

South Australia

# Cross-border Justice Regulations 2024

under the *Cross-border Justice Act 2009*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Cross-border Justice Regulations 2024*.

### 2—Commencement

These regulations come into operation on the day on which they are made.

### 3—Interpretation

In these regulations—

*Act* means the *Cross-border Justice Act 2009*.

## Part 2—Cross-border regions

### 4—WA/SA/NT region

- (1) The WA/SA/NT region is a cross-border region that—
  - (a) straddles the State's borders with Western Australia and the Northern Territory; and
  - (b) is bounded by a line described in Schedule 1 clause 1.
- (2) The map in Schedule 1 clause 2 indicates the areas in the WA/SA/NT region in which police officers of participating jurisdictions may be stationed or carry out duties.

## Part 3—General

### 5—Definitions (section 7)

- (1) Pursuant to paragraph (b) of the definition of *authorised officer* in section 7(1) of the Act, an office holder of a participating jurisdiction is an authorised officer for the purpose of carrying out a custodial order if the office holder is authorised under the law of the jurisdiction to carry out in that jurisdiction an order or other authority made or otherwise given under that law that is to the same or similar effect as the custodial order.
- (2) For the purposes of the definition of *community corrections officer* in section 7(1) of the Act, a community corrections officer, if the jurisdiction is the State, is an officer or employee of the Department within the meaning of the *Correctional Services Act 1982* whose duties include the supervision of offenders in the community.
- (3) For the purposes of the definition of *juvenile justice officer* in section 7(1) of the Act, a juvenile justice officer, if the jurisdiction is the State, is an officer or employee of an administrative unit of the Public Service whose duties include the supervision of young offenders in the community.

### 6—Custody orders—recommendation about place of custody

A judicial officer or registrar who issues—

- (a) a warrant of commitment under section 99 of the Act; or
- (b) a remand warrant under section 101 of the Act,

may note on the warrant any recommendation about the place at which the person who is the subject of the warrant should be kept in custody under the warrant.

## 7—Calculation of reduction in amount of fines (section 130)

For the purposes of advising a reciprocating agency of an outstanding amount under section 130(2)(a)(iii) of the Act, the amount by which a fine is reduced because an offender has satisfactorily performed all or some of the required hours of a community service order made under section 46 of the *Fines Enforcement and Debt Recovery Act 2017* is to be calculated in accordance with section 46(9) of that Act.

### Note—

The reduction may have been applied by a court in restoring a pecuniary sum pursuant to section 46(16) and (17) of the *Fines Enforcement and Debt Recovery Act 2017*.

## Part 4—Modifications of other laws of State

### Division 1—Interpretation

#### 8—Terms used in modifications

If a term is given a meaning in section 7 of the Act, it has the same meaning in a modification prescribed by these regulations unless the contrary intention appears in the modification.

### Note—

Under section 14 of the Act, in order to give effect to the Act, a law of the State must be applied with the modifications prescribed by these regulations as if the law had been altered in that way.

#### 9—Modification provisions

- (1) Pursuant to section 13(a) of the Act, this Part prescribes modifications of the law of the State.
- (2) In this Part, a provision under a heading referring to the modification of a specified Act or specified regulations modifies the Act or regulations specified.
- (3) If a substituted provision as it appears in this Part includes text that is struck out or underlined, the provision of the specified Act or regulations is modified by the deletion of the text that is struck out and the insertion of the text that is underlined.

### Division 2—Modifications of *Bail Act 1985*

#### 10—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *community corrections officer*—delete the definition and substitute:

*community corrections officer* means—

- (a) in relation to a child—an officer or employee of an administrative unit of the Public Service whose duties include the supervision of young offenders in the community;
- (b) in any other case—an officer or employee of an administrative unit of the Public Service whose duties include the supervision of adult offenders in the community,

and includes a community corrections officer of another participating jurisdiction;

**community corrections officer**, of another participating jurisdiction, means—

- (a) if the jurisdiction is Western Australia—a community corrections officer as defined in section 4(2) of the *Sentence Administration Act 2003* of Western Australia; or
- (b) if the jurisdiction is the Northern Territory—a probation and parole officer as defined in section 4 of the *Correctional Services Act 2014* of the Northern Territory;

(2) Section 3(1)—after the definition of **officer in charge** insert:

**police station** includes a police station in another participating jurisdiction;

## 11—Insertion of section 3AA

After section 3A insert:

### **3AA—Application to persons in custody in participating jurisdictions**

This Act applies in relation to a person in the custody of a police officer in a participating jurisdiction who has a connection with a cross-border region.

## 12—Amendment of section 5—Bail authorities

Section 5(1)—delete subsection (1) and substitute:

- (1) Subject to subsection (3), the following are constituted as bail authorities for the purposes of this Act:
  - (a) the Supreme Court;
  - (b) the District Court;
  - (c) the Magistrates Court;
  - (d) the Youth Court;
  - (e) if the eligible person—
    - (i) has been arrested on a warrant (other than a warrant endorsed by the court or justice issuing the warrant with a statement excluding the granting of bail by a police officer); or
    - (ii) has not appeared before a court charged with the offence in respect of which he or she has been taken into custody,  
a police officer (including a police officer of another participating jurisdiction who holds a secondary office as a police officer of the State) who is—
      - (iii) of or above the rank of sergeant; or
      - (iv) the responsible officer for a police station;

- (ea) if the eligible person is appearing before a court in answer to a summons or for allegedly failing to observe a condition of a recognizance—that court;
- (eb) if the eligible person is appearing, or is to appear, as a witness before a court—that court;
- (f) a person authorised or required to release the eligible person on bail under subsection (2).

### 13—Amendment of section 6—Nature of bail agreement

Section 6(3)—delete subsection (3) and substitute:

- (3) If a bail authority decides to release a person on bail, the bail agreement may be entered into before the bail authority or, unless the bail authority otherwise directs, before—
  - (a) if the bail agreement is entered into in this State—a justice;  
or
  - (b) a police officer (including a police officer of another participating jurisdiction who holds a secondary office as a police officer of the State) who is—
    - (i) of or above the rank of sergeant; or
    - (ii) the responsible officer for a police station; or
  - (ba) if the person is in a training centre—the manager of the training centre; or
  - (c) if the person is in prison—the person who is in charge of the prison; or
  - (ca) a registrar or deputy registrar of a court; or
  - (d) any other person specified by the bail authority or any other person of a class specified by the bail authority.

### 14—Amendment of section 7—Guarantee of bail

Section 7(3)—delete subsection (3) and substitute:

- (3) A guarantee of bail may be entered into before the bail authority granting bail or, unless the bail authority otherwise directs, before—
  - (a) a justice; or
  - (b) a police officer (including a police officer of another participating jurisdiction who holds a secondary office as a police officer of the State) who is—
    - (i) of or above the rank of sergeant; or
    - (ii) the responsible officer for a police station; or
  - (ba) if the person who is to be released on bail is in a training centre—the manager of the training centre; or
  - (c) if the person who is to be released on bail is in prison—the person who is in charge of the prison; or

- (ca) a registrar or deputy registrar of a court; or
- (d) any other person specified by the bail authority or any other person of a class specified by the bail authority.

### 15—Amendment of section 11—Conditions of bail

(1) Section 11(6)—delete subsection (6) and substitute:

- (6) It is a condition of every bail agreement that the person released under the agreement will not leave the State for any reason—
  - (a) if the person is under the supervision of a community corrections officer—without the permission of the Chief Executive (or his or her nominee) of the administrative unit of which the community corrections officer is an officer or employee; or
  - (c) in any other case—
    - (i) if the bail authority is a court—without the permission of a judge or magistrate; or
    - (ii) if the bail authority is a police officer—without the permission of a police officer (including a police officer of another participating jurisdiction who holds a secondary office as a police officer of the State) who is—
      - (A) of or above the rank of sergeant; or
      - (B) the responsible officer for a police station.

(2) Section 11—after subsection (6) insert:

- (6a) For the purposes of subsection (6), an area of the cross-border region that is within Western Australia or the Northern Territory will be taken to be part of the State.

## Division 3—Modifications of *Correctional Services Act 1982*

### 16—Amendment of section 4—Interpretation

Section 4(1), definition of *prisoner*—delete the definition and substitute:

*prisoner* means a person committed to a correctional institution pursuant to an order of a court or a warrant of commitment and includes a person who is in prison under a custodial order of a participating jurisdiction;

### 17—Insertion of section 65

Before section 66 insert:

#### 65—Division does not apply to cross-border prisoners

This Division does not apply in relation to a person who is in prison under a custodial order of another participating jurisdiction.

## Division 4—Modifications of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

### 18—Amendment of section 3—Interpretation

Section 3(1)—after the definition of *motor vehicle* insert:

*place* includes a place in another participating jurisdiction;

## Division 5—Modifications of *Criminal Law Consolidation Act 1935*

### 19—Substitution of section 269V

Section 269V—delete the section and substitute:

#### 269V—Custody, supervision and care

- (1) If a defendant is committed to detention under this Division, the defendant is in the custody of the Minister and the Minister may give directions for the custody, supervision and care of the defendant the Minister considers appropriate.
- (2) The Minister may—
  - (a) place the defendant under the custody, supervision and care of another (who may, subject to subsection (6), be a person in another participating jurisdiction); and
  - (b) if there is no practicable alternative—direct that a defendant be kept in custody in a prison (which may, subject to subsection (6), be a prison in another participating jurisdiction).
- (3) Supervisory responsibilities arising from conditions on which a person is released on licence are to be divided between the Parole Board and the Minister in the following way:
  - (a) the supervisory responsibilities are to be exercised by the Minister insofar as they relate to treating or monitoring the mental condition of the person; and
  - (b) the supervisory responsibilities are in all other respects to be exercised by the Parole Board.
- (4) The Minister or the Parole Board (as the case may be) may delegate a power or function under this section—
  - (a) to a person for the time being performing particular duties or holding or acting in a particular position; or
  - (b) to any other person or body that, in the delegator's opinion, is competent to perform or exercise the relevant functions or powers.
- (5) A delegation under subsection (4)—
  - (a) must be by instrument in writing; and

- (b) may be absolute or conditional; and
  - (c) does not derogate from the ability of the delegator to act in any matter; and
  - (d) is revocable at will by the delegator.
- (6) The Minister may not direct that a defendant be placed under the custody, supervision and care of a person, or kept in custody in a prison, in another participating jurisdiction unless—
- (a) if that other jurisdiction is Western Australia—the CEO within the meaning of the *Mental Health Act 2014* of Western Australia; or
  - (b) if that other jurisdiction is the Northern Territory—the CEO within the meaning of the *Mental Health and Related Services Act 1998* of the Northern Territory,
- has consented to the defendant being so placed or kept.

## **Division 6—Modifications of *Criminal Law (Forensic Procedures) Act 2007***

### **20—Amendment of section 3—Interpretation**

Section 3(1)—after the definition of *police officer* insert:

*police station* includes a police station in another participating jurisdiction;

## **Division 7—Modifications of *Criminal Procedure Act 1921***

### **21—Insertion of section 30**

After section 29 insert:

#### **30—Representation of prosecuting authority**

A police officer of another participating jurisdiction may appear on behalf of a prosecuting authority that is the State or a police officer in a cross-border proceeding of a prescribed court if—

- (a) the person who is the subject of the proceeding has a connection with a cross-border region that is partly in that other jurisdiction; and
- (b) the police officer is authorised to appear as a prosecuting authority under the law of that other jurisdiction.

## 22—Amendment of section 69A—Examination of defendant

- (1) Section 69A(1)—delete subsection (1) and substitute:
  - (1) Where the Magistrates Court finds proved any matter alleged in an information (not being a charge of an offence), the Magistrates Court may order that the defendant be examined by a ~~physician,~~  
~~psychiatrist~~ medical practitioner or psychologist directed by the Magistrates Court to conduct the examination and that the defendant submit to the examination.
- (2) Section 69A(3)—delete subsection (3) and substitute:
  - (3) For the purpose of enabling the defendant to be examined as mentioned in this section, the Magistrates Court may order that the defendant be taken to a suitable place for the examination (which may be a place in another participating jurisdiction).

## 23—Amendment of section 99H—Registration of foreign restraining orders

Section 99H—after subsection (1) insert:

- (1a) If the Principal Registrar receives from a registrar of a prescribed court of another participating jurisdiction a copy of a foreign restraining order as made or varied in a cross-border proceeding of that court, the Principal Registrar must register the order in the Magistrates Court.
- (1b) If the Principal Registrar registers a foreign restraining order as varied in a cross-border proceeding pursuant to subsection (1a), the registration of the foreign restraining order as made is cancelled.

## 24—Insertion of sections 99HA and 99HB

After section 99H insert:

### **99HA—Notification of restraining orders made in cross-border proceedings**

- (1) This section applies in relation to a restraining order made by a prescribed court of the State if—
  - (a) the order is made or varied in a cross-border proceeding for the purposes of which the person who is bound by the order has a connection with a cross-border region; and
  - (b) the person for whose benefit the order is made indicates at the time the order is made or varied that the person wants the order as made or varied to be registered in another participating jurisdiction; and
  - (c) the region is partly in that other jurisdiction.
- (2) The Principal Registrar must cause a copy of the order as made or varied to be delivered to—
  - (a) if that other jurisdiction is Western Australia—the Principal Registrar of the Magistrates Court of Western Australia; and

- (b) if that other jurisdiction is the Northern Territory—the principal registrar of the Local Court of the Northern Territory.

### **99HB—Enforcement of unregistered foreign restraining orders**

- (1) This section applies if a police officer reasonably believes—
  - (a) that a person in the State is a person against whom an unregistered foreign restraining order made by a court of another participating jurisdiction is in force in that other jurisdiction; and
  - (b) that the person against whom, or for whose benefit, that unregistered foreign restraining order is made ordinarily resides in a cross-border region that is partly in that other jurisdiction.
- (2) The police officer must as soon as practicable after forming that belief—
  - (a) make a declaration in writing stating the belief and setting out the grounds for the belief; and
  - (b) give the declaration to the Commissioner of Police.
- (3) The declaration is in force for 72 hours after it is made.
- (4) While the declaration is in force, the police officer may exercise powers in relation to the person against whom the unregistered foreign order is made as if the order were registered.
- (5) In relation to the exercise of powers under subsection (4), this Part has effect for all purposes in respect of any breach of the unregistered foreign restraining order as if the order were registered.
- (6) In this section—

*unregistered foreign restraining order* means a foreign restraining order that is not registered under section 99H.

## **Division 8—Modifications of *Evidence Act 1929***

### **25—Insertion of section 59IPA**

Before section 59IQ insert:

#### **59IPA—Application of Division**

This Division applies to any cross-border proceedings of a prescribed court of the State.

## 26—Amendment of section 59IQ—Appearance etc by audio visual link or audio link

Section 59IQ(1)—delete subsection (1) and substitute:

- (1) A court may, subject to this Division and any relevant rules of court, receive evidence or submissions from a person who is ~~in the State a~~ participating jurisdiction but not physically present in the courtroom by means of an audio visual link or an audio link.

## Division 9—Modifications of *Fines Enforcement and Debt Recovery Act 2017*

### 27—Amendment of section 46—Community service and approved treatment program orders

Section 46—after subsection (15) insert:

- (16) If a community service order is in force under this section in respect of a fine registered in this jurisdiction pursuant to section 126(1) of the *Cross-border Justice Act 2009*, the Court may, if satisfied that section 130 of the *Cross-border Justice Act 2009* applies in respect of the fine—
  - (a) revoke the community service order; and
  - (b) order the restoration of the pecuniary sum in respect of which the community service order was made.
- (17) In restoring a pecuniary sum under subsection (16), the Court must take into account the number of hours of community service (if any) that the person performed under the revoked community service order.

## Division 10—Modifications of *Magistrates Act 1983*

### 28—Insertion of section 5A

After section 5 insert:

#### 5A—Cross-border magistrates

- (1) If the Governor is of the opinion that it is necessary to do so to facilitate the administration of justice in a cross-border region, the Governor may, on the recommendation of the Attorney-General, appoint a magistrate of another participating jurisdiction to be a magistrate.
- (2) The instrument of appointment must specify—
  - (a) the period of appointment; and
  - (b) any conditions on which the appointee holds office.
- (3) The Governor may vary any matter specified in the instrument of appointment other than the period of appointment.

- (4) A magistrate whose appointment is varied under subsection (3) must be notified in writing of the variation.
- (5) The conditions of service (including remuneration) of a cross-border magistrate are those that the cross-border magistrate is entitled to under the law of that other jurisdiction.
- (6) A cross-border magistrate has the same functions, protection and immunity as a magistrate.
- (7) A person who is a magistrate of another participating jurisdiction appointed as a cross-border magistrate ceases to be a cross-border magistrate if the person ceases to be a magistrate of that other jurisdiction.
- (8) If, at the end of the period of a cross-border magistrate's appointment, a case is pending before the magistrate—
  - (a) the cross-border magistrate must finish dealing with the case; and
  - (b) for that purpose, the appointment is taken to be extended until the cross-border magistrate has done so.
- (9) A reference in an enactment other than this Act to a magistrate includes a reference to a cross-border magistrate unless the contrary intention appears.
- (10) Parts 3, 4 and 5 do not apply in relation to a cross-border magistrate.
- (11) In this section—

*cross-border magistrate* means a magistrate appointed under subsection (1).

## **Division 11—Modifications of *Magistrates Court Act 1991***

### **29—Amendment of section 7A—Constitution of Court**

Section 7A—after subsection (2) insert:

- (2aaa) However, the Court may not, when sitting in another participating jurisdiction, be constituted of a special justice or Judicial Registrar.

### **30—Substitution of section 23**

Section 23—delete the section and substitute:

#### **23—Production of persons held in custody**

If the Court requires the attendance before it of any person who is held in custody in the State or another participating jurisdiction, the Court may—

- (a) issue a summons or a notice requiring the custodian to produce that person before the Court at a nominated time and place; or

- (b) issue a warrant authorising the sheriff, or a member of the police force, to take the person from the custodian and bring him or her before the Court.

## **Division 12—Modifications of *Oaths Act 1936***

### **31—Amendment of section 7—Oaths to be taken by judicial officers**

- (1) Section 7(1)—delete subsection (1) and substitute:
  - (1) Each of the following officers, namely—
    - (a) the Chief Justice, President, puisne judges, Masters and Judicial Registrars of the Supreme Court; and
    - (b) the Chief Judge, other Judges, Masters and Judicial Registrars of the District Court; and
    - (c) Magistrates (including cross-border magistrates) and Judicial Registrars of the Magistrates Court; and
    - (d) justices of the peace,shall, before proceeding to discharge any official duties, take the oath of allegiance and the judicial oath.
- (2) Section 7(2)—delete subsection (2) and substitute:
  - (2) The oaths to be taken under this section must be taken—
    - (a) in the case of the oaths to be taken by the Chief Justice, the President or the puisne judges of the Supreme Court—before the Governor or, if the Governor so determines (or in the absence of a determination by the Governor), by the most senior judge of the Supreme Court that is available to take the oath;
    - (b) in the case of the oaths to be taken by any other judicial officer to whom this section applies (other than a justice of the peace or a cross-border magistrate)—by the most senior judge of the Supreme Court that is available to take the oath.
- (3) Section 7—after subsection (2) insert:
  - (3) A cross-border magistrate may take the oaths to be taken under this section in another participating jurisdiction before the most senior judge of the Supreme Court of that other jurisdiction that is available at the time the oath is to be taken.
- (4) Section 7—after subsection (5) insert:
  - (6) In this section—

***cross-border magistrate*** means a magistrate appointed under section 5A(1) of the *Magistrates Act 1983*.

## Division 13—Modifications of *Police Act 1998*

### 32—Substitution of section 59

Section 59—delete the section and substitute:

#### 59—Appointment of special constables

- (1) Subject to subsection (2), the Commissioner may appoint a person to be a special constable for the whole ~~or a part of the State~~ of a participating jurisdiction or for a part of a participating jurisdiction.
- (2) ~~The Commissioner may only appoint a police cadet to be a special constable for the whole or a part of the State if a declaration has been made under Part 4 Division 3 of the *Emergency Management Act 2004* (and the term of any such appointment will be for the period specified in the declaration under that Act and, if the period of the declaration is extended under that Act, for such further periods).~~
- (3) An appointment under this section may be made—
  - (a) ~~if a declaration has been made under Part 4 Division 3 of the *Emergency Management Act 2004*—orally; or~~
  - (b) ~~in any other case—~~by instrument in writing.
- (4) ~~If the appointment is made orally, the Commissioner must, as soon as practicable, confirm the appointment by instrument in writing.~~
- (5) An instrument of appointment ~~or confirming the appointment~~ of a special constable must specify the term and conditions of the appointment, including—
  - (a) if the appointment is for the whole of ~~the State~~ a participating jurisdiction—that fact; and
  - (b) in any other case—the part of ~~the State~~ a participating jurisdiction for which the special constable is appointed.

## Division 14—Modifications of *Police Regulations 2014*

### 33—Amendment of regulation 81—Interpretation

Regulation 81, definition of *police station*—delete the definition and substitute:

*police station* means a police station at which cell facilities are available for the continuous care and custody of a person accepted into custody at the police station and includes a police station in another participating jurisdiction;

### 34—Substitution of regulation 84

Regulation 84—delete the regulation and substitute:

#### 84—Illness or injury of prisoners

If it is necessary to obtain medical assistance for a prisoner at a police station who is ill or injured, the responsible officer for the police station—

- (a) ~~must, if practicable, cause the prisoner to be conveyed to an incorporated hospital within the meaning of the *Health Care Act 2008*; or~~
- (a) must, if practicable, cause the prisoner to be conveyed to—
  - (i) an incorporated hospital within the meaning of the *Health Care Act 2008*; or
  - (ii) a public hospital or a private hospital within the meaning of the *Private Hospitals and Health Services Act 1927* of Western Australia; or
  - (iii) a hospital within the meaning of the *Medical Services Act 1982* of the Northern Territory; or
- (b) if that is not practicable, must cause the prisoner to be attended by a police medical officer or other ~~legally-qualified~~ medical practitioner.

### Division 15—Modifications of *Prisoners (Interstate Transfer) Act 1982*

#### 35—Insertion of section 6A

After section 6 insert:

#### 6A—Relationship with cross-border laws

This Act does not apply in relation to the transfer from South Australia to another participating jurisdiction of a person who—

- (a) is serving a sentence of imprisonment in South Australia under a warrant of commitment issued under—
  - (i) the *Cross-border Justice Act 2009*; or
  - (ii) the *Cross-border Justice Act 2008* of Western Australia; or
  - (iii) the *Cross-border Justice Act 2009* of the Northern Territory; and
- (b) has a connection with a cross-border region that is partly in that other jurisdiction.

### 36—Insertion of section 6B

Before section 7 insert:

#### **6B—Application of this Part to State prisoners imprisoned in another participating jurisdiction**

This Part applies in relation to a person who is serving in another participating jurisdiction a State sentence of imprisonment under a warrant of commitment issued under the *Cross-border Justice Act 2009* as if the person were a State prisoner serving a sentence of imprisonment in South Australia.

### 37—Insertion of section 8A

After section 8 insert:

#### **8A—Effect of orders under this Part on persons imprisoned under law of another participating jurisdiction**

- (1) Subsection (3) applies in relation to a person who is serving in South Australia—
  - (a) a State sentence of imprisonment; and
  - (b) a sentence of imprisonment under a warrant of commitment issued under—
    - (i) the *Cross-border Justice Act 2008* of Western Australia; or
    - (ii) the *Cross-border Justice Act 2009* of the Northern Territory.
- (2) Subsection (3) applies in relation to a person who is serving in another participating jurisdiction—
  - (a) a State sentence of imprisonment under a warrant of commitment issued under the *Cross-border Justice Act 2009*; and
  - (b) a sentence of imprisonment under the law of another participating jurisdiction.
- (3) An order of transfer issued under this Part (a *State order*) in relation to a person referred to in subsection (1) or (2) has no effect—
  - (a) to the extent that, but for this subsection, it authorises or requires the doing of an act or thing under this Act in relation to the person in the person's capacity as a person on whom a sentence of imprisonment under the law of the jurisdiction referred to in subsection (1)(b) or (2)(b) has been imposed; and
  - (b) unless and until an order of transfer corresponding to the State order is in force under the interstate law of that jurisdiction.

## Division 16—Modifications of *Road Traffic Act 1961*

### 38—Amendment of section 5—Interpretation

Section 5(1)—after the definition of *photographic detection device* insert:

*police station* includes a police station in another participating jurisdiction;

### 39—Amendment of section 41D—Use of equipment to examine or process things

Section 41D(2)—delete subsection (2) and substitute:

(2) If—

(a) it is not practicable to examine or process the things at the vehicle or premises; or

(b) the occupier of the vehicle or premises consents in writing, the things may be moved to another place (which may be a place within another participating jurisdiction) so that the examination or processing can be carried out in order to determine whether they are things that may be seized.

## Division 17—Modifications of *Sentencing Act 2017*

### 40—Amendment of section 5—Interpretation

Section 5(1), definition of *community corrections officer*—delete the definition and substitute:

*community corrections officer* ~~means an officer or employee of the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the *Correctional Services Act 1982* whose duties include the supervision of offenders in the community;—~~

(a) an officer or employee of the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the *Correctional Services Act 1982* whose duties include the supervision of offenders in the community; or

(b) a community corrections officer of another participating jurisdiction;

*community corrections officer*, of another participating jurisdiction, means—

(a) if the jurisdiction is Western Australia—a community corrections officer as defined in section 4(2) of the *Sentence Administration Act 2003* of Western Australia; or

(b) if the jurisdiction is the Northern Territory—a probation and parole officer as defined in section 4 of the *Correctional Services Act 2014* of the Northern Territory;

#### 41—Insertion of section 44A

After section 44 insert:

##### **44A—Commencement of sentences imposed in cross-border proceedings**

- (1) This section applies if an offender—
  - (a) is convicted of 1 or more offences in a cross-border proceeding of a prescribed court of the State; and
  - (b) is sentenced to imprisonment for 1 or more of those offences.
- (2) If, at the time of conviction, the offender is serving or yet to serve 1 or more sentences of imprisonment under the law of another participating jurisdiction (the *interstate sentences*), each of the sentences referred to in subsection (1)(b) (the *State sentences*) is to be served concurrently with the interstate sentences unless the court specifies differently under subsection (3).
- (3) The court may specify when 1 or more of the State sentences commences.
- (4) For the purposes of subsection (3)—
  - (a) none of the State sentences can commence later than the end of the last interstate sentence to end; and
  - (b) if a non-parole period applies in respect of any of the interstate sentences—the first State sentence to commence after the end of the non-parole period must commence immediately after the end of that period.

#### 42—Insertion of section 105A

After section 105 insert:

##### **105A—Hours of community service under non-custodial orders made in cross-border proceedings**

- (1) This section applies if an offender—
  - (a) is convicted of 1 or more offences in a cross-border proceeding of a prescribed court of the State; and
  - (b) the court makes a non-custodial order for 1 or more of those offences under which the offender is required to perform community service.
- (2) If, at the time of conviction, the offender is performing or yet to perform community service under 1 or more non-custodial orders of another participating jurisdiction (the *interstate orders*), the hours of community service performed under the interstate orders count as hours of community service performed under each of the non-custodial orders referred to in subsection (1)(b) (the *State orders*) unless the court specifies differently under subsection (3).

- (3) The court may specify that the number of hours of community service to be performed under 1 or more of the State orders is in addition to any community service the offender has to perform under the interstate orders.
- (4) For the purposes of subsection (3), an offender cannot do the additional hours of work under a State order until the offender has done the hours of work under the interstate orders or the interstate orders have ceased to be in force, whichever is earlier.
- (5) To avoid doubt, section 105(1)(b) applies in relation to community service performed under non-custodial orders of the State and does not apply in relation to community service performed under non-custodial orders of another participating jurisdiction.

#### **43—Amendment of section 106—Provisions relating to supervision in the community**

Section 106(2)—delete subsection (2) and substitute:

- (2) The following provisions apply if a court makes an order, or includes a condition in a bond, requiring the person to whom the order or bond relates to be under the supervision of a community corrections officer:
  - (a) the court must, in the case of a probationer, specify the period during which the probationer is to be under supervision;
  - (b) the person is required to report to a specified place not later than 2 working days after the date of the order or bond unless, within that period, the defendant receives a notice from the CE to the contrary;
  - (c) the person must obey the lawful directions of the community corrections officer to whom the person is assigned;
  - (d) the person must not, during the period of supervision, leave the State participating jurisdiction in which the person was sentenced for any reason except in accordance with the written permission of the CE.

#### **Division 18—Modifications of *Summary Offences Act 1953***

#### **44—Amendment of section 78—Person apprehended without warrant—how dealt with**

Section 78(10)—after the definition of *nearest custodial police station* insert:

*police station* includes a police station in another participating jurisdiction;

#### **45—Amendment of section 78A—Power of arrest in cases of certain offences committed outside the State**

Section 78A—after subsection (5) insert:

- (6) To avoid doubt, a proceeding under this section in respect of an offence to which this section applies is only a cross-border proceeding if—
  - (a) the offence is an offence under the law of another participating jurisdiction; and
  - (b) the person arrested for the offence has a connection with a cross-border region that is partly in that other jurisdiction.

#### **46—Repeal of section 80**

Section 80—delete the section

#### **47—Repeal of sections 83B to 83C**

Sections 83B to 83C (inclusive)—delete the sections

### **Division 19—Modifications of *Young Offenders Act 1993***

#### **48—Amendment of section 4—Interpretation**

- (1) Section 4(1), definition of *home detention officer*—delete the definition and substitute:

*home detention officer* means ~~an employee of the Department~~ a juvenile justice officer assigned to the position of a home detention officer or authorised by the Minister (individually or by class) to exercise the powers of a home detention officer under this Act;

- (2) Section 4(1)—after the definition of *injury* insert:

*juvenile justice officer* means—

- (a) an officer of the Department; or
- (b) a person who holds office as a juvenile justice officer under section 4B;

*lock-up* includes a lock-up in another participating jurisdiction;

- (3) Section 4(1)—after the definition of *offence to which this Act applies* insert:

*police station* includes a police station in another participating jurisdiction;

*prison* includes a prison in another participating jurisdiction under its cross-border laws;

- (4) Section 4(1), definition of *training centre*—delete the definition and substitute:

*training centre* means a facility for the reception, detention, correction and training of youths who offend against the criminal law established under the *Family and Community Services Act 1972* or the Youth Justice Administration Act;—

- (a) a facility for the reception, detention, correction and training of youths who offend against the criminal law established under the *Family and Community Services Act 1972* or the Youth Justice Administration Act; or
- (b) a detention centre in another participating jurisdiction under its cross-border laws;

- (5) Section 4(1)—after the definition of *Victims Register* insert:

*watch-house* includes a watch-house in another participating jurisdiction;

#### 49—Insertion of section 4B

After section 4A insert:

##### 4B—Ex officio juvenile justice officers

The following persons hold office as juvenile justice officers for the purposes of this Act:

- (a) an officer of the Department within the meaning of the *Young Offenders Act 1994* of Western Australia whose duties include the supervision of offenders in the community under that Act;
- (b) a public sector employee of the Northern Territory whose duties include the supervision of offenders in the community under the *Youth Justice Act 2005* of the Northern Territory.

#### 50—Amendment of section 23—Limitation on power to impose custodial sentence

Section 23(7)—delete subsection (7) and substitute:

- (7) ~~The *Correctional Services Act 1982* applies to and in relation to~~ If a youth is serving detention in a prison under subsection (6), the prison laws of the participating jurisdiction in which the sentence is being served apply to and in relation to the youth.

- (8) In this section—

*prison laws*, of a participating jurisdiction, means—

- (a) if the jurisdiction is the State—the *Correctional Services Act 1982*; or
- (b) if the jurisdiction is Western Australia—the *Prisons Act 1981* of Western Australia; or
- (c) if the jurisdiction is the Northern Territory—the *Correctional Services Act 2014* of the Northern Territory.

### **51—Amendment of section 36—Detention of youth sentenced as adult**

Section 36(5)—delete subsection (5) and substitute:

- (5) If a youth who is on parole attains the age of 18 years—
  - (a) the preceding provisions of this section cease to apply in relation to the youth; and
  - (b) any reference in the parole conditions to the Training Centre Review Board will be taken to be a reference to the Parole Board; and
  - (c) any reference in the parole conditions to ~~an officer of the Department~~ a juvenile justice officer will be taken to be a reference to a community corrections officer.

### **52—Amendment of section 40A—Leave may be authorised by Board**

Section 40A(3)—delete subsection (3) and substitute:

- (3) A youth who is still at large after the revocation or expiry of a period of leave may be apprehended without warrant by a police officer or ~~an officer of the Department~~ a juvenile justice officer authorised by the Minister for the purpose.

### **53—Amendment of section 41A—Conditional release from detention**

Section 41A(2) and (3)—delete subsections (2) and (3) and substitute:

- (2) Subject to subsection (3a), the provisions set out below apply to the release from detention of a youth other than a recidivist young offender:
  - (a) the youth must have completed at least two thirds of the period of detention in a training centre to which he or she has been sentenced;
  - (ab) an application for release of the youth from detention may be determined by the Training Centre Review Board no earlier than 7 days before completion by the youth of at least two thirds of the period of detention in a training centre to which he or she has been sentenced;
  - (b) in determining whether the youth should be released from detention, the Training Centre Review Board—
    - (i) must be satisfied that—
      - (A) the behaviour of the youth during the period of detention has been satisfactory; and
      - (B) there is no undue risk that the youth would, if released under this Subdivision, re-offend;

- (ii) if, in relation to an offence for which the youth was detained, there is a registered victim—must take into consideration the impact that the release of the youth is likely to have on the registered victim and the registered victim's family;
  - (c) the release of the youth must be subject to the following conditions:
    - (i) a condition that he or she not commit any offence;
    - (ii) a condition that he or she be under the supervision of ~~an officer of the Department~~ a juvenile justice officer and that the youth obey the directions of that officer;
    - (ia) a condition prohibiting the youth from possessing a firearm or ammunition (both within the meaning of the *Firearms Act 2015*) or any part of a firearm;
    - (iib) a condition requiring the youth to submit to such tests (including testing without notice) for gunshot residue as may be reasonably required by ~~an officer of the Department~~ a juvenile justice officer who is supervising the youth;
    - (iii) any other condition that the Board thinks fit;
  - (d) a decision of the majority of the Board is a decision of the Board.
- (3) Subject to subsection (3a), the provisions set out below apply to the release from detention of a youth who is a recidivist young offender:
  - (a) the recidivist young offender must have completed at least four fifths of the period of detention in a training centre to which he or she has been sentenced;
  - (ab) an application for the release of the recidivist young offender may be determined by the Youth Parole Board no earlier than 7 days before completion by the offender of at least four fifths of the period of detention in a training centre to which he or she has been sentenced;
  - (b) in determining whether the recidivist young offender should be released from detention—
    - (i) despite any other provision of this Act, the paramount consideration of the Youth Parole Board must be the safety of the community; and
    - (ii) the Youth Parole Board must also take the following matters into consideration:
      - (A) the likelihood of the recidivist young offender re-offending if released from detention;

- (B) the likelihood of the recidivist young offender complying with the conditions of release;
  - (C) if, in relation to an offence for which the recidivist young offender was sentenced to a period of detention in a training centre, there is a registered victim—the impact that the release of the recidivist young offender is likely to have on the registered victim and the registered victim's family;
  - (D) the behaviour of the recidivist young offender while in detention;
  - (E) the behaviour of the recidivist young offender during any previous release from detention;
  - (F) any reports provided to the Board as required by the Board;
  - (G) the probable circumstances of the recidivist young offender after release from detention;
  - (H) any other matters that the Board thinks are relevant;
- (c) the release of the recidivist young offender must be subject to the following conditions:
- (i) a condition that he or she not commit any offence;
  - (ii) a condition that he or she be under the supervision of ~~an officer of the Department~~ a juvenile justice officer and that he or she obey the directions of that officer;
  - (iia) a condition prohibiting the youth from possessing a firearm or ammunition (both within the meaning of the *Firearms Act 1977*) or any part of a firearm;
  - (iib) a condition requiring the youth to submit to such tests (including testing without notice) for gunshot residue as may be reasonably required by ~~an officer of the Department~~ a juvenile justice officer who is supervising the youth;
  - (iii) any other condition that the Board thinks fit;
- (d) a decision of the majority of the Board is a decision of the Board.

#### **54—Amendment of section 41C—What happens if youth fails to observe condition of release**

Section 41C(7)—delete subsection (7) and substitute:

- (7) A warrant issued under this section authorises the apprehension of the youth referred to in the warrant by a police officer or ~~an officer of the Department~~ a juvenile justice officer authorised for the purpose.

#### **55—Substitution of section 59**

Section 59—delete the section and substitute:

##### **59—Detention and search by ~~officers of Department~~ juvenile justice officers**

~~An officer of the Department~~ A juvenile justice officer authorised by the Chief Executive for the purpose is entitled to the lawful custody of a youth against whom proceedings under this Act have been, or are about to be, brought, while that youth is being conveyed to or from a court, or while the youth is within the precincts of the court, and may, at any time, search the youth and remove any object that the officer considers may cause injury or damage to any person or property.

#### **56—Substitution of section 59A**

Section 59A—delete the section and substitute:

##### **59A—Power of arrest by ~~officers of the Department~~ juvenile justice officers**

- (1) ~~An officer of the Department~~ A juvenile justice officer may, without warrant, apprehend any youth who has escaped from custody or who the officer has reasonable grounds to believe is otherwise unlawfully at large.
- (2) ~~An officer of the Department~~ A juvenile justice officer may, in exercising powers under subsection (1), break into any premises where the officer reasonably suspects the youth to be.
- (3) A youth apprehended under this section must be returned forthwith to a training centre.
- (4) However, if the youth is arrested outside an area specified in the regulations, the youth may be detained—
  - (a) with a person or in a place (other than a prison) approved by the Minister; or
  - (b) if it is not reasonably practicable to detain the youth as provided by paragraph (a), in a police prison, or in a police station, watch-house or lock-up approved by the Minister, but only until such time as it is reasonably practicable to transfer the youth to a training centre.

- (5) The person for the time being in charge of a police prison, police station, watch-house or lock-up in which a youth is detained under this section must take such steps as are reasonably practicable to keep the youth from coming into contact with any adult person detained in that place.

### 57—Substitution of section 60

Section 60—delete the section and substitute:

#### **60—Hindering an officer of the Departmenta juvenile justice officer**

A person who hinders ~~an officer of the Departmenta~~ juvenile justice officer in the exercise of powers under this Act is guilty of an offence.

Maximum penalty: \$2 500.

### Division 20—Modification of *Youth Court Act 1993*

#### 58—Amendment of section 14—Constitution of Court

Section 14—after subsection (3) insert:

- (4) However, the Court may not, when sitting in another participating jurisdiction, be constituted of a special justice.

## Schedule 1—WA/SA/NT region

### 1—Description of boundary line

The WA/SA/NT region is bounded by a line starting at point 1 in the sequence specified in the table then, initially in an easterly direction, along a straight line between each of the points in the sequence to point 18 then to point 1.

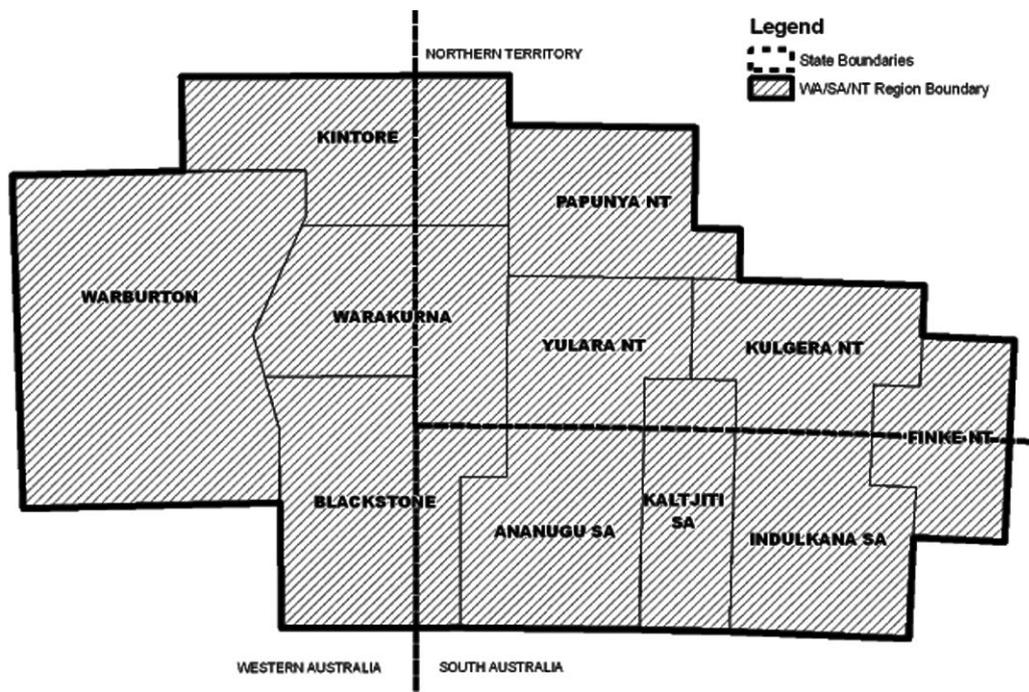
Point no.	Longitude (E)	Latitude (S)
1	124°40'9.726"	-23°26'26.696"
2	126°29'59.085"	-23°26'50.559"
3	126°30'2.638"	-22°30'0.724"
4	129°59'43.09"	-22°29'59.842"
5	130°0'0.315"	-22°59'58.596"
6	131°59'59.524"	-22°59'59.741"
7	132°0'3.867"	-24°0'0.641"
8	132°29'45.2"	-24°0'5.62"
9	132°30'4.694"	-24°29'40.966"
10	134°30'1.249"	-24°30'0.759"
11	134°30'4.258"	-25°0'5.185"
12	135°30'0.12"	-25°0'1.22"
13	135°30'7.027"	-26°59'43.989"

14	134°30'13.305"	-27°0'11.385"
15	134°30'51.407"	-28°0'11.092"
16	127°30'0.049"	-28°0'0.49"
17	127°30'3.326"	-26°45'5.594"
18	124°39'56.52"	-26°44'1.484"

**Note—**

Coordinate references are to Geocentric Datum of Australia 1994 (GDA94) coordinates.

**2—Areas in which police officers stationed or carry out duties**



**Schedule 2—Repeal of *Cross-border Justice Regulations 2009***

The *Cross-border Justice Regulations 2009* are repealed.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations

Year	No	Reference	Commencement
2024	77	<i>Gazette 1.8.2024 p2288</i>	1.8.2024: r 2