

TASMANIA

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**PRISONERS (INTERSTATE TRANSFER)  
REGULATIONS 2023**

**STATUTORY RULES 2023, No. 75**

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**SCHEDULE 1 – FORMS**

## **PRISONERS (INTERSTATE TRANSFER) REGULATIONS 2023**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Prisoners (Interstate Transfer) Act 1982*.

Dated 20 November 2023.

B. BAKER  
Governor

By Her Excellency's Command,

M. OGILVIE  
Minister for Corrections and Rehabilitation

### **PART 1 – PRELIMINARY**

#### **1. Short title**

These regulations may be cited as the *Prisoners (Interstate Transfer) Regulations 2023*.

#### **2. Commencement**

These regulations take effect on  
18 December 2023.

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**Part 1 – Preliminary**

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**3. Interpretation**

In these regulations –

*Act* means the *Prisoners (Interstate Transfer) Act 1982*;

*prisoner's request* means a request of the kind referred to in section 5(1)(a) of the Act;

*Secretary* means Secretary of the Department.

**PART 2 – TRANSFER FOR PRISONER’S WELFARE**

**4. How prisoner may make request for transfer**

- (1) A prisoner’s request is to –
  - (a) be signed by the prisoner; and
  - (b) include a statement as to –
    - (i) family or other social circumstances that may advance the prisoner’s welfare before or after the prisoner’s release; and
    - (ii) family or other support in the relevant participating State, including the availability of accommodation after the prisoner’s release; and
    - (iii) the prisoner’s prospects of finding work after the prisoner’s release; and
    - (iv) any medical reasons that support the request; and
    - (v) any other matter that the prisoner considers may support the application.
- (2) The prisoner is to give the request to the gaoler of the prison where the prisoner is being detained.

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**5. Gaoler to process request for transfer**

As soon as practicable after receiving a prisoner’s request, a gaoler must –

- (a) prepare a report containing –
  - (i) a statement of the convictions and sentences for which the prisoner is being detained in custody; and
  - (ii) a statement of the prisoner’s parole and remissions status and the estimated day of the prisoner’s release (by remission); and
  - (iii) an assessment of the prisoner’s conduct and behaviour while in prison; and
- (b) forward the request and the report prepared under paragraph (a) to the Secretary.

**6. Prisoner may withdraw request for transfer**

- (1) A prisoner who has made a prisoner’s request may, at any time before the request has been decided by the Minister, withdraw that request.
- (2) A withdrawal of a request is to –
  - (a) be made in writing; and
  - (b) be signed by the prisoner; and

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- (c) contain a statement indicating the reason for withdrawing the request.
  - (3) The prisoner is to give the written withdrawal under subregulation (1) to the gaoler of the prison where the prisoner is being detained.
  - (4) A gaoler who has received a written withdrawal is to, as soon as is practicable, forward the withdrawal to the Secretary.
  - (5) If the request to which the written withdrawal relates has already been provided to the Minister, the Secretary is to forward the withdrawal to the Minister as soon as is practicable.
  - (6) A prisoner who has made a written withdrawal is to be informed, in writing, of the outcome of the withdrawal.

**7. Secretary to place request for transfer before Minister**

- (1) The Secretary must place a prisoner’s request before the Minister as soon as practicable after receiving –
  - (a) the request; and
  - (b) the related report prepared under regulation 5(a).
- (2) The Secretary may, and must if the Minister so requests, also provide the Minister which such medical, psychiatric or psychological reports or assessments in respect of the prisoner as are, or may be made, available to the Secretary.

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- (3) The Secretary may provide the Minister with such other information as the Secretary considers relevant for a proper consideration of the prisoner’s request.

**8. Matters relevant to Minister’s consideration of request for transfer**

The matters that the Minister may take into account in considering a prisoner’s request include, but are not limited to, the following:

- (a) whether the statutory period during which an appeal against the prisoner’s conviction or sentence may be made has expired;
- (b) whether any appeal against the prisoner’s conviction or sentence has been finally dealt with;
- (c) whether, so far as the Minister is aware, every complaint or information alleging an offence by the prisoner against the law of Tasmania or the Commonwealth, or of any Territory or other State, has been finally dealt with;
- (d) whether an inquiry (or a petition for an inquiry) under the law of Tasmania into the prisoner’s conviction or sentence is pending;
- (e) the term of imprisonment remaining to be served by the prisoner compared with the estimated period for dealing with the



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request and issuing and executing an order of transfer;

- (f) whether the prisoner has been declared a dangerous criminal under the *Dangerous Criminals and High Risk Offenders Act 2021*.

**9. Material to accompany Ministerial request to accept transfer**

A Ministerial request under section 5(1)(c) or (d) of the Act in respect of a prisoner’s request is to be accompanied by –

- (a) the prisoner’s request; and
- (b) the reports and, if applicable, the assessments and other information referred to in regulations 5 and 7 relating to the prisoner; and
- (c) a statement of the grounds on which the Minister’s request on the matter is based.

**10. Consideration of request to accept transfer**

The Minister may, before consenting to or refusing a request referred to in section 8 of the Act, ask all or any of the following for advice on the merits or otherwise of the requested transfer:

- (a) the Parole Board established under the *Corrections Act 1997*;
- (b) the Director of Corrective Services;

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- (c) the Secretary;
- (d) the Commissioner of Police.

**PART 3 – TRANSFER FOR TRIAL**

**11. Request for transfer of prisoner to participating State**

- (1) For the purposes of considering a request referred to in section 10(1)(a) or (b) of the Act, the Attorney-General may (through the Minister if the Attorney-General is not also the Minister) –
  - (a) cause a report to be prepared on the prisoner in the same terms as a report that would be required to be sent under section 24(1)(c) of the Act if the prisoner were conveyed to the participating State; and
  - (b) in the case of a request under section 10(1)(a), advise the prisoner of the substance of the request and seek the prisoner’s comments on it.
- (2) If a prisoner has been advised, under subregulation (1)(b), of the substance of the request under section 10(1)(a) –
  - (a) the prisoner is to –
    - (i) put the prisoner’s comments on the request, if any, in writing; and
    - (ii) give them to the gaoler of the prison where the prisoner is being detained, within 14 days after being advised of the request; and

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- (b) the gaoler must (through the Minister if the Attorney-General is not also the Minister) forward the prisoner's comments to the Attorney-General as soon as practicable.
- (3) The Attorney-General, if the Attorney-General consents to a prisoner's request, is to ensure that, in addition to the notice of consent, the Attorney-General of the participating State is given a copy of –
  - (a) the prisoner's request; and
  - (b) the report referred to in subregulation (1)(a) on the prisoner.

**12. Certification of consent or request required for transfer**

For the purposes of section 11(2) of the Act, the Secretary is a prescribed officer.

**13. Application to a court for issue of order of transfer**

- (1) An application to a court of petty sessions for the issue of an order of transfer under section 12(1) of the Act may be made by the Secretary or by a person acting on the Secretary's behalf.
- (2) If, as a result of an application referred to in subregulation (1), the court makes an order under section 12(1) of the Act, the person making the application must cause a copy of the application, together with a notice of hearing of the application, to be served on –

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- (a) the prisoner to whom the application relates; and
- (b) the Attorney-General.

**14. Form of orders of transfer**

- (1) An order of transfer issued by a court of petty sessions pursuant to section 13(a) of the Act is to be in accordance with Form 1 in Schedule 1.
- (2) An order of transfer issued by the Supreme Court pursuant to section 14(6) of the Act is to be in accordance with Form 2 in Schedule 1.

**15. Consideration of request for transfer**

For the purposes of making a decision under section 17 of the Act, the Attorney-General may ask the Commissioner of Police for a report on the requested transfer.

**PART 4 – TRANSFER BACK TO ORIGINAL STATE**

**16. Minister may make relevant enquiries before issuing order of transfer**

Before issuing an order under section 18 of the Act, the Minister may ask the Commissioner of Police and the person who would be transferred under the order whether or not, as far as is known, every complaint or information alleging any offence by the person against a law of Tasmania or the Commonwealth has been finally dealt with according to the law.

**17. Request to serve imprisonment in Tasmania**

- (1) A request under section 21(1)(a) of the Act is to –
  - (a) be signed by the person making it; and
  - (b) set out the grounds for making it; and
  - (c) be given to the gaoler of the prison where the person is being detained.
- (2) The provisions of regulations 5 and 7 apply to, and in respect of, a request referred to in subregulation (1) –
  - (a) as if a reference in those regulations to a prisoner's request were a reference to a request under section 21(1)(a) of the Act; and

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- (b) in the same way as those provisions apply to, and in respect of, a prisoner's request to which regulations 5 and 7 apply.
- (3) If the Minister agrees to a person's request referred to in subregulation (1), the Minister is to –
- (a) give written notice of the decision to the corresponding Minister of the relevant participating State; and
  - (b) enclose with the notice copies of the reports, information, documents and details that the Minister had regard to in considering the request; and
  - (c) seek the advice of the corresponding Minister as to whether or not that Minister agrees to the person's imprisonment being served in Tasmania.

**18. Inquiries concerning person liable to be transferred to Tasmania**

In deciding whether or not to agree to a person imprisoned in a participating State serving imprisonment in that participating State in pursuance of a request made under the provision of an interstate law that substantially corresponds to section 21(1)(a) of the Act, the Minister may ask the Commissioner of Police, as far as is known, whether every complaint or information alleging any offence by the person against the law of Tasmania or the

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Commonwealth has been finally dealt with according to the law.



**PART 5 – MISCELLANEOUS**

**19. Responsibility for escort arrangements**

- (1) Subject to subregulation (2), the cost of, and responsibility for, transferring a prisoner pursuant to an order of transfer made under a section of the Act specified in the table in this regulation is to be borne by the jurisdiction specified, in that table, opposite the description.
- (2) Subregulation (1) does not apply if there is an agreement to the contrary between –
  - (a) in the case of a request for the transfer of a State prisoner to a participating State, the Minister and the corresponding Minister; or
  - (b) in the case of a request for the transfer of a State prisoner to a Territory, the Minister and the Attorney-General of the Commonwealth; or
  - (c) in the case of a request for the transfer of a joint prisoner to a participating State or Territory, the Minister, the Attorney-General of the Commonwealth, and the corresponding Minister of the participating State or Territory.
- (3) In the table to this regulation a reference to a sentence includes a reference to concurrent or cumulative sentences.

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Part 5 – Miscellaneous

<b>Item</b>	<b>Section of Act</b>	<b>Description of order</b>	<b>Responsible jurisdiction</b>
1.	Section 5(2)	Order for transfer of State prisoner to participating State or Territory for prisoner’s welfare	Tasmania
2.	Section 5(4), 5(5), 13 or 14	Order for transfer to participating State or Territory for welfare or trial of –  (a) joint prisoner serving State and Commonwealth sentences for the same period; or  (b) joint prisoner serving longer Commonwealth sentence than State sentence	Commonwealth
3.	Section 5(4), 5(5), 13 or 14	Order for transfer to participating State or Territory for welfare or trial of joint prisoner serving longer State sentence than Commonwealth sentence	Participating State or Territory

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<b>Item</b>	<b>Section of Act</b>	<b>Description of order</b>	<b>Responsible jurisdiction</b>
4.	Section 13 or 14	Order for transfer of State prisoner to participating State or Territory for prisoner’s trial where prisoner to be dealt with according to law of Commonwealth	Commonwealth
5.	Section 13 or 14	Order for transfer of State prisoner to participating State or Territory for prisoner’s trial where prisoner to be dealt with according to law of participating State or Territory	Participating State or Territory
6.	Section 18	Order for transfer to return prisoner to participating State or Territory after being dealt with according to law	Tasmania

**20. Copies of transfer documents: manner of certification**

For the purposes of section 24(2) of the Act, a document is certified in the prescribed manner if the document is certified by the Secretary.

**21. Dealing with transfer documents of persons received from participating States**

- (1) This regulation applies if a person imprisoned in a participating State is transferred to Tasmania pursuant to an order issued under an interstate law.
- (2) If this regulation applies, the Minister is to ensure that the order and other documents sent to the Minister (or copies of them) are, after completion of any action required in relation to them –
  - (a) forwarded to the gaoler of the prison where the person is detained; and
  - (b) kept with the person’s warrant papers.

**22. Lawful custody for transit through Tasmania**

If, pursuant to section 29 of the Act, a gaoler receives a person who is the subject of an order of transfer from one participating State to another participating State and detains that person in custody, the gaoler is to endorse on the copy of the relevant order of transfer delivered to the gaoler by the escort –

- (a) the time and date of the receipt of that person into custody; and
- (b) the time and date of the delivery of that person to the custody of the escort.

**23. Revocation of order of transfer**

For the purposes of section 32 of the Act, the office of Secretary is a prescribed office.

**24. Prisoner being transferred is entitled to check personal property, &c.**

(1) In this regulation –

*released* means released pursuant to an order of transfer or warrant issued under the authority of the Act.

(2) The gaoler of a prison from which a prisoner is about to be released for escort to a participating State must give the prisoner an opportunity to inspect –

(a) any personal property of the prisoner which is in the gaoler's custody; and

(b) any prison records relating to the money, if any, belonging to the prisoner.

(3) The prisoner may make a complaint if, as a result of taking the opportunity of inspection, the prisoner has any concerns regarding –

(a) the condition of, or any deficiency in, the prisoner's personal property; or

(b) any error in the records relating to the prisoner's money.

(4) The complaint is to be made in writing and given to –

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Part 5 – Miscellaneous

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- (a) the gaoler; or
  - (b) another correctional officer within the meaning of the *Corrections Act 1997*.
- (5) If subregulation (4)(b) applies, the correctional officer must convey the complaint to the gaoler without unnecessary delay.
- (6) The gaoler must ensure that –
- (a) the complaint is investigated; and
  - (b) the prisoner is informed of the outcome, if any, of the investigation before being released for escort to the participating State.
- (7) The gaoler is to inform the Secretary without unnecessary delay if –
- (a) it comes to the gaoler’s attention that the prisoner is not satisfied with the outcome of the investigation; or
  - (b) the investigation was for any reason not completed before the prisoner’s release for escort to the participating State.

**25. Transfer of prisoner’s money**

- (1) In this regulation –

*interstate gaoler*, in relation to an interstate prison, means a person who is employed in a participating State or Territory who would, if the prison were located within

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Tasmania, fall within the definition of *gaoler* in section 3(1) of the Act in respect of the prison;

*interstate prison* means a prison, in a participating State or Territory, that would fall within the definition of *prison* in section 3(1) of the Act if that prison was located in Tasmania;

*released* means released pursuant to an order of transfer or warrant issued under the authority of the Act.

- (2) The gaoler of a prison from which a prisoner is released for escort to a participating State must –
- (a) remit any money belonging to the prisoner which is in the gaoler’s custody to the interstate gaoler of the interstate prison in the participating State to which the prisoner is to be escorted, for credit to the prisoner’s account; and
  - (b) inform the prisoner in writing of the amount so remitted.

**26. Transfer or disposal of prisoner’s property**

- (1) When being escorted to a participating State, a prisoner being transferred under the Act may be permitted to take so much personal clothing and other articles of person property belonging to the prisoner as, in the opinion of the escort or escorts, can be safely and conveniently taken with the prisoner to the participating State.

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Part 5 – Miscellaneous

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- (2) Articles of personal property belonging to a prisoner being transferred under the Act, being articles that are in the prisoner's physical possession at a prison or in the custody of the gaoler of the prison and that are not taken with the prisoner, may, at the prisoner's risk and expense, be –
- (a) forwarded to the prisoner in the participating State; or
  - (b) disposed of by the gaoler in accordance with written directions given by the prisoner.



**SCHEDULE 1 – FORMS**

Regulation 14

**Form 1**

Tasmania

*Prisoners (Interstate Transfer) Act 1982*

Section 13(a)

TO the gaoler of the prison at .....  
in the State of Tasmania.

AND TO the escort(s) for the purposes of executing this order.

WHEREAS:

- (a) <sup>(1)</sup> ..... (in this order referred to as “the prisoner”) was on <sup>(2)</sup> ..... at <sup>(3)</sup> ....., in the State of Tasmania, for the offence(s) of <sup>(4)</sup> ..... sentenced to <sup>(5)</sup> ..... imprisonment; and
- (b) it has been established to the satisfaction of the undersigned Magistrate constituting the Court of Petty Sessions at <sup>(6)</sup> ..... in the State of Tasmania that the prisoner is the subject of an arrest warrant issued in accordance with the law of the State/Territory of ....., a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*, and that the Attorney-General of Tasmania and the Attorney-General of the participating State have consented to or requested, as the case may be, the transfer of the prisoner to the participating State to be dealt with according to law.

NOW, I, the undersigned Magistrate, constituting the abovenamed Court of Petty Sessions, issue this order for the transfer of the prisoner to the participating State to be dealt with according to law.

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I THEREFORE COMMAND YOU –

- (a) the gaoler of the abovenamed prison in the State of Tasmania, to deliver the prisoner, together with this order, into the custody of the abovementioned escort(s); and
- (b) the abovementioned escort(s), forthwith to take and safely keep custody of the prisoner for the purpose of conveying the prisoner from the State of Tasmania to the participating State and there delivering the prisoner, together with this order, into the custody of the gaoler of the prison at ..... in the participating State,

and, for your so doing, this order shall be your sufficient authority.

GIVEN under my hand this ..... day of ..... 20.....,  
at the Court of Petty Sessions at ..... in the  
State of Tasmania.

.....  
Magistrate

- (1) Full name
- (2) Date
- (3) Court
- (4) Short description
- (5) Aggregate term
- (6) Place

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**Form 2**

Tasmania

*Prisoners (Interstate Transfer) Act 1982*

Section 14(6)

TO the gaoler of the prison at .....  
in the State of Tasmania.

AND TO the escort(s) for the purposes of executing this order.

WHEREAS:

- (a) <sup>(1)</sup> ..... (in this order referred to as “the prisoner”) was on <sup>(2)</sup> ..... at <sup>(3)</sup> ....., in the State of Tasmania, for the offence(s) of <sup>(4)</sup> ..... sentenced to <sup>(5)</sup> ..... imprisonment; and
- (b) on <sup>(2)</sup> ..... the Court of Petty Sessions at <sup>(6)</sup> ..... in the State of Tasmania, on an application for the issue of an order for the transfer of the prisoner to the State/Territory of ....., a participating State for the purposes of the *Prisoners (Interstate Transfer) Act 1982*, to be dealt with according to law, made the following order:  
<sup>(7)</sup> .....  
.....; and
- (c) <sup>(8)</sup> ..... was dissatisfied with the decision of the Court of Petty Sessions and applied to the Supreme Court of Tasmania for a review of the decision.

NOW, I, the undersigned Judge of the Supreme Court of Tasmania, having reviewed the decision of the Court of Petty Sessions, hereby quash the decision, AND, it having been established to my satisfaction that the prisoner is the subject of an arrest warrant issued in accordance with the law of the participating State and that the Attorney-General of Tasmania

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and the Attorney-General of the participating State have consented to or requested, as the case may be, the transfer of the prisoner to the participating State to be dealt with according to law, DO issue this order for the transfer of the prisoner to the participating State to be dealt with according to law.

I THEREFORE COMMAND YOU –

- (a) the gaoler of the abovenamed prison in the State of Tasmania, to deliver the prisoner, together with this order, into the custody of the abovementioned escort(s); and
- (b) the abovementioned escort(s), forthwith to take and safely keep custody of the prisoner for the purpose of conveying the prisoner from the State of Tasmania to the participating State and there delivering the prisoner, together with this order, into the custody of the gaoler of the prison at ..... in the participating State,

and, for your so doing, this order shall be your sufficient authority.

GIVEN under my hand this ..... day of ..... 20.....,  
at the Supreme Court at Hobart in the State of Tasmania.

.....  
Judge of the Supreme Court of Tasmania

- 1) Full name
- (2) Date
- (3) Court
- (4) Short description
- (5) Aggregate term
- (6) Place
- (7) Substance of the order
- (8) Applicant for review

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 29 November 2023.

These regulations are administered in the Department of Justice.

**EXPLANATORY NOTE**

*(This note is not part of the regulations)*

These regulations –

- (a) provide for various matters relating to the transfer interstate of prisoners under the *Prisoners (Interstate Transfer) Act 1982*; and
- (b) are made consequentially on the repeal of the *Prisoners (Interstate Transfer) Regulations 2013* under section 11 of the *Subordinate Legislation Act 1992*.