

South Australia

Cross-border Justice Regulations 2009

under the *Cross-border Justice Act 2009*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Interpretation

Part 2—Cross-border regions

- 4 WA/SA/NT region

Part 3—General

- 5 Definitions (section 7)
- 6 Custody orders—recommendation about place of custody
- 7 Calculation of reduction in amount of fines (section 130)

Part 4—Modifications of other laws of State

Division 1—Interpretation

- 8 Terms used in modifications
- 9 Modification provisions

Division 2—Modifications of *Bail Act 1985*

- 10 Amendment of section 3—Interpretation
- 11 Insertion of section 3A
 - 3A Application to persons in custody in participating jurisdictions
- 12 Amendment of section 5—Bail authorities
- 13 Amendment of section 6—Nature of bail agreement
- 14 Amendment of section 7—Guarantee of bail
- 15 Amendment of section 11—Conditions of bail

Division 3—Modifications of *Correctional Services Act 1982*

- 16 Amendment of section 4—Interpretation
- 17 Insertion of section 65
 - 65 Division does not apply to cross-border prisoners

Division 4—Modifications of *Criminal Law (Forensic Procedures) Act 2007*

- 18 Amendment of section 3—Interpretation

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

- 19 Amendment of section 269A—Interpretation
- 20 Substitution of section 269V
 - 269V Custody, supervision and care

Division 6—Modifications of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

- 21 Amendment of section 3—Interpretation

Division 7—Modifications of *Criminal Law (Sentencing) Act 1988*

- 22 Amendment of section 3—Interpretation
23 Insertion of section 31AA
31AA Commencement of sentences imposed in cross-border proceedings
24 Insertion of section 47A
47A Hours of community service under non-custodial orders made in cross-border proceedings
25 Amendment of section 50—Community corrections officer may give reasonable directions

Division 8—Modifications of *Evidence Act 1929*

- 26 Insertion of section 59IPA
59IPA Application of Division
27 Amendment of section 59IQ—Appearance etc by audio visual link or audio link

Division 9—Modifications of *Magistrates Act 1983*

- 28 Insertion of section 5A
5A Cross-border magistrates

Division 10—Modifications of *Magistrates Court Act 1991*

- 29 Amendment of section 7A—Constitution of Court
30 Substitution of section 23
23 Production of persons held in custody

Division 11—Modifications of *Oaths Act 1936*

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

Division 12—Modifications of *Police Act 1998*

- 32 Substitution of section 59
59 Appointment of special constables

Division 13—Modifications of *Police Regulations 1999*

- 33 Substitution of regulation 69
69 Illness or injury of prisoners

Division 14—Modifications of *Prisoners (Interstate Transfer) Act 1982*

- 34 Insertion of section 6A
6A Relationship with cross-border laws
35 Insertion of section 6B
6B Application of this Part to State prisoners imprisoned in another participating jurisdiction
36 Insertion of section 8A
8A Effect of orders under this Part on persons imprisoned under law of another participating jurisdiction

Division 15—Modifications of *Road Traffic Act 1961*

- 37 Amendment of section 5—Interpretation
38 Amendment of section 41D—Use of equipment to examine or process things
39 Amendment of Schedule 1—Oral fluid and blood sample processes

Division 16—Modifications of *Summary Offences Act 1953*

- 40 Amendment of section 78—Person apprehended without warrant, how dealt with
- 41 Amendment of section 78A—Power of arrest in cases of certain offences committed outside the State
- 42 Repeal of section 80
- 43 Repeal of sections 83B to 83C

Division 17—Modifications of *Summary Procedure Act 1921*

- 44 Insertion of section 30
 - 30 Representation of prosecuting authority
- 45 Amendment of section 69A—Examination of defendant
- 46 Amendment of section 99H—Registration of foreign restraining orders
- 47 Insertion of section 99HA
 - 99HA Notification of restraining orders made in cross-border proceedings
 - 99HB Enforcement of unregistered foreign restraining orders

Division 18—Modifications of *Young Offenders Act 1993*

- 48 Amendment of whole Act
- 49 Amendment of section 4—Interpretation
- 50 Insertion of section 5A
 - 5A Ex officio juvenile justice officers
- 51 Amendment of section 23—Limitation on power to impose custodial sentence
- 52 Amendment of section 40—Leave of absence

Division 19—Modification of *Youth Court Act 1993*

- 53 Amendment of section 14—Constitution of Court

Schedule 1—WA/SA/NT region

- 1 Description of boundary line
- 2 Areas in which police officers stationed or carry out duties

Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Cross-border Justice Regulations 2009*.

2—Commencement

- (1) Subject to subregulation (2), these regulations will come into operation on the day on which section 146 of the *Cross-border Justice Act 2009* comes into operation.
- (2) Part 4 Division 18 and Division 19 will come into operation on the day on which Schedule 1 Part 4 of the *Cross-border Justice Act 2009* comes into operation.

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 section 130(2)(a)(iii) of the Act, the amount by which a fine is reduced because an offender who is a youth (within the meaning of the *Young Offenders Act 1993*) has satisfactorily performed all or some of the required hours of a community service order made under section 70L of the *Criminal Law (Sentencing) Act 1988* must be calculated in accordance with section 70L(4) and (5) of that Act.

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—
 - (i) a parole officer as defined in section 3(1) of the *Parole of Prisoners Act* of the Northern Territory; or

- (ii) a supervising officer or surveillance officer as respectively defined in the *Prisons (Correctional Services) Act* of the Northern Territory;

(2) Section 3(1)—after the definition of *intervention program manager* insert:

police station includes a police station in another participating jurisdiction;

11—Insertion of section 3A

After section 3 insert:

3A—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) The following are constituted as bail authorities for the purposes of this Act:

- (a) the Supreme Court;
- (b) a court before which the eligible person has been charged with the offence in respect of which the eligible person has been taken into custody;
- (c) a court before which the eligible person has appeared for trial or sentencing;
- (d) where the eligible person—
 - (i) is charged with a summary offence only; or
 - (ii) is charged with an indictable offence but has not appeared before a court for trial or sentencing,the Magistrates Court;
- (e) where 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 member of the police force); 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 member of the police force (including a member of the police force of another participating jurisdiction who holds a secondary office as a police officer of the State) who is of or above the rank of sergeant or who is in charge of a police station;

- (ea) where 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) where 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) Where 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 member of the police force (including a member of the police force of another participating jurisdiction who holds a secondary office as a police officer of the State) of or above the rank of sergeant or in charge of a police station; or
 - (c) if the person is in prison—the person who is in charge of the prison; 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 member of the police force (including a member of the police force of another participating jurisdiction who holds a secondary office as a police officer of the State) of or above the rank of sergeant or in charge of a police station; 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
 - (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 in pursuance of 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;
 - (b) in any other case—without the permission of—
 - (i) a judge or magistrate; or
 - (ii) a member of the police force (including a member of the police force of another participating jurisdiction who holds a secondary office as a police officer of the State) of or above the rank of sergeant or in charge of 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 (Forensic Procedures) Act 2007*

18—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *corresponding law* insert:

dentist means—

- (a) a person who is registered as a dentist under the *Dental Practice Act 2001*; or

- (b) an individual who is registered under the *Dental Act 1939* of Western Australia; or
 - (c) a dentist or dental specialist who has a right of practice under the *Health Practitioners Act* of the Northern Territory;
- (2) Section 3(1), definition of *medical practitioner*—delete the definition and substitute:
medical practitioner means—
- (a) a person who is registered on the general register under the *Medical Practice Act 2004*; or
 - (b) an individual who is a medical practitioner, as that term is defined in section 4 of the *Medical Practitioners Act 2008* of Western Australia; or
 - (c) a medical practitioner who has a right of practice under the *Health Practitioners Act* of the Northern Territory,
- and includes, in relation to a forensic procedure involving the mouth or teeth or an impression left by the mouth or teeth, a dentist;
- (3) Section 3(1)—after the definition of *police officer* insert:
police station includes a police station in another participating jurisdiction;

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

19—Amendment of section 269A—Interpretation

Section 269A(1), definition of *psychiatrist*—delete the definition and substitute:

psychiatrist means—

- (a) a person registered on the specialist register under the *Medical Practice Act 2004* as a specialist in psychiatry; or
- (b) a medical practitioner whose name is contained in a register of psychiatrists prepared and maintained under section 17 of the *Mental Health Act 1996* of Western Australia; or
- (c) a person who holds an appointment, or may be appointed, as an authorised psychiatric practitioner under section 22 of the *Mental Health and Related Services Act* of the Northern Territory;

20—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 Part, 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 (4), 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 (4), 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;
 - (b) the supervisory responsibilities are in all other respects to be exercised by the Parole Board.
- (4) 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 1996* 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* of the Northern Territory,
- has consented to the defendant being so placed or kept.

Division 6—Modifications of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

21—Amendment of section 3—Interpretation

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

place includes a place in another participating jurisdiction;

Division 7—Modifications of *Criminal Law (Sentencing) Act 1988*

22—Amendment of section 3—Interpretation

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

community corrections officer means—

- (a) 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; 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—
- (i) a parole officer as defined in section 3(1) of the *Parole of Prisoners Act* of the Northern Territory; or
- (ii) a supervising officer or surveillance officer as respectively defined in the *Prisons (Correctional Services) Act* of the Northern Territory;

23—Insertion of section 31AA

After section 31 insert:

31AA—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.

24—Insertion of section 47A

After section 47 insert:

47A—Hours of community service under non-custodial orders made in cross-border proceedings

- (1) The 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 47(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.

25—Amendment of section 50—Community corrections officer may give reasonable directions

Section 50(1)—delete subsection (1) and substitute:

- (1) A community corrections officer responsible for supervising a person—
 - (a) may give reasonable directions to the person—
 - (i) requiring the person to report to the officer on a regular basis; or
 - (ii) requiring the person to notify the officer of any change in the person's place of residence or employment; or

- (iii) requiring the person to obtain the officer's written permission before leaving the State participating jurisdiction in which the person was sentenced for any reason; or
 - (iv) requiring the person to reside, or not to reside, in any particular place or area or with any particular person; or
 - (v) requiring the person to take up, or not to take up, any particular employment, to be punctual in reporting to work or not to give up some particular employment; and
- (b) may give the person other directions of a kind authorised by the Minister for Correctional Services, either generally or in relation to that person.

Division 8—Modifications of *Evidence Act 1929*

26—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.

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

- (1) 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.
- (2) Section 59IQ(5)—delete subsection (5) and substitute:
- (1) The personal attendance of a defendant who is in custody is, however, required if—
 - (a) the proceeding is—
 - (i) ~~the defendant's first appearance before a court in connection with the charge or charges for which the defendant is in custody; or~~

- (ii) a preliminary examination of an indictable offence that involves the taking of oral evidence (but this subparagraph does not prevent the use of an audio visual link for parts of the proceeding that do not involve the taking of oral evidence or for incidental proceedings such as an adjournment or an application for bail or further remand in custody that do involve the taking of oral evidence); or
- (iii) a proceeding for which the defendant's personal attendance is required by regulation,

(but in any of the above cases, the defendant may ask the court to be allowed to use an audio visual link and, if the court agrees, the defendant need not attend personally before the court); or
- (b) the proceeding is an investigation into the defendant's fitness to stand trial; or
- (c) the court is of the opinion that there are good reasons in the circumstances of the particular case for requiring the defendant's personal attendance and directs accordingly; or
- (d) there are other matters to be dealt with on the same occasion for which the defendant's personal attendance is necessary or desirable.

Division 9—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 10—Modifications of *Magistrates Court Act 1991*

29—Amendment of section 7A—Constitution of Court

Section 7A—after subsection (2) insert:

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

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 11—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, puisne judges and Masters of the Supreme Court;
 - (b) the Chief Judge, other Judges and Masters of the District Court;
 - (c) magistrates (including cross-border magistrates);
 - (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(3)—delete subsection (3) and substitute:
 - (3) Subject to subsection (3a)—
 - (a) the oaths to be taken under this section by the puisne judges of the Supreme Court must be taken before the Governor or the Chief Justice, as the Governor may determine (however, in the absence of a determination by the Governor, the oaths must be taken before the Chief Justice);
 - (b) the oaths to be taken under this section by any other judicial officer to whom this section applies (other than a justice of the peace or a cross-border magistrate) must be taken before the Chief Justice.
- (3) Section 7—after subsection (3a) insert:
 - (3b) 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 12—Modifications of *Police Act 1998*

32—Substitution of section 59

Section 59—delete the section and substitute:

59—Appointment of special constables

The Commissioner may, by instrument in writing, appoint a person to be a special constable either for the whole State or for a part of the State of a participating jurisdiction or for a part of a participating jurisdiction specified in the instrument of appointment.

Division 13—Modifications of *Police Regulations 1999*

33—Substitution of regulation 69

Regulation 69—delete the regulation and substitute:

69—Illness or injury of prisoners

- (1) If it is necessary to obtain medical assistance for a prisoner who is ill or injured, the officer in charge of a police station—
 - (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 *Hospitals and Health Services Act 1927* of Western Australia; or
 - (iii) a hospital within the meaning of the *Medical Services Act* 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.
- (2) In this regulation—

medical practitioner means—

 - (a) a person who is registered on the general register under the *Medical Practice Act 2004*; or
 - (b) an individual who is a medical practitioner, as that term is defined in section 4 of the *Medical Practitioners Act 2008* of Western Australia; or
 - (c) a medical practitioner who has a right of practice under the *Health Practitioners Act* of the Northern Territory.

Division 14—Modifications of *Prisoners (Interstate Transfer) Act 1982*

34—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* of the Northern Territory; and
- (b) has a connection with a cross-border region that is partly in that other jurisdiction.

35—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.

36—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* 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 15—Modifications of *Road Traffic Act 1961*

37—Amendment of section 5—Interpretation

- (1) Section 5(1)—after the definition of *mass limit* insert:

medical practitioner means—

 - (a) a person who is registered on the general register under the *Medical Practice Act 2004*; or
 - (b) an individual who is a medical practitioner, as that term is defined in section 4 of the *Medical Practitioners Act 2008* of Western Australia; or
 - (c) a medical practitioner who has a right of practice under the *Health Practitioners Act* of the Northern Territory;
- (2) Section 5(1)—after the definition of *photographic detection device* insert:

police station includes a police station in another participating jurisdiction;

38—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.

39—Amendment of Schedule 1—Oral fluid and blood sample processes

Schedule 1, clause 1, definition of *registered nurse*—delete the definition and substitute:

registered nurse means—

- (a) a person who is a registered nurse within the meaning of the *Nursing and Midwifery Practice Act 2008*; or
- (b) a person who is a registered nurse under the *Nurses Act 1992* of Western Australia; or
- (c) a registered nurse who has right of practice under the *Health Practitioners Act* of the Northern Territory.

Division 16—Modifications of *Summary Offences Act 1953*

40—Amendment of section 78—Person apprehended without warrant, how dealt with

Section 78(6)—after the definition of *the nearest police station* insert:

police station includes a police station in another participating jurisdiction;

41—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.

42—Repeal of section 80

Section 80—delete the section

43—Repeal of sections 83B to 83C

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

Division 17—Modifications of *Summary Procedure Act 1921*

44—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.

45—Amendment of section 69A—Examination of defendant

(1) Section 69A(1)—delete subsection (1) and substitute:

- (1) If the Court finds proved a matter alleged in a complaint (not being a charge of an offence), the Court may order that the defendant be examined by a medical practitioner or psychologist directed by the 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 court may order that the defendant be taken to a suitable place for the examination (which may be a place in another participating jurisdiction).

(3) Section 69A—after subsection (4) insert:

(5) In this section—

medical practitioner means—

- (a) a person who is registered on the general register under the *Medical Practice Act 2004*; or
- (b) an individual who is a medical practitioner, as that term is defined in section 4 of the *Medical Practitioners Act 2008* of Western Australia; or
- (c) a medical practitioner who has a right of practice under the *Health Practitioners Act* of the Northern Territory;

psychologist means—

- (a) a person who is registered as a psychologist under the *Psychological Practices Act 1973*; or
- (b) a person who is registered as a psychologist under the *Psychologists Act 2005* of Western Australia; or

- (c) a psychologist who has a right of practice under the *Health Practitioners Act* of the Northern Territory.

46—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 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.

47—Insertion of section 99HA

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 registrar of the Magistrates Court of Western Australia; and
 - (b) if that other jurisdiction is the Northern Territory—the Clerk 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 18—Modifications of *Young Offenders Act 1993*

48—Amendment of whole Act

Act—delete "an officer of the Department" wherever occurring and substitute in each case:

a juvenile justice officer

49—Amendment of section 4—Interpretation

- (1) Section 4, 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—after the definition of *homicide* 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 5A;
- (3) Section 4—after the definition of *Judge* insert:

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

- (4) Section 4—after the definition of *police officer* insert:
police station includes a police station in another participating jurisdiction;
prison includes a prison in another participating jurisdiction under its cross-border laws;
- (5) Section 4, definition of *training centre*—delete the definition and substitute:
training centre means—
- (a) a training centre established by the Minister under section 36 of the *Family and Community Services Act 1972*; or
 - (b) a detention centre in another participating jurisdiction under its cross-border laws;
- (6) Section 4—after the definition of *Training Centre Review Board* insert:
watch-house includes a watch-house in another participating jurisdiction;

50—Insertion of section 5A

After section 5 insert:

5A—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) public sector employees of the Northern Territory whose duties include the supervision of offenders in the community under the *Youth Justice Act* of the Northern Territory.

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

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

- (7) 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 *Prisons (Correctional Services) Act* of the Northern Territory.

52—Amendment of section 40—Leave of absence

Section 40(2)—delete subsection (2) and substitute:

- (2) Leave of absence under this section may be subject to such conditions as the Chief Executive thinks fit, including, if the Chief Executive thinks appropriate, a condition that the youth will be in the custody of and supervised by 1 or more ~~officers of the Department~~ juvenile justice officers authorised by the Minister for the purpose.

Division 19—Modification of *Youth Court Act 1993*

53—Amendment of section 14—Constitution of Court

Section 14—after subsection (4) insert:

- (4a) 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.

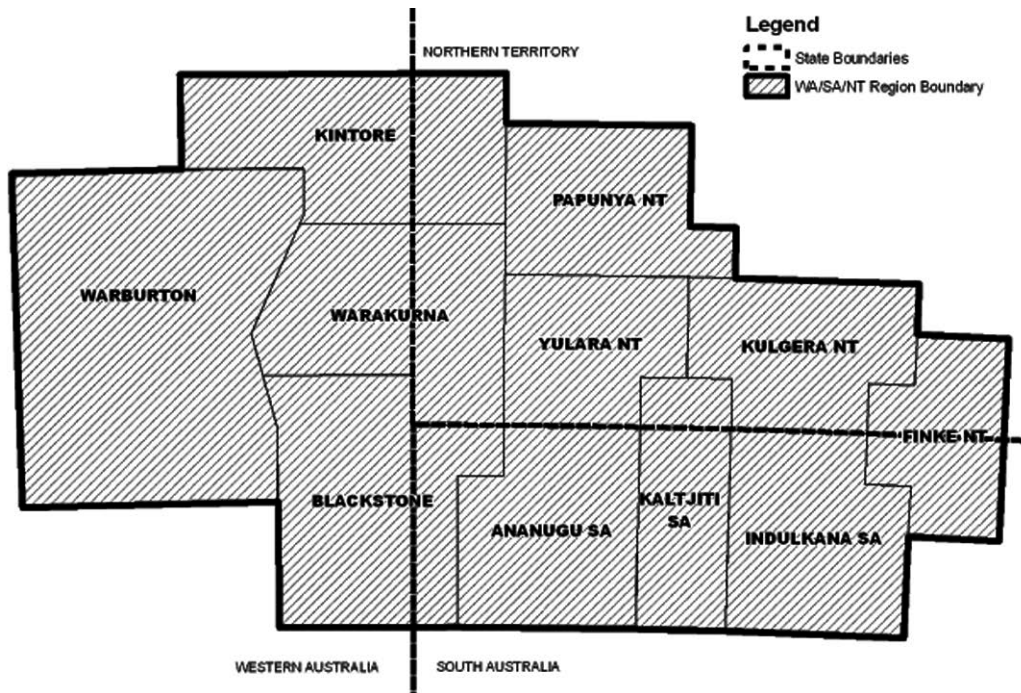
Point no.	Longitude (E)	Latitude (S)
1	124°40'9.726"	-23°26'26.696"
2	126°29'59.085"	-23°26'50.559"
3	126°30'2.638"	-22°30'0.724"
4	129°59'43.09"	-22°29'59.842"
5	130°0'0.315"	-22°59'58.596"
6	131°59'59.524"	-22°59'59.741"
7	132°0'3.867"	-24°0'0.641"
8	132°29'45.2"	-24°0'5.62"
9	132°30'4.694"	-24°29'40.966"
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



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.

Principal regulations

Year	No	Reference	Commencement
2009	253	<i>Gazette 29.10.2009 p4990</i>	1.11.2009 except Pt 4 Divs 18 & 19—1.12.2009: r 2