

Serial 232

International Transfer of Prisoners (Northern Territory) Bill 2000

Mr Manzie

**A BILL
for
AN ACT**

to enable the transfer of prisoners to and from Australia in accordance with
the *International Transfer of Prisoners Act 1997* of the Commonwealth
and for related purposes



NORTHERN TERRITORY OF AUSTRALIA
INTERNATIONAL TRANSFER OF PRISONERS (NORTHERN
TERRITORY) ACT 2000

No. of 2000

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2000

AN ACT

to enable the transfer of prisoners to and from Australia in accordance with the *International Transfer of Prisoners Act 1997* of the Commonwealth and for related purposes

[Assented to 2000]
[Second reading 2000]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *International Transfer of Prisoners (Northern Territory) Act 2000*.

2. Commencement

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

3. Interpretation

(1) In this Act, unless the contrary intention appears –

"Commonwealth Act" means the *International Transfer of Prisoners Act 1997* of the Commonwealth as amended and in force from time to time or an Act enacted in substitution for that Act as amended and as in force from time to time;

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"corresponding law" means a law of a State or another Territory of the Commonwealth that provides for the transfer of prisoners to and from Australia in accordance with the Commonwealth Act;

"enforcement law" means —

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

"function" includes a power, authority or duty;

"official" means a person (other than a member of the Police Force or a prison officer) who is authorised under an enforcement law to exercise or perform a function in respect of the transfer of a prisoner to or from Australia in accordance with the Commonwealth Act;

"prison officer" means an officer within the meaning of section 5 of the *Prisons (Correctional Services) Act*;

"prisoner" means a person who is serving a sentence of imprisonment imposed under a law in force in the Australia or another country or by a War Crimes Tribunal;

"War Crimes Tribunal" means the Former Yugoslavia Tribunal or Rwanda Tribunal within the meaning of the Commonwealth Act.

(2) Unless the contrary intention appears, an expression that is defined in the Commonwealth Act and used in this Act or an instrument of a legislative or administrative character made under this Act has the same meaning in this Act or the instrument of a legislative or administrative character as it has in the Commonwealth Act.

4. Object

The object of this Act is to give effect to the scheme for the transfer of prisoners between Australia and certain other countries in accordance with the Commonwealth Act by enabling prisoners to be transferred to and from the Territory.

PART 2 – CONFERRAL OF FUNCTIONS

5. Functions of Minister

(1) The Minister may exercise and perform a function conferred or imposed or expressed to be conferred or imposed on the Minister by or under the Commonwealth Act.

(2) The Minister may delegate a function referred to in subsection (1) to a prescribed person or a person who belongs to a prescribed class of persons.

6. Functions of prison officers, police and officials

(1) A prison officer, member of the Police Force or official may exercise or perform a function conferred or imposed or expressed to be conferred or imposed on him or her –

- (a) by or under the Commonwealth Act or a corresponding law; or
- (b) pursuant to an arrangement referred to in section 7.

(2) A prison officer, member of the Police Force or official may –

- (a) hold and deal with a prisoner transferred or to be transferred to or from Australia in accordance with the terms of a warrant issued under the Commonwealth Act in respect of the prisoner; and
- (b) take any action in respect of a prisoner transferred or to be transferred to or from Australia in accordance with the Commonwealth Act that he or she is authorised to take by or under that Act.

7. Arrangements for administration of Act

(1) The Administrator may, in accordance with section 50 of the Commonwealth Act, make arrangements for the administration of that Act, including arrangements relating to the exercise by a prison officer, member of the Police Force or official of functions under the Commonwealth Act.

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

PART 3 – ENFORCEMENT OF SENTENCES OF IMPRISONMENT OF TRANSFERRED PRISONERS

8. Prisoners transferred to Australia

(1) An enforcement law in force in the Territory applies to and in respect of a prisoner who is transferred to Australia in accordance with the

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Commonwealth Act to complete serving in the Territory a sentence of imprisonment that was imposed by a court or tribunal of another country or by a War Crimes Tribunal in the same manner as it applies to and in respect of a prisoner serving in the Territory a sentence of imprisonment that was imposed under a law of the Commonwealth.

(2) Without limiting subsection (1), enforcement laws relating to the following matters apply to a prisoner who is transferred to Australia in accordance with the Commonwealth Act:

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

(3) A direction given by the Attorney-General of the Commonwealth under section 44 of the Commonwealth Act concerning a sentence of imprisonment being served by a prisoner who is transferred to Australia in accordance with that Act has effect and is to be complied in the Territory.

(4) A direction given by the Attorney-General of the Commonwealth under section 49 of the Commonwealth Act concerning a prisoner who is transferred to Australia in accordance with that Act and who is pardoned or granted amnesty or whose sentence of imprisonment is commuted (as referred to in that section) has effect and is to be complied with in the Territory.

9. Prisoners transferred from Australia

(1) Subject to subsection (2), a law of the Territory relating to the enforcement of a sentence of imprisonment imposed by a court of the Territory ceases to apply to a prisoner on whom such a sentence of imprisonment is imposed who is transferred from Australia in accordance with the

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Commonwealth Act to complete serving the sentence of imprisonment in another country.

(2) Nothing in this section limits the power of the Territory or of a court or tribunal of the Territory to pardon, grant amnesty to or commute a sentence of imprisonment imposed on a prisoner referred to in subsection (1).

PART 4 – MISCELLANEOUS

10. Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters that are –

- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
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