

NORTHERN TERRITORY OF AUSTRALIA
PRISONS (CORRECTIONAL SERVICES) AMENDMENT ACT 1998

No. 60 of 1998
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NORTHERN TERRITORY OF AUSTRALIA

No. 60 of 1998

AN ACT

to amend the *Prisons (Correctional Services) Act*

[Assented to 3 September 1998]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Prisons (Correctional Services) Amendment Act 1998*.

2. COMMENCEMENT

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Prisons (Correctional Services) Act* is in this Act referred to as the Principal Act.

4. NEW DIVISION HEADING

The Principal Act is amended by inserting before section 63 in Part XVII the following:

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"Division 1 — Leave of Absence within Territory".

5. VARIATION OF LEAVE

Section 64 of the Principal Act is amended by omitting "Part" and substituting "Division".

6. SENTENCE TO RUN

Section 65 of the Principal Act is amended —

(a) by omitting "Part" and substituting "Division";
and

(b) by inserting "or her" after "his".

7. NEW DIVISION

The Principal Act is amended by adding at the end of Part XVII the following:

"Division 2 — Supervised Interstate Custodial Permits

"65A. DEFINITIONS

"In this Division —

'corresponding Director', in relation to a participating State, means the official responsible for the administration of prisons in that State;

'corresponding law' means a law of a State declared under section 65B to be a corresponding law for the purposes of this Division;

'interstate custodial permit' means a permit issued under section 65C;

'participating State' means a State in which a corresponding law is in force;

'State' means a State or another Territory of the Commonwealth.

"65B. CORRESPONDING LAWS

"(1) The Administrator may, by notice in the Gazette, declare a law of a State to be a corresponding law for the purposes of this Division.

"(2) The Administrator may only make a declaration if satisfied that the law substantially corresponds with this Division.

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"65C. ISSUE OF PERMIT

"(1) The Director may issue a permit to a prisoner permitting the prisoner to travel to the participating State specified in the permit —

- (a) for purposes relating to the health of the prisoner; or
- (b) in exceptional personal circumstances approved by the Minister.

"(2) A permit is issued subject to —

- (a) the prescribed conditions; and
- (b) any other conditions specified by the Director in the permit.

"65D. EFFECT OF PERMIT

"(1) An interstate custodial permit —

- (a) permits the prisoner specified in the permit to be absent from the prison specified in the permit in the custody of an escort for the purpose and for the period (not exceeding 10 days) specified in the permit; and
- (b) authorises the escort to take and keep in custody the prisoner for the purposes of —
 - (i) escorting the prisoner to the participating State (whether or not across another State) and within the participating State for the purpose specified in the permit; and
 - (ii) returning the prisoner to the prison from which the prisoner is permitted to be absent.

"(2) During his or her absence from prison under an interstate custodial permit —

- (a) a prisoner is to be taken to be in lawful custody; and
- (b) the term of his or her sentence of imprisonment continues to run.

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"65E. APPOINTMENT OF ESCORTS

"(1) The Director may appoint in writing one or more persons to be an escort for the purposes of this Division.

"(2) A person appointed under subsection (1) may be —

- (a) an officer;
- (b) a probation officer; or
- (c) any other person who the Director thinks is appropriate.

"65F. VARIATION OR REVOCATION OF PERMIT

"Before or at any time during the period of absence permitted under an interstate custodial permit, the Director may —

- (a) vary the period of absence specified in the permit or the conditions to which the permit is subject, including the prescribed conditions; or
- (b) revoke the permit.

"65G. BREACH OF PERMIT

"A prisoner who, without reasonable excuse, fails to comply with an interstate custodial permit is guilty of an offence punishable, on being found guilty, by a fine not exceeding \$10,000 or a term of imprisonment not exceeding 2 years.

"65H. NOTICE TO PARTICIPATING STATE AND TRANSIT STATES

"On issuing an interstate custodial permit, the Director must give notice in writing of its issue and the period of absence permitted by it to —

- (a) the corresponding Director and the chief officer of police in the participating State; and
- (b) the chief officer of police of any other State through which the prisoner is to travel by land to reach the participating State.

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"65J. EFFECT OF PERMIT ISSUED UNDER CORRESPONDING LAW

"A person who is authorised under a permit issued under a corresponding law to escort a person imprisoned in a participating State to or through the Territory is authorised while in the Territory —

- (a) to hold, take and keep custody of the person for the purposes and period of the permit; and
- (b) to hold, take and keep custody of the person for the purpose of returning the person to the participating State.

"65K. ESCAPE FROM CUSTODY OF INTERSTATE PRISONER

"(1) A person who escapes from the custody authorised under section 65J may be apprehended by —

- (a) an interstate escort;
- (b) a member of the Police Force; or
- (c) any other person.

"(2) A person —

- (a) who has been apprehended after escaping from the custody authorised under section 65J; or
- (b) who attempted to escape from the custody authorised under that section,

is to be taken before a Magistrate.

"(3) Despite the permit referred to in section 65J, the Magistrate may, by warrant —

- (a) order the return of the person to the participating State in which the permit was issued; and
- (b) order the person to be delivered to an interstate escort for that purpose.

"(4) A warrant may be executed according to its tenor.

"(5) A person who is the subject of a warrant may be detained by the Director until —

- (a) the person is delivered into the custody of an interstate escort in pursuance of the warrant; or

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- (b) the period of 7 days after the issue of the warrant has expired,

whichever occurs first.

"(6) If a person who is the subject of a warrant is not delivered into the custody of an interstate escort in pursuance of the warrant within 7 days after the issue of the warrant, the warrant ceases to have effect.

"(7) In this section, 'interstate escort', in relation to a person, means —

- (a) a person authorised under a permit issued under a corresponding law to have the custody of the person;
- (b) a prison officer (however described) or member of the police force of the participating State in which the permit was issued; or
- (c) a person appointed in writing by the corresponding Director to escort the person to the participating State in which the permit was issued."

8. FORMAL AMENDMENTS

The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 8

Provision	Amendment	
	omit	substitute
Section 4(2)	"he"	"he or she"
Section 4(4)	"him"	"him or her"
Section 5 — definition of "prisoner"	"he"	"he or she"
Section 7(1) and	"him "	"him or her"

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(1A)	"his"	"his or her"
Section 9	"his" (wherever occurring)	"his or her"
Section 11(c)	"he"	"he or she"
Sections 13 and 18(1) and (2)	"his"	"his or her"
Section 18(2) (b)	"he"	"he or she"
Section 19(2)	"(2) Every"	"Every"
	"his"	"his or her"
Section 20(1)	"his"	"his or her"
Section 20(2)	"his" (first occurring)	"his or her"
	"he"	"he or she"
	"him"	"him or her"
	"his" (last occurring)	"his or her"
Sections 21(1) and (3) and 22(3)	"his" (wherever occurring)	"his or her"
Section 23(a)	"he"	"he or she"
Section 27(2)	"his"	"his or her"
Section 28	"he"	"he or she"
Section 32(3)	"himself"	"himself or herself"
	"he"	"he or she"

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Section 34(1)	"him"	"him or her"
Sections 38(2) and 40(5) and (6)	"he"	"he or she"
Sections 40(7), 42 and 43(1) and (2)	"his" (wherever occurring)	"his or her"
Section 48(2)	"he"	"he or she"
Section 48(3)	"he"	"he or she"
	"his" (wherever occurring)	"his or her"
Section 56	"he" (wherever occurring)	"he or she"
Section 59(1)	"his" (wherever occurring)	"his or her"
Sections 60, 61(1), 62(3), 63, 66 and 68	"he" (wherever occurring)	"he or she"
Sections 69 and 70(d)	"his"	"his or her"
Section 74(1)	"he"	"he or she"
Section 74(3)	"he"	"he or she"
	"his"	"his or her"
Sections 75(2) and (3) and 76	"his" (wherever occurring)	"his or her"
Sections 77, 78, 79 and 83(2)	"he"	"he or she"

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Section 83(3)	"his"	"his or her"
	"he"	"he or she"
Sections 85(2), 91(1) and 94(3)	"his"	"his or her"
Section 94E(6), (7) and (8)	"Chairman"	"Chairperson"
Section 95	"him"	"him or her"
	"his" (first occurring)	"his or her"
	"he" (first occurring)	"he or she"
	"his" (last occurring)	"his or her"
	"he" (last occurring)	"he or she"
Section 97	"his" (wherever occurring)	"his or her"
