation of the alleged offence, an SA magistrate anywhere in the NT may issue a warrant to search premises anywhere in the NT, SA or WA.*
- 2 *A person is arrested in the NT/WA region for an offence under WA law alleged to have been committed in a place in WA outside the cross-border region. A WA police officer may investigate the alleged offence anywhere in the NT. For the investigation of the alleged offence, a WA magistrate anywhere in the NT may issue a warrant to search premises anywhere in the NT or WA but not in SA.*
- 3 *A person who ordinarily resides in the NT/SA region is suspected of committing an offence under SA law in a place in SA outside the cross-border region. An SA police officer may investigate the alleged offence in the NT. For the investigation of the alleged offence, an SA magistrate anywhere in the NT may issue a warrant to search premises anywhere in the NT or SA but not in WA.*

56 Relationship of this Division with laws relating to forensic examinations

This Division does not exclude or limit the operation of the *Police Administration Act*, Part VII, Division 7 or the *Youth Justice Act*, Part 2, Division 3.

Note for section 56

A police officer of another participating jurisdiction who is investigating an offence under the law of the other jurisdiction may, for examining or obtaining material from the body of a person in the Territory, elect to use the powers the police officer has under this Division or to proceed under the Police Administration Act, Part VII, Division 7, or the Youth Justice Act, Part 2, Division 3.

Division 2 Road traffic powers

Subdivision 1 Vehicle or driver licensing laws

57 Powers in relation to offences

- (1) Subsection (2) applies if:
 - (a) a police officer of another participating jurisdiction suspects a person of having committed, or has alleged that a person has committed, an offence under the other jurisdiction's vehicle or driver licensing laws; and
 - (b) the person has a connection with a cross-border region.
- (2) A police officer of the other jurisdiction may exercise in the Territory any of the powers the police officer has under the law of the other jurisdiction in relation to the offence.

58 Other powers

- (1) A police officer of another participating jurisdiction may exercise in the Territory any of the police officer's licensing powers in relation to a person who ordinarily resides in a part of the other jurisdiction that is in a cross-border region.
- (2) In this section:

licensing powers, of a police officer of another participating jurisdiction, means any of the powers the police officer has under the other jurisdiction's vehicle or driver licensing laws other than a power to which section 57(2) applies.

Subdivision 2 Drink or drug-driving laws

59 Powers that may be exercised in Territory

- (1) Subsection (3) applies if a police officer of another participating jurisdiction has required a person in a part of the other jurisdiction that is in a cross-border region to provide a sample of the person's breath or oral fluid for a preliminary alcohol or drug test under the other jurisdiction's drink or drug-driving laws.
- (2) Subsection (3) applies if:
 - (a) a police officer of another participating jurisdiction suspects a person of having committed, or has alleged that a person has committed, a drink or drug-driving offence under the law of the other jurisdiction; and
 - (b) the person has a connection with a cross-border region.
- (3) Subject to section 60, a police officer of the other jurisdiction may exercise in the Territory any of the powers the police officer has under the other jurisdiction's drink or drug-driving laws in relation to the person.

60 Preliminary alcohol or drug test cannot be conducted in Territory

Section 59 does not authorise a police officer of another participating jurisdiction to require a person in the Territory to provide a sample of breath or oral fluid for a preliminary alcohol or drug test under the other jurisdiction's drink or drug-driving laws.

Subdivision 3 Vehicle impounding laws

61 Powers

- (1) A police officer or another office holder of another participating jurisdiction may exercise in relation to a vehicle in the Territory any of the powers the police officer or office holder has under the other jurisdiction's vehicle impounding laws in relation to a vehicle if:
 - (a) the person connected with the vehicle has a connection with a cross-border region; and
 - (b) if the exercise of the power is for giving effect to a court order – the order was made by a prescribed court of the other jurisdiction.

(2) In this section:

person, connected with a vehicle, means the person who:

- (a) is suspected of having committed; or
- (b) is alleged to have committed; or
- (c) has been found guilty of;

the offence for which the vehicle may or is required to be impounded or confiscated.

Subdivision 4 Miscellaneous matters

62 Law of Territory does not apply

The law of the Territory does not apply in relation to the powers in relation to which this Division applies.

63 Relationship with Division 1

The powers that a police officer of another participating jurisdiction is authorised under this Division to exercise in the Territory are in addition to, and do not exclude or limit, any of the powers the police officer is authorised under Division 1 to exercise in the Territory.

Division 3 Restraining orders laws

64 Definition

In this Division:

WA police order means an order made by a police officer of Western Australia under the State's restraining orders laws.

65 Making WA police orders

- (1) A police officer of Western Australia may make a WA police order in the Territory if the person against whom the order is sought or proposed to be made has a connection with a cross-border region.
- (2) The law of the Territory does not apply in relation to the making of the order.

Note for section 65

For deciding whether or not the person against whom the WA police order is sought or proposed to be made has a connection with a cross-border region, section 22 and Part 2, Division 4, apply.

66 Enforcement of WA police orders

- (1) This section applies if:
 - (a) a person in the Territory is a person against whom a WA police order is in force; and
 - (b) the person against whom, or for whose benefit, the order is made ordinarily resides in a cross-border region.
- (2) A police officer of Western Australia may exercise the police officer's powers in relation to the person against whom the order is made.
- (3) The law of the Territory does not apply in relation to the powers.

Part 5 Prescribed courts of Territory exercising cross-border jurisdiction

Division 1 Preliminary matters

67 Operation of courts outside Territory not limited

This Part does not limit, and applies subject to, the following:

- (a) section 60A of the *Justices Act*;
- (b) section 48 of the *Youth Justice Act*;
- (c) section 5A of the *Local Court Act*;
- (d) section 9 of the *Alcohol Court Act*.

Division 2 Jurisdiction and powers of courts

68 Proceedings that may be heard in another participating jurisdiction

- (1) A prescribed court of the Territory may hear and determine a proceeding mentioned in subsection (2) in another participating jurisdiction if the person who is the subject of the proceeding has a connection with a cross-border region for the proceeding.
- (2) Any of the following proceedings of a prescribed court of the Territory may be heard and determined in another participating jurisdiction under subsection (1):
 - (a) in the Court of Summary Jurisdiction under the *Justices Act*;

- (b) under the *Alcohol Court Act*;
 - (c) under the *Bail Act*;
 - (d) under the *Sentencing Act*;
 - (e) under the *Youth Justice Act*;
 - (f) under the *Domestic and Family Violence Act*;
 - (g) under the *Traffic Act* in relation to any of the following:
 - (i) the imposition or removal of a disqualification from holding or obtaining a driver's licence;
 - (ii) the impounding or forfeiture of a vehicle;
 - (iii) the sale or disposal of an impounded or forfeited vehicle;
 - (h) prescribed by regulation.
- (3) To avoid doubt, a prescribed court of the Territory can only hear and determine in another participating jurisdiction a proceeding that the court can hear and determine in the Territory.

Examples for section 68

- 1 A person is charged with an offence under NT law alleged to have been committed in the NT portion of the NT/SA/WA region. The charge may be heard by an NT magistrate sitting anywhere in the NT, SA or WA.
- 2 A person who ordinarily resides in the NT/SA region is charged with an offence under NT law alleged to have been committed in a place in the NT outside the cross-border region. The charge may be heard by an NT magistrate sitting anywhere in the NT or SA but not in WA.
- 3 A person is arrested in the NT/SA/WA region for an offence under NT law alleged to have been committed in a place in the NT outside the cross-border region (the **NT/SA/WA charge**). The person also has an outstanding charge for an offence under NT law alleged to have been committed in the NT portion of the NT/WA region (the **NT/WA charge**). The NT/SA/WA charge may be heard by an NT magistrate sitting anywhere in the NT, SA or WA. The NT/WA charge may be heard by an NT magistrate sitting anywhere in the NT or WA. It may also be heard by an NT magistrate sitting anywhere in SA, but only if it is heard with the NT/SA/WA charge.

69 Exercise of jurisdiction and powers

- (1) A prescribed court of the Territory may:
- (a) exercise its cross-border jurisdiction in the Territory or another participating jurisdiction; and
 - (b) for that purpose, have registries in and sit in another participating jurisdiction.

- (2) For exercising its cross-border jurisdiction, a prescribed court of the Territory may exercise in another participating jurisdiction any of the powers the court may exercise in the Territory, including powers in relation to the following:
 - (a) compelling witnesses;
 - (b) administering oaths;
 - (c) punishing for contempt;
 - (d) issuing warrants, summonses and other process.
- (3) For subsection (2), the powers of a prescribed court of the Territory include the powers of the court that may be exercised by a magistrate or registrar of the court.
- (4) To avoid doubt, a prescribed court of the Territory may exercise in another participating jurisdiction its cross-border jurisdiction in relation to a cross-border proceeding whether or not the proceeding is heard and determined in the other jurisdiction.

70 Practice and procedure

The practice and procedure of a prescribed court of the Territory apply (with any appropriate modifications) when the court is exercising its cross-border jurisdiction.

71 Rules of evidence

The rules of evidence applied by a prescribed court of the Territory apply (with any appropriate modifications) when the court is exercising its cross-border jurisdiction.

72 Offence to fail to comply with order, judgment, warrant or summons

- (1) Subsection (2) applies if:
 - (a) in the exercise of its cross-border jurisdiction, a prescribed court of the Territory issues an order, judgment, warrant or summons; and
 - (b) a person in another participating jurisdiction fails to comply with the order, judgment, warrant or summons; and
 - (c) the failure would, if it were to occur in the Territory, constitute an offence under the law of the Territory.

- (2) The person commits an offence under this Act punishable by the same penalty as is prescribed for the offence mentioned in subsection (1)(c).
- (3) If the offence mentioned in subsection (1)(c) is an indictable offence, the offence under subsection (2) is also an indictable offence.

Division 3 Miscellaneous matters relating to cross-border proceedings

73 Legal practitioners of another participating jurisdiction entitled to appear etc.

- (1) A person who is entitled to engage in legal practice under the law of another participating jurisdiction is entitled:
 - (a) to appear for a person in a cross-border proceeding of a prescribed court of the Territory; and
 - (b) to provide advice and other services to a person in relation to such a proceeding;

if the person who is the subject of the proceeding has a connection with a cross-border region that is partly in the other jurisdiction for the proceeding.

- (2) A person who is authorised under section 48 of the *Aboriginal Affairs Planning Authority Act 1972* (WA) is entitled to appear for a person of Aboriginal descent, as defined in section 4 of that Act, in a cross-border proceeding of a prescribed court of the Territory if the person who is the subject of the proceeding has a connection with a cross-border region that is partly in Western Australia for the proceeding.

74 Court documents may be filed, served or issued in another participating jurisdiction

A court document of a prescribed court of the Territory may be filed, served or issued in another participating jurisdiction.

75 Court documents in wrong form do not invalidate proceedings or decisions

- (1) This section applies if:
 - (a) a document filed, served or issued in a cross-border proceeding of a prescribed court of the Territory (the ***Territory court***) is in the form of a court document of a prescribed court of another participating jurisdiction (the ***interstate court***); and

- (b) the person who is the subject of the proceeding has a connection with a cross-border region that is partly in the other jurisdiction for the proceeding.
- (2) The proceeding or a decision in the proceeding cannot be challenged, appealed against, quashed or called into question on the ground that the document is in the form of a court document of the interstate court.
- (3) The Territory court may, on an application made by a party to the proceeding or on its own initiative, order that a document in the form of a court document of the Territory court be filed, served or issued (as the case requires) instead of the document mentioned in subsection (1)(a).
- (4) A document filed, served or issued under subsection (3) is taken to have been filed, served or issued on the day, and at the time, the document mentioned in subsection (1)(a) was filed, served or issued.

76 Application of *Court Security Act*

The *Court Security Act* does not apply in relation to any premises or other place in another participating jurisdiction used for a cross-border proceeding of a prescribed court of the Territory.

77 Law of Territory applies

Except to the extent this Act provides differently, the law of the Territory applies (with any appropriate modifications) in relation to the exercise by a prescribed court of the Territory of its cross-border jurisdiction.

Division 4 Registration of interstate restraining orders

78 Part 2, Divisions 2 and 4 do not apply

Part 2, Divisions 2 and 4, do not apply in relation to a power in relation to which this Division applies.

79 Definitions

In this Division:

register means to register under Chapter 3 of the *Domestic and Family Violence Act*.

SA restraining order means a restraining order of South Australia.

WA restraining order means a restraining order of Western Australia.

80 Registration of SA restraining orders under NT law

A registrar of the Court of Summary Jurisdiction may register an SA restraining order in another participating jurisdiction if:

- (a) the order was made, amended or varied in a cross-border proceeding of a prescribed court of South Australia for which the person against whom the order was made had a connection with a cross-border region that is partly in the other jurisdiction; or
- (b) the person against whom, or for whose benefit, the order was made ordinarily resides in the other jurisdiction.

Examples for section 80

- 1 *An SA magistrate sitting in a place in WA makes a restraining order under SA's restraining orders laws. For the proceeding, the person against whom the order is made had a connection with the NT/SA/WA region. The registry at the place is a registry of the NT Court of Summary Jurisdiction. Exercising the powers of a registrar of that Court, a registrar registers the order under the NT's restraining orders laws.*
- 2 *An SA magistrate sitting in a place in SA makes a restraining order under SA's restraining orders laws. The person for whose benefit the order is made ordinarily resides in SA. The registry at the place is a registry of the NT Court of Summary Jurisdiction. Exercising the powers of a registrar of that NT Court, a registry officer registers the order under the NT's restraining orders laws.*

81 Registration of WA restraining orders under NT law

A registrar of the Court of Summary Jurisdiction may register a WA restraining order in another participating jurisdiction if:

- (a) the order was made, amended or varied in a cross-border proceeding of a prescribed court of Western Australia for which the person against whom the order was made had a connection with a cross-border region that is partly in the other jurisdiction; or
- (b) the person against whom, or for whose benefit, the order was made ordinarily resides in the other jurisdiction.

Examples for section 81

- 1 *A WA magistrate sitting in a place in WA makes a restraining order under WA's restraining orders laws. For the proceeding, the person against whom the order is made had a connection with the NT/WA region. The registry at the place is a registry of the NT Court of Summary Jurisdiction. Exercising the powers of a registrar of that Court, a registrar registers the order under the NT's restraining orders laws.*

- 2 *A WA magistrate sitting in a place in WA makes a restraining order under WA's restraining orders laws. The person for whose benefit the order is made ordinarily resides in WA. The registry at the place is a registry of the NT Court of Summary Jurisdiction. Exercising the powers of a registrar of that Court, a registrar registers the order under the NT's restraining orders laws.*

Part 6 Prescribed courts of another participating jurisdiction exercising cross-border jurisdiction

Division 1 Jurisdiction and powers of courts

82 Proceedings that may be heard in Territory

A prescribed court of another participating jurisdiction may hear and determine a cross-border proceeding of the court in the Territory if the person who is the subject of the proceeding has a connection with a cross-border region for the proceeding.

Examples for section 82

- 1 *A person is charged with an offence under WA law alleged to have been committed in the WA portion of the NT/SA/WA region. The charge may be heard by a WA magistrate sitting anywhere in the NT.*
- 2 *A person who ordinarily resides in the NT/SA region is charged with an offence under SA law alleged to have been committed in a place in SA outside the cross-border region. The charge may be heard by an SA magistrate sitting anywhere in the NT.*
- 3 *A person is arrested in the NT/SA/WA region for an offence alleged to have been committed under WA law in a place in WA outside the cross-border region. The person also has an outstanding charge for an offence under WA law alleged to have been committed in the WA portion of the NT/WA region. Both charges may be heard by a WA magistrate sitting anywhere in the NT.*

83 Exercise of jurisdiction and powers

- (1) A prescribed court of another participating jurisdiction may:
 - (a) exercise its cross-border jurisdiction in the Territory; and
 - (b) for that purpose, have registries in and sit in the Territory.
- (2) For exercising its cross-border jurisdiction, a prescribed court of another participating jurisdiction may exercise in the Territory any of the powers the court may exercise in the other jurisdiction, including powers in relation to the following:
 - (a) compelling witnesses;
 - (b) administering oaths;

- (c) punishing for contempt;
- (d) issuing warrants, summonses and other process.
- (3) For subsection (2), the powers of a prescribed court of another participating jurisdiction include the powers of the court that may be exercised by a magistrate or registrar of the court.
- (4) To avoid doubt, a prescribed court of another participating jurisdiction may exercise in the Territory its cross-border jurisdiction in relation to a cross-border proceeding whether or not the proceeding is heard and determined in the Territory.

Division 2 Miscellaneous matters relating to cross-border proceedings

84 Trial of person in Territory by prescribed court of participating jurisdiction

Despite another law of the Territory, a person may be tried and punished in the Territory for an offence under the law of another participating jurisdiction by a prescribed court of the other jurisdiction in a cross-border proceeding of that court.

85 Privileges, protection and immunity of participants in proceedings

- (1) A magistrate of a prescribed court of another participating jurisdiction:
 - (a) hearing or determining in the Territory a cross-border proceeding of the other jurisdiction; or
 - (b) exercising in the Territory the cross-border jurisdiction of the court or a power of the court for that jurisdiction;

has the same privileges, protection and immunity as a Judge of the Supreme Court has in the performance of duties as a Judge.

- (2) A person appearing in the Territory as a legal practitioner in a cross-border proceeding of a prescribed court of another participating jurisdiction has the same protection and immunity as a legal practitioner appearing in a proceeding in the Supreme Court.
- (3) A person appearing in the Territory as a witness in a cross-border proceeding of a prescribed court of another participating jurisdiction has the same protection as a witness appearing in a proceeding in the Supreme Court.

86 Court documents may be filed, served or issued in Territory

A court document of a prescribed court of another participating jurisdiction may be filed, served or issued in the Territory.

87 Application of *Court Security Act*

The *Court Security Act* applies in relation to any premises or other place in the Territory used for a cross-border proceeding of a prescribed court of another participating jurisdiction as if the premises or place were used for a proceeding of a court of the Territory.

88 Law of Territory does not apply

Except to the extent this Act provides differently, the law of the Territory does not apply in relation to the exercise by a prescribed court of another participating jurisdiction of its cross-border jurisdiction in the Territory.

Division 3 Registration of interstate restraining orders

89 Part 2, Divisions 2 and 4, do not apply

Part 2, Divisions 2 and 4, do not apply in relation to a power in relation to which this Division applies.

90 Registration of NT or WA restraining orders under SA law

(1) The Principal Registrar of the Magistrates Court of South Australia may register an interstate restraining order in the Territory if:

- (a) the order was made, amended or varied in a cross-border proceeding of a prescribed court of the Territory or Western Australia for which the person against whom the order was made had a connection with a cross-border region that is partly in South Australia; or
- (b) the person against whom, or for whose benefit, the order was made ordinarily resides in South Australia.

(2) In this section:

interstate restraining order means:

- (a) a restraining order of the Territory; or
- (b) a restraining order of Western Australia.

register means to register under the restraining orders laws of South Australia.

Examples for section 90

- 1 *An NT magistrate sitting in a place in the NT makes a restraining order under the NT's restraining orders laws. For the proceeding, the person against whom the order is made had a connection with the NT/SA region. The registry at the place is a registry of the SA Magistrates Court. Exercising the powers of the Principal Registrar of the SA Magistrates Court, a registry officer registers the order under SA's restraining orders laws.*
- 2 *A WA magistrate sitting in a place in the NT makes a restraining order under WA's restraining orders laws. The person for whose benefit the order is made ordinarily resides in SA. The registry at the place is a registry of the SA Magistrates Court. Exercising the powers of the Principal Registrar of the SA Magistrates Court, a registry officer registers the order under SA's restraining orders laws.*

91 Registration of NT or SA restraining orders under WA law

- (1) A registrar of the Magistrates Court of Western Australia may register an interstate restraining order in the Territory if:
 - (a) the order was made, amended or varied in a cross-border proceeding of a prescribed court of the Territory or South Australia for which the person against whom the order was made had a connection with a cross-border region that is partly in Western Australia; or
 - (b) the person against whom, or for whose benefit, the order was made ordinarily resides in Western Australia.
- (2) In this section:

interstate restraining order means:

- (a) a restraining order of the Territory; or
- (b) a restraining order of South Australia.

register means to register under the restraining orders laws of Western Australia.

Examples for section 91

- 1 *An NT magistrate sitting in a place in the NT makes a restraining order under the NT's restraining orders laws. The person for whose benefit the order is made ordinarily resides in WA. The registry at the place is a registry of the WA Magistrates Court. Exercising the powers of the registrar of that Court, a registry officer registers the order under WA's restraining orders laws.*
- 2 *An SA magistrate sitting in a place in the NT makes a restraining order under SA's restraining orders laws. For the proceeding, the person against whom*

the order is made had a connection with the NT/SA/WA region. The registry at the place is a registry of the WA Magistrates Court. Exercising the powers of the registrar of that Court, a registry officer registers the order under WA's restraining orders laws.

Part 7 Bail of persons in custody under law of Territory

92 Police officer of Territory may exercise powers in another participating jurisdiction

The *Bail Act* applies (with any appropriate modifications) in relation to a person in the custody of a police officer of the Territory in another participating jurisdiction under section 34(2)(a).

Part 8 Bail of persons in custody under law of another participating jurisdiction

93 Police officer of another participating jurisdiction may exercise powers in Territory

- (1) Subsection (2) applies if a person is in the custody of a police officer of another participating jurisdiction in the Territory under section 54(2)(a).
- (2) A police officer of the other jurisdiction may exercise in relation to the person any of the powers the police officer has under the law of the other jurisdiction in relation to the bail of a person in custody in the other jurisdiction.
- (3) The *Bail Act* does not apply in relation to the person.

Part 9 Mentally impaired accused

94 Definitions

In this Part:

SA proceeding means:

- (a) a cross-border proceeding of a prescribed court of South Australia for which the person who is the subject of the proceeding has a connection with a cross-border region; or
- (b) an appeal from such a proceeding.

Territory approved facility means an approved treatment facility as defined in section 4 of the *Mental Health and Related Services Act*.

Territory prison means a prison in the Territory.

WA proceeding means:

- (a) a cross-border proceeding of a prescribed court of Western Australia for which the person who is the subject of the proceeding has a connection with a cross-border region; or
- (b) an appeal from such a proceeding.

95 Persons detained or kept in custody under SA law

(1) If:

- (a) in an SA proceeding, the person who is the subject of the proceeding is committed to detention under Part 8A of the *Criminal Law Consolidation Act 1935* (SA); and
- (b) the person is required by a direction made under section 269V of that Act to be kept in custody in a Territory approved facility or Territory prison;

the person may be kept in custody in the facility or prison in accordance with the direction.

- (2) If, in an SA proceeding, the person who is the subject of the proceeding is committed under section 269X of the *Criminal Law Consolidation Act 1935* (SA) to custody in a Territory approved facility or Territory prison, the person may be kept in custody in the facility or prison in accordance with the committal.

96 Persons detained or kept in custody under WA law

- (1) If, in a WA proceeding, the person who is the subject of the proceeding is required by a hospital order made under section 5(2) of the *Criminal Law (Mentally Impaired Accused) Act 1996* (WA) to be:

- (a) detained in a Territory approved facility; or
- (b) kept in custody in another place in the Territory;

the person may be detained in the facility, or kept in custody in the place, in accordance with the order.

(2) If:

- (a) in a WA proceeding, a custody order as defined section 3 of the *Criminal Law (Mentally Impaired Accused) Act 1996* (WA) is made for the person who is the subject of the proceeding; and
- (b) the person is required under section 24(1) or 25(2) of that Act to be detained in a Territory approved facility or another place in the Territory;

the person may be detained in the facility or other place in accordance with the order.

Part 10 Sentences and orders under law of Territory

Division 1 Custodial sentences and orders

Subdivision 1 Sentences of imprisonment or detention

97 Serving sentence in Territory or another participating jurisdiction

- (1) A person who is sentenced to a term of imprisonment or period of detention for an offence under the law of the Territory is liable to serve the sentence in a prison or detention centre in the Territory or another participating jurisdiction if the person has a connection with a cross-border region.
- (2) A person may be kept in custody in a prison or detention centre of another participating jurisdiction under subsection (1) for the period necessary to serve the sentence.
- (3) While a person is kept in custody in a prison or detention centre of another participating jurisdiction under subsection (1), the person is taken to be serving the sentence.

98 Warrant of commitment

A judicial officer or registrar of the court sentencing a person to whom section 97 applies may issue a warrant (a **warrant of commitment**) directed to all authorised officers and ordering them to take the person to a prison or detention centre in the Territory or another participating jurisdiction.

Subdivision 2 Remand

99 Remanded in custody in Territory or another participating jurisdiction

A person who is remanded in custody for an alleged offence under the law of the Territory may be kept in custody in a remand facility in the Territory or another participating jurisdiction in accordance with the order if the person has a connection with a cross-border region.

100 Remand warrant

A judicial officer or registrar of the court remanding a person to whom section 99 applies may issue a warrant (a **remand warrant**) directed to all authorised officers and ordering them to take the person to a remand facility in the Territory or another participating jurisdiction.

101 Law of Territory applies

Except to the extent this Act provides differently, the law of the Territory applies (with any appropriate modifications) in relation to the remand of a person in another participating jurisdiction under a remand warrant issued under section 100.

Subdivision 3 Bring up orders

102 Bringing up prisoner or detainee in another participating jurisdiction before judicial body of Territory

- (1) This section applies in relation to a person in custody in a prison or detention centre in another participating jurisdiction under the law of a participating jurisdiction.
- (2) If the person is required or entitled to be present at proceedings of a judicial body of the Territory:
 - (a) the judicial body or person constituting it for the proceedings;
or
 - (b) an officer of the judicial body authorised in accordance with its procedures; or
 - (c) the person in charge of the prison or detention centre;

may, by written order, direct the person be brought up to the place named in the order.

- (3) The order can only be made if the person has a connection with a cross-border region that is partly in the participating jurisdiction in which the person is in custody.
- (4) If 2 or more people constitute the judicial body for the proceedings, subsection (2)(a) applies to each of them.
- (5) In this section:

judicial body, of the Territory, means a court, tribunal or other body or person that under the law of the Territory has judicial or quasi judicial functions or otherwise acts judicially, and includes a Board of Inquiry under the *Inquiries Act*.

proceedings, of a judicial body of the Territory, includes anything done in the performance of the functions of the judicial body.

103 Custody of person brought up from prison or detention centre in another participating jurisdiction

If an order is made under section 102 in relation to a person:

- (a) the person in charge of the prison or detention centre in which the person is in custody may charge an authorised officer with carrying out the order; and
- (b) the person must:
 - (i) while absent from the prison or detention centre for the purpose specified in the order, be kept in the charge of an authorised officer; and
 - (ii) in due course and subject to any lawful order to the contrary, be returned to the custody from which the person was brought up without any prejudice to any cause or matter under the law of the Territory for which the person was in that custody; and
- (c) if the proceeding the person is required to attend is adjourned, the person may during the adjournment:
 - (i) be taken to and confined in a prison or detention centre in a participating jurisdiction or be kept at a place in a participating jurisdiction in the charge of an authorised officer; or
 - (ii) be brought up from time to time and day-to-day to the place where the person's attendance is required.

Subdivision 4 Miscellaneous matters

104 Carrying out custodial orders

An authorised officer of a participating jurisdiction may carry out a custodial order of the Territory in the Territory or another participating jurisdiction.

105 Application of *Prisons (Correctional Services) Act*

The *Prisons (Correctional Services) Act* does not apply in relation to a person in custody in a prison in another participating jurisdiction under this Part.

106 Application of *Youth Justice Act*

The provisions of the *Youth Justice Act* prescribed by regulation do not apply in relation to a person in custody in a detention centre in another participating jurisdiction under this Part.

Division 2 Non-custodial sentences and orders

107 Carrying out non-custodial orders in another participating jurisdiction

- (1) A non-custodial order of the Territory may be carried out (wholly or partly) in another participating jurisdiction if the person against whom the order is made or issued has a connection with a cross-border region.
- (2) A community corrections officer or juvenile justice officer of the Territory may exercise in another participating jurisdiction any of the powers the officer has under the law of the Territory in relation to a non-custodial order of the Territory if the person against whom the order was made or issued has a connection with a cross-border region.
- (3) The law of the Territory applies (with any appropriate modifications) in relation to the order and those powers.

108 Conducting diversionary programs for young offenders in another participating jurisdiction

- (1) A police officer, juvenile justice officer or other office holder of the Territory may exercise in another participating jurisdiction any of the powers the office holder has under Part 3 of the *Youth Justice Act* in relation to an alleged offender who has a connection with a cross-border region.

- (2) The law of the Territory applies (with any appropriate modifications) in relation to those powers.

Part 11 Sentences and orders under law of another participating jurisdiction

Division 1 Custodial sentences and orders

109 Serving sentence of imprisonment or detention in Territory

- (1) A person who is sentenced to a term of imprisonment or period of detention in relation to an offence under the law of another participating jurisdiction may serve the sentence in a prison or detention centre in the Territory if the person has a connection with a cross-border region.
- (2) A person may be kept in custody in a prison or detention centre of the Territory under subsection (1) for the period necessary to serve the sentence.
- (3) A person being kept in custody in a prison or detention centre under subsection (1) may be released from custody in accordance with the law of the other jurisdiction.

110 Remanded in custody in Territory

- (1) A person who is remanded in custody in relation to an alleged offence under the law of another participating jurisdiction may be kept in custody in a remand facility in the Territory in accordance with the order if the person has a connection with a cross-border region.
- (2) Except to the extent this Act provides differently, the law of the Territory does not apply in relation to the remand of a person in a remand facility of the Territory under subsection (1).

111 Carrying out custodial orders

- (1) An authorised officer of a participating jurisdiction may carry out a custodial order of another participating jurisdiction in the Territory.
- (2) An authorised officer of the Territory may carry out a custodial order of another participating jurisdiction in another participating jurisdiction.

112 Effect of bring up order if person in custody under law of Territory

- (1) This section applies in relation to a person in custody in a prison or detention centre in a participating jurisdiction under the law of the Territory.
- (2) If the person is taken from and returned to the prison or detention centre under a bring up order of another participating jurisdiction, subject to any lawful order to the contrary, the person's absence from the prison or detention centre for the purpose specified in the order does not prejudice any cause or matter under the law of the Territory for which the person was in that custody.

113 Application of *Prisons (Correctional Services) Act*

The *Prisons (Correctional Services) Act* applies in relation to a person in custody in a prison in the Territory under this Division.

114 Application of *Youth Justice Act*

The provisions of the *Youth Justice Act* prescribed by regulation apply in relation to a person in custody in a detention centre in the Territory under this Division.

Division 2 Non-custodial sentences and orders

115 Carrying out non-custodial orders in Territory

- (1) A non-custodial order of another participating jurisdiction may be carried out (wholly or partly) in the Territory if the person against whom the order is made or issued has a connection with a cross-border region.
- (2) A community corrections officer or juvenile justice officer of another participating jurisdiction may exercise in the Territory any of the powers the officer has under the law of the other jurisdiction in relation to a non-custodial order of the other jurisdiction if the person against whom the order is made or issued has a connection with a cross-border region.
- (3) The law of the Territory does not apply in relation to the order or those powers.

116 Conducting diversionary programs for young offenders in Territory

- (1) A police officer, juvenile justice officer or other office holder of South Australia may exercise in the Territory any of the powers the office holder has under Part 2 of the *Young Offenders Act 1993*

(SA) in relation to an alleged offender who has a connection with a cross-border region.

- (2) A police officer, juvenile justice officer or other office holder of Western Australia may exercise in the Territory any of the powers the office holder has under Part 5 the *Young Offenders Act 1994* (WA) in relation to an alleged offender who has a connection with a cross-border region.
- (3) The law of the Territory does not apply in relation to those powers.

Part 12 Enforcement of fines

Division 1 Preliminary matters

117 Definitions

In this Part:

fine includes a pecuniary penalty, pecuniary forfeiture, pecuniary compensation and fees, charges and costs payable under a conviction or order:

- (a) of a prescribed court of a participating jurisdiction; or
- (b) in an appeal from such a proceeding.

fines Director, means the person holding or occupying the office of Director under the Fines Enforcement Act.

Fines Enforcement Act means the *Fines and Penalties (Recovery) Act*.

fines enforcement agency, of another participating jurisdiction, means:

- (a) for South Australia – the Manager, Penalty Management as defined in section 3(1) of the *Criminal Law (Sentencing) Act 1988* (SA); or
- (b) for Western Australia – the Fines Enforcement Registry established by section 6 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* (WA).

Fines Recovery Unit, see section 5 of the Fines Enforcement Act.

Division 2 Fines under law of Territory

118 Request to enforce fine in another participating jurisdiction

- (1) The fines Director may request the fines enforcement agency of another participating jurisdiction (the ***reciprocating agency***) to enforce a fine for which an enforcement order is registered under section 31 of the Fines Enforcement Act if the offender on whom the fine has been imposed has a connection with a cross-border region.
- (2) The request must be in writing and accompanied by:
 - (a) a certified copy of the order imposing the fine; and
 - (b) a certificate signed by the fines Director certifying the amount of the fine outstanding; and
 - (c) written advice about the offender's connection with the region.

119 Effect of making request

On making the request, the fines Director must:

- (a) cancel any order or unexecuted warrant in force in relation to the fine under Part 5 of the Fines Enforcement Act; and
- (b) if the Fines Recovery Unit has requested the Registrar of Motor Vehicles to take enforcement action in relation to the fine – request the Registrar to cease enforcement action; and
- (c) not take any action or further action to enforce the fine under the Fines Enforcement Act unless section 122 applies.

120 Receipt of amount by fines Director

If, after making the request, the fines Director receives from the offender an amount in whole or part satisfaction of the fine, the Director must notify the reciprocating agency in writing of the payment.

121 Receipt of amount from reciprocating agency

If, after making the request, the fines Director receives from the reciprocating agency an amount in whole or part satisfaction of the fine, the Director must apply the amount as if it had been received from the offender in whole or part satisfaction of the fine.

122 Resumption of enforcement by fines Director

After making the request, the fines Director may take action or further action to enforce the fine under the Fines Enforcement Act only if the fines Director:

- (a) requests the reciprocating agency in writing to cease enforcing the fine; or
- (b) receives from that agency written advice that the agency will not take any action or further action to enforce the fine.

Division 3 Fines under law of another participating jurisdiction

123 Request to enforce fine in Territory

- (1) If the fines Director receives a request under subsection (2) from the fines enforcement agency of another participating jurisdiction (the ***reciprocating agency***) to enforce a fine imposed on an offender who has a connection with a cross-border region, the fines Director must register the order imposing the fine.
- (2) The request must be in writing and accompanied by:
 - (a) a certified copy of the order imposing the fine; and
 - (b) a certificate signed by or on behalf of the reciprocating agency certifying the amount of the fine outstanding; and
 - (c) written advice about the offender's connection with the region.

124 Effect of registration

- (1) On registration of the order imposing a fine under section 123(1), the fines Director may enforce the fine under the Fines Enforcement Act as if an order for it were registered under section 31 of that Act.
- (2) However, the fines Director cannot issue a warrant of commitment under Part 5, Division 10, of the Fines Enforcement Act for enforcing the fine.

125 Receipt of amount by reciprocating agency

If, after registration of the order imposing a fine under section 123(1), the fines Director receives written notice from the reciprocating agency that the offender has paid an amount in whole or part satisfaction of the fine, the fines Director:

- (a) must record the payment; and
- (b) may take action or further action under the Fines Enforcement Act to enforce only the amount of the fine outstanding.

126 Receipt of amount by fines Director

If, after registration of the order imposing a fine under section 123(1), the fines Director receives an amount in whole or part satisfaction of the fine:

- (a) from the offender; or
- (b) as a result of any action taken by the fines Director to enforce the fine under the Fines Enforcement Act;

the fines Director must pay the amount received to the reciprocating agency.

127 Request to cease enforcement of fine

- (1) This section applies if, after registration of the order imposing a fine under section 123(1), the fines Director:
 - (a) receives a written request from the reciprocating agency to cease enforcing the fine; or
 - (b) advises the reciprocating agency in writing that the fines Director will not take any action or further action to enforce the fine.
- (2) The fines Director must:
 - (a) cancel any order or unexecuted warrant in force in relation to the fine under Part 5 of the Fines Enforcement Act; and
 - (b) if the Fines Recovery Unit has requested the Registrar of Motor Vehicles to take enforcement action in relation to the finer – request the Registrar to cease enforcement action; and

- (c) advise the reciprocating agency of the amount of the fine outstanding, taking into account:
 - (i) an amount received from the offender in whole or part satisfaction of the fine, including any payment recorded under section 125(a); and
 - (ii) an amount received by the fines Director in whole or part satisfaction of the fine as a result of any action taken by the fines Director to enforce the fine under the Fines Enforcement Act; and
 - (iii) any reduction (calculated in accordance with the regulations) of the amount of the fine as a consequence of any action taken by the fines Director to enforce the fine under the Fines Enforcement Act; and
 - (d) pay to the reciprocating agency an amount received by the fines Director in whole or part satisfaction of the fine that has not already been paid under section 126; and
 - (e) not take any action or further action to enforce the fine under the Fines Enforcement Act.
- (3) On receiving or making a request under this section, the order imposing the fine ceases to be registered under section 123(1).

Part 13 Office holders of participating jurisdictions

Division 1 Holding offices and exercising powers under law of other jurisdictions

128 Secondary office holders and secondary offices

- (1) A secondary office holder is an office holder of a participating jurisdiction who holds office (whether under an appointment or otherwise) because the office holder is an office holder of 1 of the other participating jurisdictions.
- (2) A secondary office is an office held under the law of a participating jurisdiction by a secondary office holder.

Example for section 128

SA and WA police officers who are appointed as NT police officers under the Police Administration Act will be secondary office holders of the NT.

129 Office holders of Territory may be secondary office holders of another participating jurisdiction

An office holder of the Territory may hold a secondary office under the law of another participating jurisdiction, and exercise the powers of that office, for the other participating jurisdiction's cross-border laws.

130 Office holders of another participating jurisdiction may be secondary office holders of Territory

An office holder of another participating jurisdiction may hold a secondary office under the law of the Territory, and exercise the powers of that office, for the Territory's cross-border laws.

131 Terms of appointment of secondary office holders under law of Territory

- (1) This section applies in relation to an office holder of another participating jurisdiction who holds a secondary office under the law of the Territory for the Territory's cross-border laws.
- (2) The conditions of service (including as to remuneration) of the secondary office holder are those that the office holder is entitled to under the law of the other jurisdiction.
- (3) The secondary office holder ceases to hold the secondary office if the office holder ceases to hold the office under the law of the other jurisdiction.
- (4) In this section:

remuneration includes salary, allowances, fees, emoluments and benefits (whether in money or otherwise).

Division 2 Appointment of magistrates of another participating jurisdiction to be magistrates of Territory

132 Appointment as magistrates

The *Magistrates Act* applies (with any appropriate modifications) in relation to the appointment of magistrates of another participating jurisdiction to be magistrates under that Act.

Part 14 Miscellaneous matters

133 **Reporting accidents, producing driver's licences etc. to police stations etc.**

- (1) Subsections (2) and (3) apply in relation to a requirement under the law of the Territory to do something if no other provision of the Territory's cross-border laws authorises the thing to be done in another participating jurisdiction.
- (2) A person who is required under the Territory's road traffic laws to do something at a police station or other place may do that thing at a police station or other place in another participating jurisdiction if the person has a connection with a cross-border region.
- (3) A person who is required under any other law of the Territory to do something at a police station may do that thing at a police station in another participating jurisdiction if the person has a connection with a cross-border region.
- (4) Subsections (5) and (6) apply in relation to a requirement under the law of another participating jurisdiction to do something if no other provision of the Territory's cross-border laws allows the thing to be done in the Territory.
- (5) A person who is required under another participating jurisdiction's road traffic laws to do something at a police station or other place may do that thing at a police station or other place in the Territory if the person has a connection with a cross-border region.
- (6) A person who is required under any other law of another participating jurisdiction to do something at a police station may do that thing at a police station in the Territory if the person has a connection with a cross-border region.
- (7) In this section:

road traffic laws, of a participating jurisdiction, means:

- (a) for the Territory – the *Traffic Act*; or
- (b) for another jurisdiction – the road traffic laws of the jurisdiction under its cross-border laws.

134 **Operation of *Coroners Act***

This Act does not affect the application of the *Coroners Act* in relation to the investigation of the death of a person.

135 Power of Minister to enter agreements

- (1) The Minister may make an agreement with a Minister of another participating jurisdiction in relation to any matter that is necessary or convenient for giving effect to this Act.
- (2) Subsection (1) does not limit the power of the Minister to enter into agreements relating to the administration of justice in a cross-border region.
- (3) In this section:

Minister, of a participating jurisdiction, includes a person acting for a Minister of the jurisdiction.

136 Inconsistency between Act and agreement

If there is an inconsistency between this Act and an agreement mentioned in section 135(1), this Act prevails to the extent of the inconsistency.

137 Protection of office holders of Territory taking action in another participating jurisdiction

An office holder of the Territory has the same protection and immunity, and is subject to the same liability, under the law of the Territory in relation to any action the office holder takes under the Territory's cross-border laws in another participating jurisdiction as the office holder would have, and be subject to, if the office holder were to take the action in the Territory.

138 Protection of office holders of another participating jurisdiction taking action in Territory

An office holder of another participating jurisdiction has the same protection and immunity, and is subject to the same liability, under the law of the Territory in relation to any action the office holder takes under the other jurisdiction's cross-border laws in the Territory as the office holder would have, and be subject to, under the law of the other jurisdiction if the office holder were to take the action in the other jurisdiction.

139 Disclosure of information to authorities in another participating jurisdiction

- (1) A person or body in the Territory who is authorised under a law of the Territory to disclose information to another person or body in the Territory (a ***Territory authority***) may disclose the information to a person or body in another participating jurisdiction (an ***interstate authority***) if:
 - (a) the interstate authority exercises powers that correspond with the powers exercised by the Territory authority; and
 - (b) the information is relevant to the administration of the cross-border laws of the Territory or other jurisdiction.
- (2) The Chief Executive Officer may authorise the disclosure of information about persons who are being or have been dealt with under the Territory's cross-border laws to a person or body (whether in the Territory or elsewhere) for use in research.
- (3) The Minister may establish procedures for the disclosure of information under this section.

140 Delegation by Chief Executive Officer

- (1) The Chief Executive Officer may delegate any of the Chief Executive Officer's powers and functions under this Act.
- (2) The delegation must be in writing signed by the Chief Executive Officer.
- (3) A power or function when exercised or performed by the delegate is taken to have been exercised or performed in accordance with the delegation unless the contrary is shown.

141 Regulations

The Administrator may make regulations under this Act.

142 Review of Act

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as practicable after the expiry of 3 years after the commencement of this Act.
- (2) The Minister must:
 - (a) prepare a report on the outcome of the review; and

- (b) table a copy of the report in the Legislative Assembly within 4 years after the commencement of this Act.

Part 15 Consequential amendment of laws

Division 1 Alcohol Court Act

143 Act amended

This Division amends the *Alcohol Court Act*.

144 Amendment of section 8 (Registrar of Court)

- (1) Section 8

omit

A

substitute

- (1) A

- (2) After section 8(1)

insert

- (2) If the Court is required to perform its functions at a place outside the Territory, the Minister may appoint as a Registrar of the Court at the place:
- (a) a person who holds office as a registrar or deputy registrar of a court of the jurisdiction in which the place is located; or
- (b) another appropriately qualified person.
- (3) The conditions of service (including as to remuneration) of the appointed person are those that the person is entitled to under the law of the other jurisdiction.
- (4) A person appointed under subsection (2)(a) ceases to hold office if the person ceases to hold office as a registrar or deputy registrar of a court of the other jurisdiction.
- (5) With the approval of the Minister, a Registrar of the Court may concurrently hold office as a registrar or deputy registrar of a court of another jurisdiction.

(6) In this section:

remuneration includes salary, allowances, fees, emoluments and benefits (whether in money or otherwise).

145 Amendment of section 9 (Where Court may sit)

Section 9, after "locations"

insert

(including a place outside the Territory)

Division 2 Justices Act

146 Act amended

This Division amends the *Justices Act*.

147 Amendment of section 42 (Clerk of Court)

(1) Section 42

omit

A

substitute

(1) A

(2) After section 42(1)

insert

(2) If the Court is required to perform its functions at a place outside the Territory, the Minister may appoint as a clerk of the Court at the place:

(a) a person who holds office as a registrar or deputy registrar of a court of the jurisdiction in which the place is located; or

(b) another appropriately qualified person.

(3) The conditions of service (including as to remuneration) of the appointed person are those that the person is entitled to under the law of the other jurisdiction.

(4) A person appointed under subsection (2)(a) ceases to hold office if the person ceases to hold office as a registrar or deputy registrar of a court of the other jurisdiction.

- (5) With the approval of the Minister, a clerk of the Court may concurrently hold office as a registrar or deputy registrar of a court of another jurisdiction.

- (6) In this section:

remuneration includes salary, allowances, fees, emoluments and benefits (whether in money or otherwise).

148 New section 60A

Before section 61, in Division 3

insert

60A Where Court may be held

- (1) The Court may sit in the locations (including a place outside the Territory) the Minister directs and in any building approved by the Minister for the holding of the Court.
- (2) The Minister must ensure the places for the Court to sit have adequate and appropriate facilities for the Court's proceedings.
- (3) Despite subsection (1), if the Court considers it is expedient to sit in another place, the Court may sit in the other place.

Division 3 Local Court Act

149 Act amended

This Division amends the *Local Court Act*.

150 New section 5A

After section 5

insert

5A Where Court may be held

- (1) The Court may sit in the locations (including a place outside the Territory) the Minister directs and in any building approved by the Minister for the holding of the Court.
- (2) The Minister must ensure the places for the Court to sit have adequate and appropriate facilities for the Court's proceedings.

- (3) Despite subsection (1), if the Court considers it is expedient to sit in another place, the Court may sit in the other place.

151 Amendment of section 9 (Registrar)

After section 9(3)

insert

- (4) If the Court is required to perform its functions at a place outside the Territory, the Minister may appoint as a Judicial Registrar, Registrar or Deputy Registrar of the Court at the place:
- (a) a person who holds office as a registrar or deputy registrar of a court of the jurisdiction in which the place is located; or
 - (b) another appropriately qualified person.
- (5) The conditions of service (including as to remuneration) of the appointed person are those that the person is entitled to under the law of the other jurisdiction.
- (6) A person appointed under subsection (4)(a) ceases to hold office if the person ceases to hold office as a registrar or deputy registrar of a court of the other jurisdiction.
- (7) With the approval of the Minister, a Judicial Registrar, Registrar or Deputy Registrar of the Court may concurrently hold office as a registrar or deputy registrar of a court of another jurisdiction.
- (8) In this section:

remuneration includes salary, allowances, fees, emoluments and benefits (whether in money or otherwise).

Division 4 Magistrates Act

152 Act amended

This Division amends the *Magistrates Act*.

153 Amendment of section 20 (Oath, &c., of office)

- (1) Section 20, heading

omit, substitute

20 Oath or affirmation of office

- (2) Section 20(1), after "oath"
insert
or made an affirmation
- (3) Section 20(2)
omit, substitute
- (2) The oath or affirmation must be taken or made before:
- (a) a Judge; or
- (b) if taken or made outside the Territory – a person authorised by the Administrator.
- (4) Section 20(3)
omit
the oath
substitute
the oath or made the affirmation
- (5) Section 20(3)
omit
an oath
substitute
an oath or make an affirmation

Division 5 Police Administration Act

154 Act amended

The Division amends the *Police Administration Act*.

155 Amendment of section 32 (Special Constable to take oath or make affirmation)

After section 32(2)

insert

- (3) The oath or affirmation may be taken or made outside the Territory.

- (4) If the oath or affirmation is taken or made outside the Territory, the person administering it must send to the Commissioner within 14 days after it is taken or made:
 - (a) a copy of the oath or affirmation; and
 - (b) a written statement, signed by the person, stating the person's name and authority to administer the oath or affirmation.
- (5) A failure to comply with subsection (4) does not invalidate the appointment of a Special Constable.

156 Amendment of section 34E (Oath or affirmation)

Section 34E(3) and (4)

omit

Division 6 Youth Justice Act

157 Act amended

The Division amends the *Youth Justice Act*.

158 Amendment of section 47 (Registrar of Youth Justice Court)

- (1) Section 47

omit

A

substitute

- (1) A

- (2) After section 47(1)

insert

- (2) If the Court is required to perform its functions at a place outside the Territory, the Minister may appoint as a Registrar of the Court at the place:
 - (a) a person who holds office as a registrar or deputy registrar of a court of the jurisdiction in which the place is located; or
 - (b) another appropriately qualified person.

- (3) The conditions of service (including as to remuneration) of the appointed person are those that the person is entitled to under the law of the other jurisdiction.
- (4) A person appointed under subsection (2)(a) ceases to hold office if the person ceases to hold office as a registrar or deputy registrar of a court of the other jurisdiction.
- (5) With the approval of the Minister, a Registrar of the Court may concurrently hold office as a registrar or deputy registrar of a court of another jurisdiction.
- (6) In this section:

remuneration includes salary, allowances, fees, emoluments and benefits (whether in money or otherwise).

159 Amendment of section 48 (Where Youth Justice Court may be held)

Section 48(1), after "locations"

insert

(including a place outside the Territory)

Division 7 Expiry of Part

160 Expiry

This Part expires on the day after it commences.

ENDNOTES

1

KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = *Gazette*
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2

LIST OF LEGISLATION

Cross-border Justice Act 2009 (Act No. 1, 2009)

Assent date	12 March 2009
Commenced	ss 67(b), 68(2)(e), 106, 108, 114, 116 and Part 15 Div 6: 1 December 2009; rem: 1 November 2009 (<i>Gaz</i> S59, 29 October 2009)