

Service and Execution of Process Amendment Regulations 2003 (No. 1) 2003 No. 345

EXPLANATORY STATEMENT

Statutory Rules 2003 No. 345

Subject - *Service and Execution of Process Act 1992*

Service and Execution of Process Amendment Regulations 2003 (No. 1)

The *Service and Execution of Process Act 1992* (the Act) allows the service of process and the enforcement of judgements of state and territory courts and tribunals throughout the Commonwealth with few formal requirements.

Subsection 132(1) of the Act provides that, among other things, the Governor-General may make regulations prescribing all matters required or permitted to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Service and Execution of Process Amendment Regulations 2003 (No. 1)* (the Regulations) enable arrest warrants issued by specified State parole boards and other similar bodies to be executed interstate. The Regulations amend the Service and Execution of Process Regulations (the Principal Regulations) consequent on amendment of the Act by the *Crimes Legislation Enhancement Act 2003*.

The Crimes Legislation Enhancement Act amended the Act, in part, by inserting a new section 81A, which provides that for the purpose of Part 5 of the Act an authority includes a body or person that is prescribed in the regulations.

Section 81A further defines an authority to include a body or person that under a law of a State may issue a warrant for the arrest and return to custody or detention of a person following the revocation or cancellation of the following orders:

- a parole order;
- an order for conditional release;
- an order for home detention;
- an order for periodic detention;
- any other order for the release of a person from custody; or
- any other order of a kind prescribed by the regulations.

The States nominated the following authorities to be specified in the proposed Regulations:

- the Parole Board constituted under section 183 of the *Crimes (Administration of Sentences) Act 1999* (NSW);
- the Adult Parole Board established by section 61 of the *Corrections Act 1986* (Vic);
- the Youth Residential Board established under section 204 of the *Children and Young Persons Act 1989* (Vic);
- the Youth Parole Board established under section 215 of the *Children and Young Persons Act 1989* (Vic);
- the Director-General of the Queensland Department of Corrective Services;
- the Queensland Community Corrections Board established under section 156 of the *Corrective Services Act 2000* (Qld);
- a regional community services corrections board established under section 170 of the *Corrective Services Act 2000* (Qld);
- the Parole Board established under section 102 of the *Sentence Administration Act 2003* (WA);
- the Mentally Impaired Defendants Review Board established under section 41 of the *Criminal Law (Mentally Impaired Defendants) Act 1996* (WA);
- the Supervised Release Review Board established under section 151 of the *Young Offenders Act 1994* (WA);
- the Director General of the Western Australian Department of Justice; and
- the Parole Board established under section 62 of the *Corrections Act 1997* (Tas).

The Regulations specify the above authorities and also amend the name of the Principal Regulations, making them the *Service and Execution of Process Regulations 1993*.

The Act specified no conditions that needed to be met before the power to make the Regulations was exercised.

The Regulations commenced on gazettal.

Authority: Subsection 132(1) of the *Service and Execution of Process Act 1992*