

**International Transfer of
Prisoners Scheme**

**Prisoner Transfers
TO Australia**

**Information
and
Application
Pack**

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General Information

The International Transfer of Prisoners (ITP) Scheme allows Australians imprisoned overseas, and foreign nationals imprisoned in Australia, to apply to serve the remainder of their sentence in their home country.

The ITP Scheme aims to promote the successful rehabilitation and reintegration into society of the prisoner, while preserving the sentence imposed by the sentencing country as far as possible in the prisoner's home country. The Scheme contributes to community safety by ensuring that prisoners' convictions are recorded in their home country and that their reintegration into that country's community is able to be appropriately supported, monitored and supervised.

Transfers under the ITP Scheme are not intended to provide a more lenient or convenient alternative for prisoners.

Transfers are not automatic. All transfers of prisoners to Australia require consent to the terms of transfer by the Australian Government, the government of the foreign country, the government of the State or Territory to which the prisoner seeks to transfer, and the prisoner before the transfer can take place.

Frequently asked questions

What are the requirements for transfer to Australia?

A prisoner may apply to transfer from a foreign country to Australia if:

- the foreign country is listed as a transfer country under the *International Transfer of Prisoners Act* (ITP Act) (see the list of participating countries at page 9 of this Information and Application Pack)
- the prisoner is either:
 - an Australian citizen, or
 - an Australian permanent resident who has community ties with an Australian State or Territory
- neither the prisoner's sentence of imprisonment nor the conviction on which it is based is subject to appeal
- the offence for which the prisoner is serving a sentence would also be an offence in Australia (this requirement may be waived in certain cases), and
- at least six months of the prisoner's sentence remains to be served, or one year if transferring from Hong Kong, Thailand, Cambodia or Vietnam (this requirement may be waived in certain cases).

Please check with local consular staff or the International Transfer of Prisoners Unit for further information.

What are 'community ties' with an Australian State or Territory?

A prisoner has community ties with an Australian State or Territory if:

- before being imprisoned in the foreign country, the prisoner's home was in that State or Territory
- the prisoner's parent, grandparent or child lives in that State or Territory
- the prisoner is married to, or has a de facto relationship with, a person who lives in that State or Territory, or
- the prisoner has a close continuing relationship (involving frequent written or personal contact and a personal interest in the other person's welfare) with a person who lives in that State or Territory.

It is important to note that Australian citizens are not required to prove community ties with Australia to be eligible for transfer. However, the relevant Minister in the State or Territory to which a prisoner wishes to transfer is required to consent to the transfer for it to occur. The relevant State or Territory Minister may require the prisoner to demonstrate community ties with the State or Territory before he or she will consent to the transfer. It is therefore recommended that all applicants provide as much detail as possible about their community ties with Australia.

Is a prisoner still eligible to transfer if they are on parole or coming up for parole?

A prisoner may be eligible to transfer to Australia if they are on parole or coming up for parole, depending on the requirements to the country from which they seek to transfer. Some foreign countries do not allow prisoners on parole to transfer under the ITP Scheme.

Are prisoners who have received the death penalty eligible to transfer to Australia?

The definition of 'prisoner' under the ITP Act does not include a person who has been sentenced to death. This means that people who have been sentenced to death cannot transfer to Australia under the ITP Act. However, the ITP Act provides that if a sentence of death imposed on a person has been commuted to a term of imprisonment, the person may apply to transfer to Australia.

Can prisoners transfer from (or to) Indonesia?

Prisoners cannot currently transfer between Australia and Indonesia as Indonesia is not a transfer country under the ITP Act.

Can prisoners transfer from (or to) New Zealand?

Prisoners cannot currently transfer between Australia and New Zealand as New Zealand is not a transfer country under the ITP Act.

How long does it take to process an application for transfer to Australia?

The time that it takes to process an application for transfer varies from case to case. The finalisation of applications for transfer to Australia can take some time, as they must be considered by a number of different parties, including the governments of Australia, the foreign country and the Australian State or Territory.

When the Australian Attorney-General's Department receives an application for transfer to Australia, it will seek reports from the sentencing country, including information about the prisoner's sentence, behaviour and health.

Once the reports are received, the Australian Government will propose terms of transfer to the relevant State or Territory Minister and seek that Minister's consent to the transfer. If the State or Territory Minister consents to the transfer, the prisoner and the foreign country will both be asked to consent to the terms of transfer proposed by the Australian Government. If both parties consent, the Australian Minister for Justice will consider the application and determine whether to provide final consent to the transfer. If the Australian Minister provides his consent, he will sign a warrant authorising the prisoner's transfer.

Once the warrant has been signed, arrangements for the prisoner's physical transfer will be made between the relevant State or Territory and the foreign government.

The process for applications for transfer to Australia is outlined in the diagram on page 11.

How does the Australian Government assess applications for transfer to Australia?

The Australian Minister for Justice assesses each transfer application on its merits, taking all relevant factors into account. For transfers to Australia, relevant factors may include:

- the extent to which the prisoner's rehabilitation and reintegration into the Australian community would be assisted by the transfer
- whether the transfer will contribute to community safety
- whether the prisoner is a dual citizen of Australia and another country
- the views of relevant authorities and agencies, such as the Australian Federal Police, and
- any relevant humanitarian considerations that apply to the case.

The ITP Statement of Policy (at page 12 of this Information and Application Pack) provides further information on policies that guide the assessment of applications for transfer.

Will a prisoner's health be taken into account when a decision about a transfer is being made?

The Australian Minister for Justice takes a number of factors into account when deciding whether to consent to a transfer to Australia, including humanitarian considerations such as the health and age of the prisoner. However, an Australian State or Territory Minister may decide not to agree to a transfer if they do not have the facilities available to care for a prisoner who is unwell, or if they feel that the prisoner's health condition endangers other prisoners.

Will prisoners be required to pay for their transfer?

Prisoners transferring to Australia may be asked to pay all or part of the costs involved with their transfer, if the relevant State or Territory Minister considers that the prisoner is in a position to do so.

If the prisoner is required to pay the transfer costs, arrangements must be finalised and agreed to by the prisoner, or the prisoner's representative, before the prisoner's physical transfer will be arranged.

How will transferring to Australia affect a prisoner's sentence?

Generally the sentence a prisoner will serve in Australia will be as close as possible in nature and duration to that imposed by the transfer country. The sentence of imprisonment cannot be harsher than that imposed in the transfer country.

The Australian Minister for Justice is guided by the ITP Statement of Policy (at page 12 of this Information Pack) when determining how a sentence imposed by a transfer country will be enforced in Australia upon transfer.

What conditions will apply to a prisoner who transfers to Australia?

When a prisoner applies to transfer to Australia they will be asked to nominate the Australian State or Territory to which they wish to transfer. This would normally be the State or Territory in which they have family, friends or support networks.

If a prisoner has ties with more than one State or Territory they may nominate each of those States or Territories in their application. However, only one State or Territory will be approached by the Australian Government at a time.

If an application for transfer to Australia is successful, the prisoner will be held in Australia as a federal prisoner, as if they were serving a sentence of imprisonment imposed under Commonwealth law.

Federal prisoners are held in State and Territory prisons under the same conditions as State and Territory prisoners, and are eligible for the same programs as other prisoners in the State or Territory. The main difference is that decisions about their sentence, including parole, are made by the Commonwealth rather than by State or Territory authorities.

The non-parole periods and parole conditions imposed on prisoners who transfer to Australia under the ITP Scheme may differ from those imposed on other federal prisoners.

To which Australian prison will a prisoner be transferred?

The prison to which a prisoner is transferred will depend on the State or Territory to which they are transferred. Prisoners will generally be received, upon transfer, into a metropolitan prison for assessment and classification. In most cases, the prisoner will then be transferred to a prison appropriate to their classification and needs. For further information, prisoners may wish to contact individual State and Territory corrective services departments.

Will a prisoner have a criminal record in Australia if they don't transfer?

Through international policing information sharing and cooperation, Australian authorities may become aware of a prisoner's foreign conviction, regardless of whether the prisoner applies to transfer to Australia under the ITP Scheme.

When a prisoner applies for transfer under the ITP Scheme, it is the Attorney-General's Department's usual practice to notify the Australian Federal Police of the application.

If a prisoner is transferred, there will be a record of the sentence and conviction in Australia. Whether a prisoner transfers or not, they may be required to disclose any criminal convictions, including any offence committed overseas.

Can a prisoner appeal if their transfer is refused?

Decisions of the Australian Minister for Justice are reviewable. Prisoners who are considering whether to seek a review of a decision made by the Minister may wish to seek legal advice.

Prisoners may also reapply for transfer.

How do prisoners apply to transfer to Australia?

The prisoner needs to complete the Application for transfer to Australia form (at page 24 of this Information and Application Pack) and the Collection, use and disclosure of personal information form (at page 27). The guide to completing the application form is at page 18 and the privacy information sheet is at page 21.

It is recommended that prisoners speak to the Australian Embassy or High Commission in the country in which they are imprisoned about how to apply to transfer to Australia, as the way applications are handled will vary from one country to another. Once a prisoner has applied to transfer to Australia, Embassy or High Commission staff will be able to tell them how their application is progressing.

Completed applications may be sent to:

Assistant Secretary
International Crime Cooperation Central Authority
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600
AUSTRALIA

The Attorney-General's Department will handle the application and will contact authorities in the foreign country and in the relevant State or Territory, to see if agreement to the transfer can be reached. The Department will also be in regular contact with the prisoner while their application is being processed.

List of Participating Countries

The following countries are ‘transfer countries’ under the International Transfer of Prisoners Scheme.

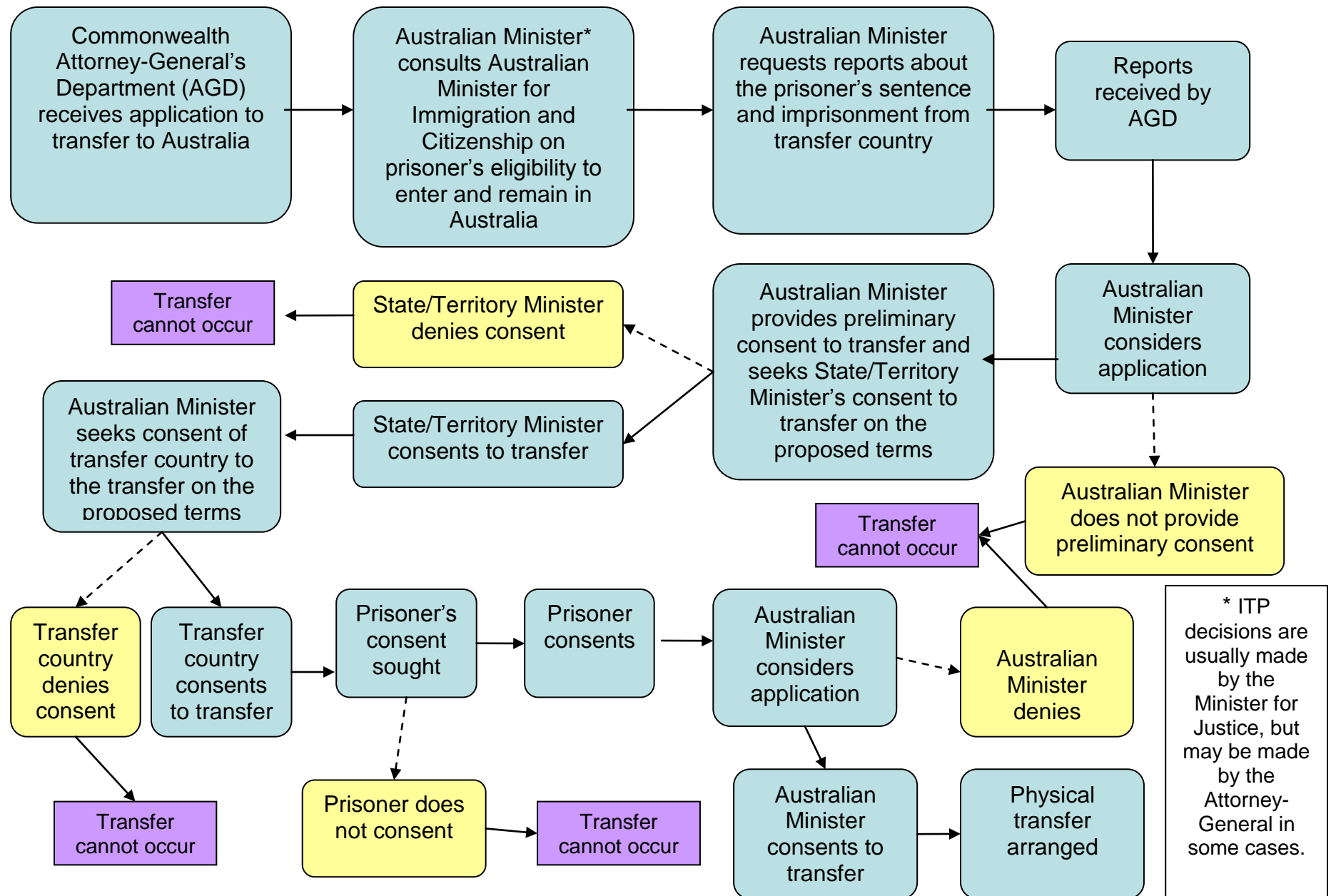
▶ Albania	▶ Korea
▶ Andorra	▶ Latvia
▶ Armenia	▶ Liechtenstein
▶ Austria	▶ Lithuania
▶ Azerbaijan	▶ Luxembourg
▶ Bahamas	▶ Malta
▶ Belgium	▶ Mauritius
▶ Bolivia	▶ Mexico
▶ Bosnia and Herzegovina	▶ Moldova
▶ Bulgaria	▶ Montenegro
▶ Cambodia*	▶ Netherlands
▶ Canada	▶ Norway
▶ Chile	▶ Panama
▶ China**	▶ Poland
▶ Costa Rica	▶ Portugal
▶ Croatia	▶ Romania
▶ Cyprus	▶ Russia
▶ Czech Republic	▶ San Marino
▶ Denmark	▶ Serbia
▶ Ecuador	▶ Slovakia
▶ Estonia	▶ Slovenia
▶ Finland	▶ Spain
▶ France	▶ Sweden
▶ Georgia	▶ Switzerland
▶ Germany	▶ Thailand
▶ Greece	▶ The Former Yugoslav Republic of Macedonia
▶ Honduras	▶ Tonga
▶ Hong Kong	▶ Trinidad and Tobago
▶ Hungary	▶ Turkey

▶ Iceland	▶ Ukraine
▶ Ireland	▶ United Kingdom
▶ Israel	▶ United States
▶ Italy	▶ Venezuela
▶ Japan	▶ Vietnam

* A treaty between Australia and Cambodia on the transfer of prisoners has entered into force but is not yet operational.

** A treaty between Australia and China on the transfer of prisoners has been signed by the Australian Government, but has not yet entered into force.

Process for applications for transfer to Australia



International Transfer of Prisoners

Statement of Policy

The International Transfer of Prisoners (ITP) Scheme is a consent-based scheme that allows Australians imprisoned overseas, and foreign nationals imprisoned in Australia, to apply to serve the balance of their sentence in their home country.

An important purpose of the ITP Scheme is to promote the successful rehabilitation and reintegration of the prisoner into society, while preserving the original sentence as far as possible in the country to which the prisoner is transferred. The ITP Scheme contributes to community safety by ensuring that prisoners' convictions are recorded in their own country and that their reintroduction into that country's community is able to be appropriately supported, monitored and supervised.

Australia's ITP relationships are governed by international agreements that are implemented in Australia through the *International Transfer of Prisoners Act 1997* (the ITP Act).

Transfers are not automatic and require the consent of the Australian Government, the government of the foreign country and the prisoner to the terms of the transfer before the transfer can take place. All transfers to Australia also require the consent of the relevant Minister in the State or Territory to which the prisoner is seeking transfer. In addition, transfers of prisoners from Australia who have been convicted of State or Territory offences also require the consent of the relevant State or Territory Minister.

Every transfer application is assessed on its merits, taking all relevant factors into account. The policies set out below guide the assessment of each application.

1. Policy on applications for transfer to Australia

Australian citizens (including dual citizens) or permanent residents imprisoned in a foreign country are eligible, but not entitled, to transfer to Australia under the ITP Scheme.

All the circumstances of the case, including the factors listed below, will be taken into account in determining whether the transfer of a prisoner to Australia will be approved:

Rehabilitation and reintegration

Whether, and if so, the extent to which, the prisoner's rehabilitation and reintegration into the Australian community would be assisted by the proposed transfer, with reference to the following:

- any cultural or language barriers faced in the foreign country
- opportunities to participate in custodial and post-release rehabilitative programs in the foreign country and in Australia
- any social or family support networks in the foreign country and in Australia, and
- the prisoner's familiarity with Australia, eg how recently and for how long the prisoner resided in Australia.

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Policy on applications for transfer to Australia (continued)

Community safety

Whether the transfer will contribute to community safety, with reference to the following:

- whether the prisoner is likely to return to Australia upon release in the transfer country if not transferred under the ITP Scheme, and
- whether the transfer will enable the prisoner's reintegration into the Australian community to be appropriately supported, monitored and supervised by law enforcement agencies, and his or her conviction to be recorded in Australia.

Dual citizens

Whether the prisoner is a dual citizen, and if so, whether, he or she:

- is imprisoned in his or her other country of citizenship
- is likely to return to Australia, or his or her other country of citizenship, upon release, and/or
- would be released on *parole* with *parole conditions* that would prevent the person from returning to Australia prior to his or her *sentence expiry date*.

Relevant views

The views of relevant authorities and agencies.

Humanitarian considerations

Whether any relevant humanitarian considerations apply to the case, eg the health of the prisoner.

Terms in italics are explained in *Explanation of Terms* below.

2. *Policy on Incoming Sentence Enforcement*

Where a transfer to Australia is supported the following policy will guide how the sentence will be enforced in Australia.

Continued enforcement

- Australia will apply the *continued enforcement method* of sentence enforcement to all prisoners transferred to Australia under the ITP Scheme.
- The *recognised head sentence* imposed on the prisoner in the sentencing country will be preserved.

Parole

- Wherever possible, a *parole eligibility date* will be determined as part of sentence enforcement for all prisoners transferred to Australia.
- The *possible release date* in the sentencing country will be enforced in Australia as the *parole eligibility date*.

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Policy on Incoming Sentence Enforcement (continued)

- If a *possible release date* has not been determined by the sentencing country, Australia will propose a *non-parole period* that is 66 per cent (or two-thirds) of the *recognised head sentence* to be served in Australia.
- However, in cases where the *recognised head sentence* significantly exceeds the maximum sentence that could be imposed in Australia, a *non-parole period* that better accords with Australian practice will be proposed.
- Release on *parole* will be discretionary.
- The *parole eligibility date* will be at least 12 months before the *sentence expiry date*.
- The *parole period* will expire at the *sentence expiry date*.
- The *period of parole supervision* will be determined at the time that the prisoner is released on *parole* and may continue for the duration of the parole period.

Terms in italics are explained in *Explanation of Terms* below.

3. *Policy on outgoing transfer of Australian citizens*

Australian citizens imprisoned in Australia may apply to transfer to a foreign country under the ITP Scheme. However, in most cases a prisoner who is an Australian citizen will be expected to serve his or her sentence in Australia.

4. *Policy on approval of outgoing transfers*

People imprisoned in Australia may apply to transfer to a foreign country under the ITP Scheme if they are citizens of, or otherwise eligible to transfer to, that country.

All the circumstances of the case, including the factors listed below, will be taken into account in determining whether the transfer of a prisoner from Australia will be approved:

Rehabilitation and reintegration

Whether, and if so, the extent to which, the prisoner's rehabilitation and reintegration into society would be assisted by the proposed transfer, with reference to the following:

- any cultural or language barriers faced in Australia
- opportunities to participate in custodial and post-release rehabilitative programs in the foreign country and in Australia
- any social or family support networks in the foreign country and in Australia, and
- the prisoner's familiarity with Australia, eg how recently and for how long the prisoner resided in Australia.

continued on next page

Policy on approval of outgoing transfers (continued)

Sentence enforcement

Whether the enforcement of the Australian sentence in the receiving country is acceptable. In most cases acceptable enforcement of the Australian sentence will be where at least 75 per cent of the Australian *non-parole period* will be enforced in custody upon transfer.

Transfer under the ITP Scheme is not intended to provide a more lenient or convenient alternative for the prisoner.

Relevant views

The views of relevant authorities and agencies.

Humanitarian considerations

Whether any relevant humanitarian considerations apply to the case, eg the health of the prisoner.

Terms in italics are explained in *Explanation of Terms* below.

5. *Policy on action to be taken where consent to transfer has been refused by a foreign country or an Australian State or Territory*

A decision by a foreign country to refuse consent to a transfer means that the transfer cannot occur.

If an Australian State or Territory refuses a transfer that the Australian Government believes should be approved, the Australian Government may ask the State or Territory to reconsider the application.

6. *Policy on action to be taken where there is an objection to the transfer occurring immediately*

Where a prisoner has applied to transfer from Australia and his or her transfer is objected to by a law enforcement or prosecutorial agency, the transfer will be put on hold until the agency no longer objects to the prisoner's transfer.

Explanation of Terms

When a person is convicted of an offence, the total sentence imposed on him or her by the court is the ***'head sentence'***. The head sentence runs until the ***'sentence expiry date'***. The portion of the head sentence that the prisoner is required to serve in prison is the ***'non-parole period'***. If a prisoner serving a sentence in a foreign country is eligible for release from prison at a date prior to his or her sentence expiry date, this is referred to as the ***'possible release date'***.

If a prisoner is transferred to Australia under the ITP Scheme he or she will usually be incarcerated in an Australian prison on his or her return to Australia. (A prisoner may also be transferred on parole, in which case he or she will re-enter the Australian community, usually subject to conditions, on his or her return to Australia).

On transfer to Australia, the sentence imposed on the prisoner in the foreign country will be enforced through the ***'continued enforcement method'***. This means that Australia will enforce the sentence imposed by the court in the foreign country and will only adapt the sentence as necessary to ensure consistency with Australian law.

In Australia, the expiry of the prisoner's NPP is referred to as the ***'parole eligibility date'***, as it is the date on which the prisoner becomes eligible for release on parole. A transferred prisoner will not automatically be released at the parole eligibility date. Instead, the Minister for Justice (the Minister) will consider all the circumstances of the case and decide whether the prisoner should be released at that time. If the Minister decides that the prisoner should not be released at the parole eligibility date he may reconsider the prisoner's release on parole at a later time. If the prisoner is released at his or her parole eligibility date, or at any other time prior to the sentence expiry date, he or she will be on ***'parole'***. The person's ***'parole period'*** will run from the time that he or she is released on parole until the sentence expiry date.

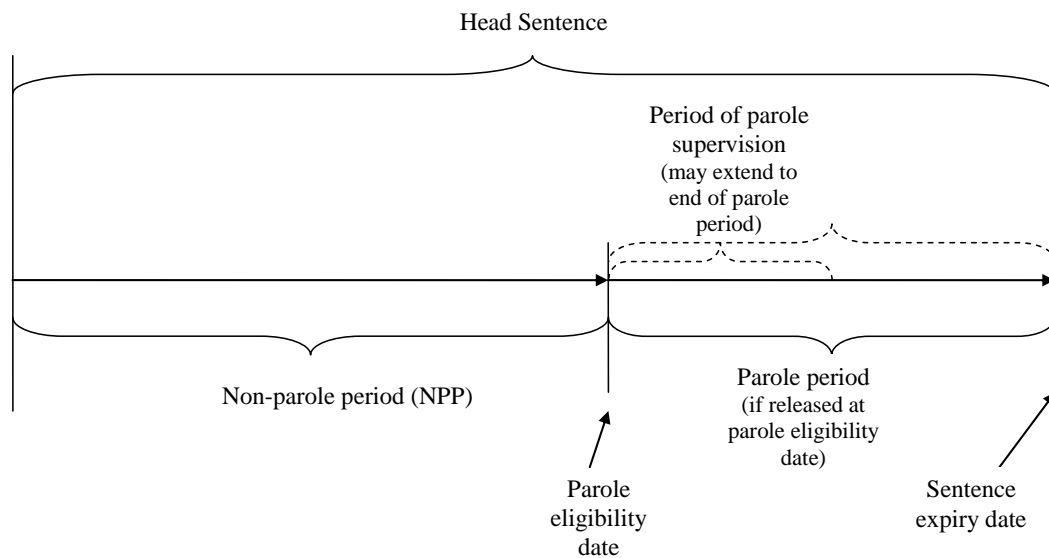
When a person is on parole, he or she will be subject to ***'parole conditions'*** (for example, drug offenders may be required to submit to urinalysis). People on parole will also usually be subject to a ***'period of parole supervision'***. Parole supervision may involve the person reporting to a parole officer, keeping the parole officer informed of any change of address or job, and requesting permission from the relevant authorities to travel interstate or overseas. The period of parole supervision will be determined at the time that the prisoner is released on parole. For transferred prisoners, the period of parole supervision may continue for the duration of the parole period, or it may be shorter than the parole period.

If a person does not comply with his or her parole conditions (including supervision requirements) his or her parole may be revoked and he or she may be required to serve a further period of imprisonment.

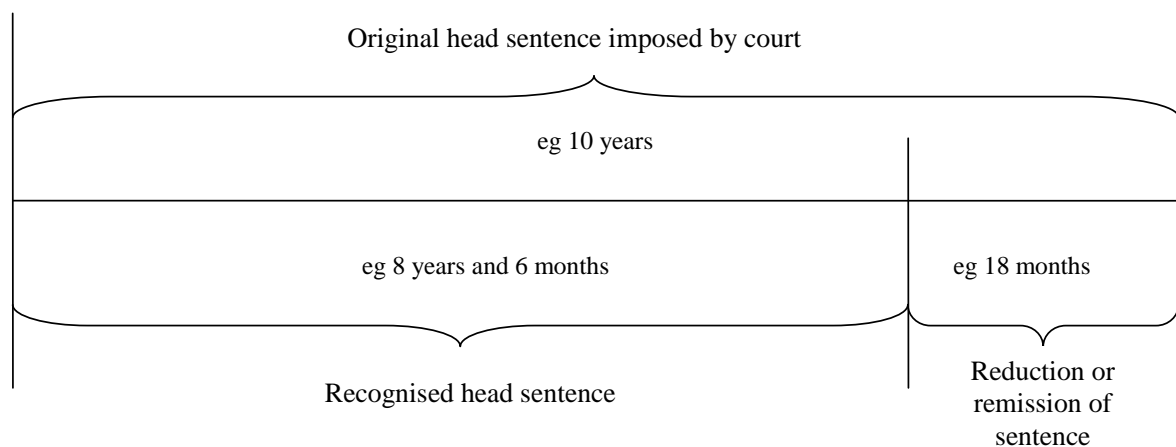
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Explanation of Terms (continued)

The following diagram illustrates these concepts:



In some jurisdictions, the law provides for reduction or remission of the head sentence imposed by the court. Such reductions may be dependent on the good behaviour of the prisoner, or may be automatically applied to all prisoners serving custodial sentences. If the head sentence of a prisoner who transfers to Australia has been reduced in this way, the sentence that will be enforced in Australia will reflect the reduction or remission granted by the sentencing country. This reduced sentence is referred to as the **'recognised head sentence'**. This is illustrated below:



Guide to completing the *Application for transfer to Australia* form

When completing the *Application for transfer to Australia* form, please make sure that you answer all the questions and provide as much detail as possible. Your application may be delayed if you do not provide sufficient information.

A-D: PERSONAL DETAILS

Your responses to these questions will provide the Australian Government with the details it needs to identify you when corresponding with the relevant authorities in Australia and the transfer country.

Please provide your name, date of birth and place of birth.
(e.g. Peter John Smith, 01 December 1960, Sydney Australia)

If you have ever been known by a different name, please also provide that name.

E-F: CITIZENSHIP, PERMANENT RESIDENCY AND PASSPORT DETAILS

Your responses to these questions will allow Australia to establish your citizenship or residency status.

Please provide full details of your citizenship and your parents' citizenship.

If you were not born in Australia, provide the date that you became an Australian citizen.

If you have a visa, please state the type of visa and the date that the visa was granted.

Please provide details of the date and place of issue, the number and the expiry date of your passport. If you do not have your passport, your prison should be able to provide these details.

If you do not answer these questions fully and to the best of your knowledge, there may be delays in processing your transfer application.

G: DETAILS OF SENTENCE BEING SERVED

One of the conditions for transfers under the International Transfer of Prisoners Scheme is that 'dual criminality' exists. This means that the offence for which a prisoner is serving a sentence in a foreign country would also be an offence in Australia. Your response to this question enables Australia to make sure that the offence you committed in the transfer country would be an offence in Australia.

The dual criminality requirement may be waived in some circumstances.

Please provide the following details of the sentence for which you are in custody:

- the offence(s) for which you were sentenced, (e.g. importation of an illegal substance)
- the length of your sentence and your non-parole period, if you have one

(e.g. the court may have sentenced you to 14 years imprisonment with a 10 year non-parole period)

- the date the offence for which you were sentenced was committed
- the date your sentence was imposed
- the date your sentence commenced
- the date of expiry of your head sentence (e.g. in the example set out above, this would be 14 years from the date that your sentence commenced), and
- the date that you are eligible for release on parole (e.g. in the example set out above, this would be 10 years from the date that your sentence commenced).

Please provide details of any appeals in your case, by either you or the prosecution, that are currently occurring or have been scheduled for the future. Your transfer cannot occur until all appeals in your case have been finalised.

Please also provide details of any other current legal proceedings in which you are involved (e.g. if you are, or will be, providing evidence in another person's trial). If you have undertaken to provide evidence in a trial or are required to remain in the transfer country for any other legal matter, your transfer may not be able to take place until the trial or other legal matter is concluded.

H: DETAILS OF ANY OUTSTANDING CRIMINAL CHARGES IN ANY COUNTRY

Please outline any outstanding criminal charges that have been laid against you for offences against the law of any country, including Australia, which have not yet been dealt with by a court.

I: DETAILS OF ANY EXTRADITION PROCEEDINGS

Please provide details of any extradition proceedings in which you are involved.

The Australian *International Transfer of Prisoners Act 1997* does not allow a prisoner to be transferred to or from Australia if the transfer would be likely to prevent the surrender of the prisoner to any extradition country that has requested the prisoner's extradition or has expressed interest in extraditing him or her.

J: STATE/TERRITORY DETAILS

Please indicate the State or Territory of Australia to which you would like to be transferred.

If you have community ties (see information below) with more than one State or Territory you may nominate each of those States or Territories. However, only one State or Territory will be approached by the Australian Government at a time.

K: COMMUNITY TIES:

Please provide details of any community ties you have with the State or Territory to which you seek to transfer.

You have community ties with a State or Territory if:

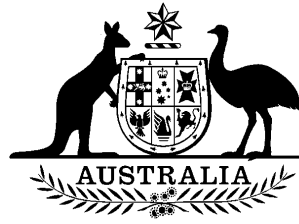
- before being imprisoned in the foreign country, your principal place of residence was in that State or Territory
- your parent, grandparent or child lives in that State or Territory
- you are married to, or have a de facto relationship with, a person who lives in that State or Territory, or
- you have a close continuing relationship (involving frequent written or personal contact and a personal interest in the other person's welfare) with a person who lives in that State or Territory.

Please provide the full name of each person and their contact details, such as address and telephone numbers. Please also advise when you last had contact with each person, whether you continue to have contact with them, and the manner (e.g. telephone, letters, visits) and frequency of the contact.

It is very important that you provide as much information as possible in response to this question, as the relevant Minister in the State or Territory to which you seek to transfer may require you to demonstrate community ties with the State or Territory before he or she will consent to your transfer.

If you need more space to complete your answer, please attach additional pages to the form.

Please make sure you **sign** and **date** the form and return it to the address at the bottom of the form.



COMMONWEALTH OF AUSTRALIA

INTERNATIONAL TRANSFER OF PRISONERS ACT 1997

Privacy Information Sheet

Purpose

The purpose of this document is to provide you with additional information about the collection, use and disclosure of your personal information for the purposes of processing your application for transfer under the International Transfer of Prisoners (ITP) Scheme.

Collection, use and disclosure of personal information

The [Privacy Act 1988](#) (Cth) governs the Australian Government's handling of personal information. The Act contains 11 Information Privacy Principles that deal with the collection, use, disclosure, storage, protection and amendment of, and access to, personal information collected by the Government. The Attorney-General's Department (the Department), the Attorney-General and the Minister for Justice are required to uphold these principles.

With the exception of the ACT, the *Privacy Act 1988* does not apply to Australian State and Territory agencies or to foreign governments or agencies. However, each Australian State and Territory government has information privacy protections in place, as do many other countries.

Provisions of the [International Transfer of Prisoners Act 1997](#) (Cth) and regulations made under the Act require or authorise the collection, use and disclosure of a prisoner's personal information for the purpose of processing an application.

In accordance with Information Privacy Principle 11, the Department will not disclose personal information to a person, body or agency other than yourself unless:

- you have consented to the disclosure
- you are reasonably likely to have been made aware that information of that kind is usually passed to that person, body or agency
- the Department believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to your life or health or the life or health of another person
- the disclosure is required or authorised by or under law, or
- the disclosure is reasonably necessary for the enforcement of the criminal law, a law imposing a financial penalty, or to protect public money.

A person, body or agency that is bound by the Information Privacy Principles and to which your information is disclosed in accordance with Information Privacy Principle 11 may only use or disclose that information for the purpose for which it was provided to that person, body or agency.

In accordance with Information Privacy Principle 10, the Department will not use personal information obtained for the purpose of processing a transfer application for any other purposes unless:

- you have consented to the use of the information for the other purpose
- the Department believes on reasonable grounds that use of the information for the other purpose is necessary to prevent or lessen a serious and imminent threat to your life or health or the life or health of another person
- use of the information for that other purpose is required or authorised by or under law
- use of that information for that other purpose is reasonably necessary for enforcement of the criminal law or of a law imposing a financial penalty, or for the protection of public money, or
- the purpose for which the information is used is directly related to the purpose for which the information was obtained.

The Department must make such appropriate corrections, deletions and additions as are reasonable in the circumstances to ensure that your personal information is accurate, up to date, complete and not misleading.

Access to your personal information

In accordance with Information Privacy Principle 6, you are entitled to access records containing your personal information unless a law of the Commonwealth that provides for access by persons to documents requires or authorises refusal of access to that record.

What to do if you believe the Department has infringed your privacy rights

If you believe your privacy rights have been infringed by the Department, you may complain to the Department. You should contact the Governance and Planning Section on +61 2 6141 2542 or by writing to:

Director, Governance and Planning Section
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

If the Department fails to respond to your complaint within a reasonable time (usually 30 days), or if you are not satisfied with the way the Department deals with your complaint, you may complain to the Privacy Commissioner.

A complaint to the Privacy Commissioner must be in writing, and should include:

- the name of this Department
- a brief description of your privacy problem
- any action the Department has taken to fix the problem
- a description of any response you have had from the Department, and
- copies of any relevant documents.

You can send a letter of complaint to the Privacy Commissioner by post, fax or email. The contact details are:

Director, Compliance
Office of the Privacy Commissioner
GPO Box 5218
SYDNEY NSW 2001

Fax: +61 2 9284 9666

Email: privacy@privacy.gov.au

If you need help to make a complaint, please visit the Complaints section of the Privacy Commissioner's website (www.privacy.gov.au/privacy_rights/complaints/index.html) for more information or call the Privacy Enquiries Line on 1300 363 992.

Further information

If you would like any further information, please contact:

International Transfer of Prisoners Unit
International Crime Cooperation Central Authority
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600
AUSTRALIA

Phone: +61 2 6141 6666

Email: itp@ag.gov.au



COMMONWEALTH OF AUSTRALIA

Application for transfer to Australia

COMMONWEALTH OF AUSTRALIA

International Transfer of Prisoners Act 1997

APPLICATION FOR TRANSFER TO AUSTRALIA OF PRISONER NOT ON PAROLE

I, _____ currently serving a
[name of prisoner]

sentence of imprisonment at _____,
[name and address of prison or institution]

apply for transfer to Australia to complete serving my sentence.

In support of my application, I give the following information:

A. FULL NAME: _____

B. OTHER NAMES (IF ANY): _____

C. DATE OF BIRTH: _____

D. PLACE OF BIRTH: _____

E. CITIZENSHIP DETAILS:

(a) Country/countries of citizenship: _____

(b) Date citizenship(s) granted (if not born in Australia): _____

(c) Was your father or mother a foreign diplomat or consular officer? _____

(d) If your mother and father were Australian citizens, did either of them become citizens of another country before 4 April 2002, and before you reached 18 years of age? _____

(e) Since you reached the age of 18, have you become a citizen of a country, other than Australia? _____

(f) If you have become a citizen of another country, did you become a citizen of that other country before 4 April 2002? _____

F. PERMANENT RESIDENCY

(a) Type of visa: _____

(b) Date visa granted: _____

PASSPORT DETAILS:

- (a) Date of issue: _____
- (b) Place of issue: _____
- (c) Passport number: _____
- (d) Date of expiry: _____

G. DETAILS OF SENTENCE BEING SERVED:

- (a) offence(s) for which the sentence is being served:

(b) term of imprisonment, including any non-parole period, for which the sentence is being served:

- (c) date(s) when the offence was committed: _____

- (d) date when the sentence was imposed: _____

- (e) date when the sentence commenced (if different from date imposed):

- (f) date of expected release (whether on parole or otherwise):

(g) details of any pending or possible future appeal against the conviction or the sentence being served (including, if appropriate, the name of the appellant):

(h) details of any other current legal proceedings (including any civil proceeding, petition, request for mercy, or inquiry) in relation to the conviction or sentence.

H. DETAILS OF ANY OUTSTANDING CRIMINAL CHARGES IN ANY COUNTRY (IF ANY)

I. DETAILS OF ANY EXTRADITION PROCEEDINGS:

J. STATE/TERRITORY DETAILS [*indicate the Australian State or Territory to which you seek to transfer*]

K. COMMUNITY TIES: [*Set out any community ties you have with the State or Territory indicated above. If you need more space to complete your answer, please attach additional pages to the form.]. A person has community ties with a State or Territory if: s/he lived there immediately prior to being sentenced in the foreign country; a family member such as a grandparent, parent or child lives in the State or Territory; his/her spouse or de facto lives in the State or Territory; or s/he has a close personal relationship with a person who lives in the State or Territory.*]

Dated: _____

.....
Prisoner

To return this form or ask for further information, please contact:

Assistant Secretary
International Crime Cooperation Central Authority
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600
AUSTRALIA



COMMONWEALTH OF AUSTRALIA

INTERNATIONAL TRANSFER OF PRISONERS ACT 1997

Collection, use and disclosure of personal information

The purposes of this form are to:

- inform you about the information about you that will be collected and how that information will be treated by the Attorney-General's Department, the Attorney-General and the Minister for Justice.
- seek your consent to the collection, use and disclosure of your personal information, and
- allow you to nominate personal representatives to whom your personal information may be disclosed.

The *Privacy Act 1988* (Cth) governs the Australian Government's handling of personal information. The Act contains 11 Information Privacy Principles that deal with the collection, use, disclosure, protection and amendment of, and access to, personal information collected by the Government. Any Commonwealth employee who wrongfully discloses personal information may be subject to sanctions under the *Crimes Act 1914* (Cth) and the *Public Service Act 1999* (Cth).

Please read all of the information contained in this form before completing the declaration at section 4. If you do not wish your personal information to be collected, used and disclosed in the manner described below you may decline to sign the declaration and choose instead to either withhold or withdraw your application for transfer.

1 What information is collected, used and disclosed?

The following personal information may be collected, used or disclosed by the Attorney-General's Department, the Attorney-General and the Minister for Justice for the purposes of processing your application for prisoner transfer under the ITP Scheme, and keeping people informed about your case:

- the information contained in your application form
- your corrections details and sentence information including sentencing reports, police statement of facts and warrant of commitment
- your immigration or citizenship status
- information about your criminal history including criminal records in Australia and overseas
- information about any law enforcement activities involving you in Australia or overseas
- medical or mental health records including hospital reports and prison reports on your physical and psychiatric health
- court transcripts from your case in all relevant courts
- behavioural and program reports including drug and alcohol reports, any courses you have undertaken in prison and any incidents or disciplinary actions in prison, and
- information about the progress of your application.

The collection by the Attorney-General's Department, the Attorney-General and/or the Minister for Justice of the personal information described above is required or authorised by the *International Transfer of Prisoners Act 1997* (Cth) to the extent that that information relates to the processing of your application for transfer.

2 *Who will information be provided to?*

The Attorney-General's Department, the Attorney-General and the Minister for Justice may provide some or all of the information collected to:

- the Minister for Immigration and Citizenship
- the Minister in the Australian State or Territory you wish to transfer to or from
- correctional services in the Australian State or Territory you wish to transfer to or from, and
- agencies or people responsible for administering the ITP Scheme in the country you wish to transfer to or from.

Disclosure of your personal information to the people and agencies listed above is required or authorised by the *International Transfer of Prisoners Act 1997* (Cth) and regulations made under that Act.

The Attorney-General's Department, the Attorney-General and the Minister for Justice may provide some or all of the information collected to:

- the Department of Foreign Affairs and Trade
- the Department of Immigration and Citizenship
- Commonwealth and/or State or Territory Directors of Public Prosecutions
- the Australian Federal Police
- police services in the Australian State or Territory you wish to transfer to or from, and/or other Commonwealth, State or Territory law enforcement and/or intelligence agencies.
- agencies or people involved in facilitating your physical transfer
- court personnel
- health authorities in the Australian State or Territory you wish to transfer to or from, and
- community services authorities in the Australian State or Territory you wish to transfer to or from

Any information that the Attorney-General's Department, the Attorney-General or the Minister for Justice collects from, or discloses to, the agencies and people listed above will be collected or disclosed for the purpose of processing your application or keeping them informed about your case

3 *Personal representatives*

You may nominate additional people to whom the Minister for Justice, the Attorney-General and the Department can disclose your personal information including information about the progress of your application for transfer. Please ensure that you list below the details of any family members, friends or legal representatives you wish to have access to information about your application. If necessary, you may restrict the information that can be provided to your personal representatives in section 3.2 below.

3.1 Please list personal representatives with whom you consent to the Minister for Justice, the Attorney-General and the Attorney-General's Department discussing your transfer. You should try to seek the agreement of anyone you nominate below before providing us with their contact details.

Name _____

Relationship: _____

Address _____

Phone number _____

Email _____

Name _____

Relationship: _____

Address _____

Phone number _____

Email _____

Name _____

Relationship: _____

Address _____

Phone number _____

Email _____

3.2 Is there particular information that you do not wish to be shared with one or more of your personal representatives? Yes No

If yes, please detail the particular information and the personal representative(s) to whom you do not want the information disclosed.

4 Declaration

I understand that the Attorney-General's Department will handle my personal information in accordance with the *Privacy Act 1988* (Cth).

I understand that the collection, use and disclosure of my personal information by the Attorney-General's Department, the Attorney-General and the Minister for Justice is for the purpose of processing my application for transfer under the ITP Scheme and/ or informing relevant agencies and people about my prisoner transfer case.

I consent to my personal information being disclosed to:

- (a) the personal representatives listed above in section 3.1 of this form, subject to the limitations I have recorded at section 3.2, and
- (b) the departments, agencies and persons listed in section 2 of this form.

Name: _____

Signature: _____ Date: _____

Name of witness: _____

Signature: _____

To return this form or ask for further information, please contact:

Assistant Secretary
International Crime Cooperation Central Authority
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600
AUSTRALIA