



International Transfer of Prisoners Amendment (2015 Measures No. 1) Regulation 2015

Select Legislative Instrument No. 146, 2015

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),
Governor-General of the Commonwealth of Australia, acting with the
advice of the Federal Executive Council, make the following regulation.

Dated 20 August 2015

Peter Cosgrove
Governor-General

By His Excellency's Command

Michael Keenan
Minister for Justice

OPC61287 - B

Contents

1	Name	1
2	Commencement	1
3	Authority	1
4	Schedules.....	1
Schedule 1—Amendments		2
<i>International Transfer of Prisoners Regulations 2002</i>		<i>2</i>

1 Name

This is the *International Transfer of Prisoners Amendment (2015 Measures No. 1) Regulation 2015*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	At the same time as Schedule 3 to the <i>Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Act 2015</i> commences.	5 September 2015

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *International Transfer of Prisoners Act 1997*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

International Transfer of Prisoners Regulations 2002

1 Before regulation 1

Insert:

Part 1—Preliminary

2 Regulation 3

Repeal the regulation, substitute:

3 Definitions

Note: A number of expressions used in these Regulations are defined in the Act, including the following:

- (a) prisoner;
- (b) prisoner's representative;
- (c) release on parole;
- (d) sentence of imprisonment;
- (e) serving;
- (f) suspended part;
- (g) State Minister;
- (h) transfer country;
- (i) Tribunal;
- (j) Tribunal country;
- (k) Tribunal prisoner.

In these Regulations:

Act means the *International Transfer of Prisoners Act 1997*.

3 Regulations 5 and 6

Repeal the regulations, substitute:

Part 2—Transfer of prisoners

4 Paragraph 7(a)

After “parole”, insert “or is serving the suspended part of the sentence of imprisonment”.

5 At the end of regulation 7

Add:

; and (c) in the case of a prisoner who is serving the suspended part of the sentence of imprisonment—Form 6A.

6 Paragraph 9(a)

After “parole”, insert “or is serving the suspended part of the sentence of imprisonment”.

7 At the end of regulation 9

Add:

; and (c) in the case of a prisoner who is serving the suspended part of the sentence of imprisonment—Form 9A.

8 After regulation 12

Insert:

Part 3—Application and transitional provisions

Division 1—Provisions relating to the International Transfer of Prisoners Amendment (2015 Measures No. 1) Regulation 2015

13 Application of amendments relating to warrants

The amendments made by items 4 to 7 and 10 to 15 of Schedule 1 to the *International Transfer of Prisoners Amendment (2015 Measures No. 1) Regulation 2015* apply in relation to warrants issued under section 21 or 29 of the Act on or after the day that regulation commences.

14 Repeal of this Part

This Part is repealed on 5 September 2017.

9 Schedule 1 (Forms 1 to 4)

Repeal the Forms.

10 Schedule 1 (Form 5, heading)

Repeal the heading (including the note), substitute:

Form 5—Warrant for transfer from Australia— prisoner not on parole and not serving suspended sentence

Note: See paragraph 7(a).

11 Schedule 1 (Form 5)

After “**WARRANT FOR TRANSFER FROM AUSTRALIA OF PRISONER NOT ON PAROLE**”, insert “**AND NOT SERVING SUSPENDED SENTENCE**”.

12 Schedule 1 (after Form 6)

Insert:

Form 6A—Warrant for transfer from Australia— prisoner serving suspended sentence

Note: See paragraph 7(c).

COMMONWEALTH OF AUSTRALIA

International Transfer of Prisoners Act 1997

**WARRANT FOR TRANSFER FROM AUSTRALIA OF PRISONER
SERVING SUSPENDED SENTENCE**

1 Authorisation of transfer

I, *[name]*, *Attorney-General/*Minister for Justice of the Commonwealth of Australia, acting under section 21 of the *International Transfer of Prisoners Act*

1997 (the **Act**), authorise the transfer of *[name of prisoner]* (the **prisoner**), born on *[prisoner's date of birth]*, who is serving the suspended part of the sentence of imprisonment, from Australia to *[name of transfer country]* (the **transfer country**) to complete the prisoner's sentence on the terms set out in the Schedule.

2 Written consent statement

For paragraph 22(2)(c) of the Act, I state that I, and the following persons and authorities, have given written consent to the transfer of the prisoner from Australia to the transfer country:

- (a) **[name of prisoner]/*[name of prisoner's representative];*
- (b) *[name of representative of appropriate authority of transfer country];*
- (c) *[name and title of relevant State Minister].*

****3 Conditions**

[Complete this section if conditions are to be specified]

*For paragraph 22(4A)(a) of the Act, I specify:

[specify any conditions relating to the sentence that have been imposed under Australian law]

****4 Transfer procedures etc.**

[Complete this section if procedures etc. for the transfer are to be specified]

*For paragraph 22(4A)(b) of the Act, I specify:

[specify any procedures for the transfer of the prisoner to the transfer country that have been agreed with the transfer country and give any necessary authorisations and directions]

Dated:

.....
* Attorney-General

* Minister for Justice

* Omit if not applicable

** Renumber heading if required

SCHEDULE

[Set out the terms on which the prisoner's sentence of imprisonment is to be completed]

13 Schedule 1 (Form 8, heading)

Repeal the heading (including the note), substitute:

**Form 8—Warrant for transfer to Australia—
prisoner not on parole and not serving
suspended sentence**

Note: See paragraph 9(a).

14 Schedule 1 (Form 8)

After “WARRANT FOR TRANSFER TO AUSTRALIA OF PRISONER NOT ON PAROLE”, insert “AND NOT SERVING SUSPENDED SENTENCE”.

15 Schedule 1 (after Form 9)

Insert:

**Form 9A—Warrant for transfer to Australia—
prisoner serving suspended sentence**

Note: See paragraph 9(c).

COMMONWEALTH OF AUSTRALIA

International Transfer of Prisoners Act 1997

**WARRANT FOR TRANSFER TO AUSTRALIA OF PRISONER
SERVING SUSPENDED SENTENCE**

1 Authorisation of transfer

I, [name], *Attorney-General/*Minister for Justice of the Commonwealth of Australia, acting under section 29 of the *International Transfer of Prisoners Act 1997* (the *Act*), authorise the transfer of [name of prisoner] (the **prisoner**), born on [prisoner’s date of birth], who is serving the suspended part of the sentence of imprisonment, from [name of transfer country] (the **transfer country**) to Australia to complete the prisoner’s sentence in accordance with the terms mentioned in the directions on sentence enforcement given by the Attorney-General under section 42 or 44 of the Act.

2 Written consent statement

For paragraph 30(2)(c) of the Act, I state that I, and the following persons and authorities, have given written consent to the transfer of the prisoner from the transfer country to Australia:

- (a) **[name of prisoner]/*[name of prisoner's representative]*;
- (b) *[name of representative of appropriate authority of transfer country]*;
- (c) *[name and title of relevant State Minister]*.

***3 Transfer procedures or authorisations etc.**

*For subsection 30(4) of the Act, I:

[specify any procedures for the transfer of the prisoner to Australia that have been agreed upon with the transfer country and give any necessary authorisations and directions]

Dated:

.....
* Attorney-General

* Minister for Justice

*Omit if not applicable