



JUSTICE BEHIND BARS



Interstate Transfer Application Kit

This information kit is designed to help prisoners understand the process of applying for interstate transfer on legal or welfare grounds.

This includes an explanation of applying for court ordered parole transfer as well as interstate transfer upon application for parole to the Parole Board.

There are no time limits for Queensland Corrective Services (QCS) to make decisions regarding interstate transfer. Applications can take up to three years to process.

Who should use this kit?

- Prisoners wishing to apply for interstate transfer because they have matters waiting to be heard interstate
- Prisoners wishing to apply for interstate transfer for welfare reasons
- Prisoners wishing to be transferred interstate upon their court ordered parole date
- Prisoners applying for parole wishing to be transferred interstate in order to live at an interstate address upon release
- Probationers wishing to be transferred interstate
- Probationers wishing to travel interstate for a set period of time

Interstate Transfer

Under the *Prisoners' (Interstate Transfer) Act 1982* you can make an application to be transferred interstate. There are two main reasons why you might want to be transferred interstate:

1. You have an outstanding arrest warrant in another State; or
2. Welfare reasons.

Welfare reasons include:

- The need to be closer to family members
- The need to access rehabilitative programs
- The need to access medical assistance
- The availability of suitable accommodation
- Possible work opportunities

Transfer to another state or territory will not be available to applicants on the following orders:

- Intensive Correction;
- Intensive Drug Rehabilitation;
- Community Service;
- Fine Option; and
- Supervision Order under the *Dangerous Prisoners (Sexual Offences) Act 2003*

Transfer for Legal Reasons:

If you are applying for a transfer because of an outstanding matter in another state or territory:

Transfers in the case of an arrest warrant must be decided by the Department of Justice and Attorney-General. Applications for transfer in this instance are made to the QLD Attorney-General & Minister for Justice. There are a number of matters the Queensland Attorney-General will take into account in making a decision, including:

- Background searches undertaken by the Department of Justice and Attorney-General;
- The nature and seriousness of the alleged offences in the participating state or territory, likely sentences to be imposed and the prospect of conviction;
- The nature and seriousness of the offences the prisoner is currently in custody for;
- Details of and the nature of any other outstanding matters in Queensland and the seriousness and status of those matters;
- The character of the applicant;
- Past behaviour of the prisoner;
- Details of any outstanding matters in Queensland;
- Whether the transfer would be in the interests of justice;
- Whether the transfer would be harsh or oppressive; and
- The duration of time already served and the 'totality principle';.

The 'totality principle' was articulated in the High Court decision of *Mill v R [1988]* 166 CLR 59. It provides that when a person is convicted of a number of offences and the judge is deciding sentencing, he/she must look at the totality of the criminal behaviour. A judge cannot simply total the length of sentences applied to each offence if this will be unduly harsh. The Court in that case acknowledged the problem that arises when State boundaries deny an offender the opportunity to have a series of offences dealt with together (for example, when there is a lengthy period between hearings in different States because the offender is serving a sentence imposed by one State).

Once the Queensland Attorney-General makes a decision a letter confirming this decision will be sent to QCS. The following steps then need to take place:

1. If the transfer has been consented to, the Attorney-General of the participating state or territory will then be sent a request to consent to the transfer.
2. A letter will then be sent from the Attorney-General of the relevant state or territory to QCS confirming their decision.
3. If both state Attorney Generals have consented to the transfer, an application is then made by a Crown Law Officer from QCS to a Magistrates/Local Court of the State of Queensland.
4. If an order for transfer is granted, Corrective Services makes arrangements for the interstate transfer, so that your outstanding matter can be heard.

You will be informed in writing of the outcome of your application, regardless of the outcome.

Transfer for Welfare Reasons:

If you are making an application for interstate transfer for welfare reasons:

To make an application to be transferred interstate you must make a written request to the QLD Attorney-General & Minister for Justice. If the Minister approves the transfer QCS will then forward the application to the Minister of Corrective Services in the relevant State for approval. If you are applying to transfer to a territory the Minister will seek approval from the Commonwealth Attorney-General. You will only be able to transfer interstate if your application is accepted by the Minister of Corrective Services in both states, enabling QCS to make such an order.

Any subsequent request for a transfer made within a year of a previous request does not need to be considered by the Minister.

Transfer on Parole

A parole order may be registered in another State in accordance with the *Parole Orders (Transfer) Act 1984*.

Reasons why you may wish to request an interstate transfer upon parole include:

- That it may assist you to reintegrate into the community
- That you will be closer to family support
- That you will be able to maintain consistent community supervision in the requested state, and
- For compassionate purposes.

A transfer may occur formally or informally, depending on the nature of your parole order. If you have court ordered parole, or have been granted parole and released from custody, you can make an informal application to travel or move interstate and be supervised by Corrective Services in that state/territory. However, if you have a parole eligibility date and are applying to the Parole Board to be granted parole, and you wish to move interstate upon your release, you need to make a formal application for parole transfer. This is a two stage process:

1. You must receive an approved home assessment for the new home address that you wish to move to.
2. You must have an interstate transfer formally approved.

Only once these two stages have occurred will the Parole Board grant parole allowing you to move interstate.

If you do not have court ordered parole or if back on a breach of parole, then you will have a parole eligibility date. You can apply to be released on parole on this date by making a Form 29 application. For information on drafting your parole application please refer to the **Parole and Resettlement Leave Assistance Kit**.

Court Order Parole Transfer:

If you have a court ordered parole date and you wish to travel interstate upon your release, you must apply for leave to do so by submitting a request to travel to another state or territory. You would need to talk to your supervising officer about this.

Your supervising officer will assess your proposal and contact the relevant interstate office to confirm any information provided by you and ensure appropriate supervision will be available.

The criteria which the supervising officer will consider are as follows:

- The safety of the community
- The requirements of the order
- The needs of the applicant

Issues that may be considered are:

- Your compliance to date with the conditions of your court order
- The availability of court order requirements (such as counselling and rehabilitation programs)
- The satisfaction of any restitution order
- The availability of family support
- The opportunity for stable employment
- Your normal place of residence prior to being incarcerated

The supervising officer will submit a report and recommendation, through the manager/supervisor, to the approving authority in the relevant state along with any supporting documentation provided by you and an unsigned travel permit.

Transfer of Queensland Probationers

Once a prisoner is on probation and has been released from custody, they no longer need to make a formal application for an interstate transfer. By informal arrangement, they may be supervised by another authority on behalf of QCS, but will remain the ultimate responsibility of QCS.

Whenever a 'reportable offender' is transferred interstate the Child Protection Offender Register (CPOR) must be advised within 14 days under the *Child Protection (Offender Reporting) Act 2004*.

NOTE: SA and ACT will not accept informal supervision arrangements for parolees

Temporary Travel

Interstate:

Under s212(3) of the *Corrective Services Act* the Parole Board, if it has approved your parole application, may grant you leave to travel interstate for a period of more than seven days.

When approval for interstate travel has been granted, the supervising officer must issue a travel permit to the applicant, explain the conditions and witness the applicant sign it.

Foreign Country Mutual Assistance:

If requested by the Commonwealth Attorney-General, as a prisoner you may be approved to travel overseas to give evidence at a criminal matter and/or provide assistance in a criminal investigation, subject to imposed conditions. Such time spent overseas is counted as time served. According to the Act, compliance with this order is compulsory, with non compliance attracting a maximum penalty of six months imprisonment.

State and Territory Guidelines for Interstate Parole Transfer

Each state and territory has a set of guidelines for interstate parole transfer. Once an application has been approved by QCS, it will need to be approved in the appropriate state/territory. You will be informed in writing of the outcome of any application made for interstate transfer.

Here is a summary of information required for approval of parole transfer in each state and territory. You should bear this in mind when you prepare your application. Your supervising officer will need to contact the appropriate authority interstate and obtain the relevant forms for your transfer application.

State	Documentation Considered
NSW	<ul style="list-style-type: none">• QP 9's• Judge/Magistrate's comments• Recent criminal history (not less than 3 months old)• Pre-sentence report• Parole's written agreement to comply with NSW parole conditions• Certified copies of warrant/s, parole order or other authority by which parolee becomes liable to the imprisonment to which the parole order/parole offences relate• Copies of reports issued to the Parole Board subsequent to release (eg notification of breach/s, progress reports)• Programs undertaken in the community under current Parole order/or in custody• Request to register parole order in NSW
VIC	<ul style="list-style-type: none">• Name and date of birth• Address of intended residence and details of the people the parolee intends to reside with• Order details/conditions• Current offences• Copy of the current parole order• Progress with current supervision including any discretion afforded for matters of non-compliance• Reasons for transfer• If already on parole a recent (not less than 3 months) criminal history check
SA	<ul style="list-style-type: none">• Full name and date of birth• Proposed accommodation• Employment• Recent (not more than 3 months) criminal history• Compliance report• Progress report• Details of special needs/condition (eg medical issues, compassionate grounds, offender safety)

ACT	<ul style="list-style-type: none"> • It is recommended that the application be made at least 6 weeks prior to the prisoner's release from custody or the parolee's intended travel date • The Parole Officer must request an information pack from the ACT Registrar of Transferred Parole Orders and take the parolee through it (<i>Information for Interstate Parolees Wishing to Transfer Supervision to the Australian Capital Territory</i>). Documentation that will be considered: • QP 9's; • Judge's/Magistrate's sentencing remarks; • Victim information; • Certified copies of parole order or other authority by which the parolee became liable to the imprisonment to which the parole order relates; • Recent (not less than 3 months) Queensland criminal history; • A copy of the offender's written consent for the registration of their sentence in the ACT and signed agreement to comply with ACT parole conditions; • A pre-sentence report (if applicable) in relation to any offence committed by the offender for which the offender is subject to a sentence; • Copies of reports issued by the Parole Board subsequent to the release on parole (ie Notification of breaches, progress reports etc ..); • A copy of any relevant psychological or other assessment of the offender; • A statement that the consequences in relation to breaches and review when transferring the order has been explained to the offender; • A home visit request form; • Request to register the parole order in the ACT
TAS	<ul style="list-style-type: none"> • Certified copy of the parole order to which the request relates, together with any variations of the order; • A certified copy of the warrant of commitment by virtue of which the parolee became liable to the period of imprisonment to which the parole order relates; • QP 9's and/or Judge/Magistrate's sentencing remarks; • Recent Queensland criminal history (not less than 3 months old); • Written particulars of the parolee's last known Queensland address; • Certified copies of all documents that were before the Parole Board at the time of making the parole order including details of all – <ul style="list-style-type: none"> • i. Convictions; • ii. Sentences of imprisonment; • iii. Minimum terms of imprisonment served; • iv. Periods of imprisonment served; • v. class of prisoner; • vi. Remissions earned; • vii. Other grants of parole. • Written progress report of parolee's response to the parole including any contraventions and action taken; and • An application completed by the Probation and Parole Officer.
WA	<ul style="list-style-type: none"> • QP 9; • Recent (no more than 3 months old) criminal history; • Current parole progress report; • Most recent pre-sentence report; • Most recent specialist report (if applicable ie psychologist/mental health treatment etc); • Any victim issues including location of victim if known; • Offender's consent to formally transfer parole; and • Permit to leave Queensland.

NT	<ul style="list-style-type: none"> • A covering letter which confirms that Queensland will accept the interstate supervision, offering assistance if needed in the future; • A certified copy of the probation order; • Details of the probationer's proposed NT address and telephone contact (if available); • Any psychological or psychiatric assessments; • Any pre-sentence report; • QP 9's and recent criminal history (not more than 3 months old); and • A copy of the Travel Permit
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NOTE: No interstate transfer of convicted child sex offender parolees will be approved for supervision in NSW

Requesting a Statement of Reasons

Decisions made by the Queensland Minister of Police, Corrective Services & Sport are subject to the *Judicial Review Act 1991* and reasons for decisions can be requested. If you received notification that your application for an interstate transfer has been refused you have **28 days** to request a statement of reasons. The Minister will then have **28 days** to issue a statement of reasons, from the day they receive your request.

Judicial Review

Once you are in possession of a statement of reasons from QCS, you should seek legal advice as to the merit of a judicial review. The limitation is **28 days** to file an application for judicial review from the date of receipt of a statement of reasons.



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Contact Prisoners' Legal Service:

- Prisoner Advice Line:** Tuesday, Wednesday and Thursday, 9am to 1pm on the ARUNTA system
- Postal Address:** GPO Box 257, Brisbane QLD 4001
- Administration Line:** (07) 3846 5074

This broadsheet is intended to provide legal information only and is no substitute for legal advice. If you wish to take any action arising from matters raised in this publication you should consult a lawyer immediately.

*The information was current as at **23 January 2017.***