

Not Relevant

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MCS07/002SC

International Transfer of Prisoners
APPROVED

Not Relevant

TO: THE PREMIER FOR CABINET – SUB COMMITTEE

RE: INTERNATIONAL TRANSFER OF PRISONERS

1 Proposal

- 1.1 That Cabinet recommend to Her Excellency the Governor in Executive Council that she sign the Administrative Agreement associated with the *International Transfer of Prisoners (South Australia) Act 1998*.

2 Background

- 2.1 The *International Transfer of Prisoners (South Australia) Act 1998*, (the Act) came into operation in South Australia on 2 April 2000, allowing for prisoners to be transferred between participating countries. The legislation was developed following agreement made by the Standing Committee of Attorneys-General (SCAG) and is now in place in every Australian State and Territory.
- 2.2 The Act provides for each State and Territory to sign an Administrative Agreement that addresses administrative matters. Those matters include the division of costs associated with the implementation and operation of the scheme, the transfer procedures, the respective responsibilities of the relevant State and Commonwealth authorities in these processes and the routine matters of variation, termination and entry into force of the arrangement. A copy of the Administrative Agreement is attached.
- 2.3 South Australia is still to sign the Administrative Arrangement between the Commonwealth and the States.
- 2.4 The Attorney-General's Department was consulted about the Administrative Arrangements.
- 2.5 This matter was previously noted by Cabinet on 12 February 2007.

3 Discussion

- 3.1 Under the Agreement:
 - 3.1.1 South Australia is not compelled to accept any prisoner or parolee. The consent of the appropriate Minister must first be obtained before the Commonwealth will arrange the transfer of a prisoner into, or out of the State, and this consent may be withheld in relation to incoming prisoners on the basis of resource implications or for other reasons such as security;

3.1.2 South Australia will be responsible for the costs of all incoming prisoners other than War Tribunal prisoners from Rwanda and the former Yugoslavia; and

3.1.3 Costs and transfer expenses may be recovered in some circumstances.

3.2 The provisions of the *International Transfer of Prisoners (South Australia) Act 1998*, are likely to have resource implications for the Department for Correctional Services where it is agreed to accept prisoners into this State. The extent of those resource implications is unknown, but they are not seen to be significant.

3.3 **10 Legal professional privilege**

3.4 Notwithstanding any concerns that are held, the legislation has been passed and to satisfy the requirements of the Act, it is my intention to sign the Administrative Agreement that is associated with the *International Transfer of Prisoners (South Australia) Act 1998*.

4 Recommendation

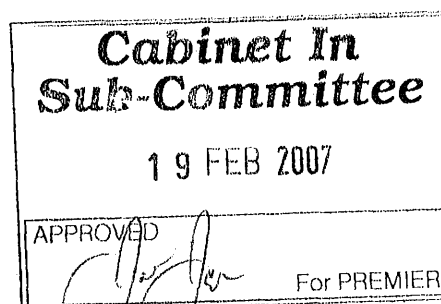
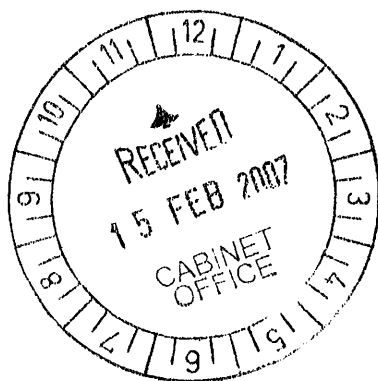
It is recommended that Cabinet recommend:

4.1 to Her Excellency the Governor in Executive Council that she sign the Administrative Agreement associated with the *International Transfer of Prisoners (South Australia) Act 1998*.



Hon Carmel Zollo MLC
Minister for Correctional Services

14 February 2007



Administrative Arrangement between the Governor-General and the Governor of the State of South Australia relating to the International Transfer of Prisoners

International Transfer of Prisoners Act 1997

AN ARRANGEMENT made under section 50 of the *International Transfer of Prisoners Act 1997* of the Commonwealth and section 8 of the *International Transfer of Prisoners (South Australia) Act 1998* of South Australia between HIS EXCELLENCY THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, and HER EXCELLENCY THE GOVERNOR of the STATE OF SOUTH AUSTRALIA, acting with the advice of the Executive Council of the State of South Australia.

GIVEN THAT:

- (a) section 50 of the Act provides that the Governor-General may make arrangements with the Governor of a State, the Chief Minister of the Australian Capital Territory or the Administrator of a Territory with respect to the administration of the Act, including arrangements relating to the exercise by officers of the State or Territory of functions under the Act; and
- (b) section 8 of the *International Transfer of Prisoners (South Australia) Act 1998* provides that the Governor of South Australia may, in accordance with the Act, make arrangements, including arrangements relating to the exercise by officers of the State of South Australia of functions under the Act; and
- (c) it is desired to make an arrangement for the administration of the Act between the Governor-General and the Governor of the State of South Australia; and
- (d) it is intended that the Governor-General will make a similar arrangement with the other States, the Australian Capital Territory, the Northern Territory and Norfolk Island; and
- (e) the parties to this Arrangement have agreed to co-operate and consult with each other to ensure the implementation and effective operation of the Act;

IT IS ARRANGED between the parties as follows:

1 Commencement of Arrangement

This Arrangement commences on gazettal in the *Commonwealth of Australia Gazette*.

2 Interpretation

2.1 In this Arrangement:

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

Attorney-General means the Attorney-General of the Commonwealth, and includes any other Minister of the Commonwealth from time to time holding, occupying or performing the duties of the Attorney-General.

Commonwealth means the Commonwealth of Australia,

incoming prisoner means a prisoner who:

- (a) is seeking transfer to South Australia from a sending country for the purpose of completing a sentence of imprisonment; or
- (b) is in the process of being transferred to South Australia from a sending country for the purpose of completing a sentence of imprisonment.

outgoing prisoner means a prisoner who is serving a sentence of imprisonment in South Australia (whether for a breach of the law of South Australia, the Commonwealth or any other State or Territory), and:

- (a) is seeking transfer to a receiving country for the purpose of completing the sentence; or
- (b) is in the process of being transferred from South Australia to a receiving country for the purpose of completing the sentence.

parolee means a prisoner who has been released on parole.

receiving country means the transfer country to which a prisoner is seeking to transfer.

Scheme means the international transfer of prisoners scheme provided in the Act and any international agreements made under the Act.

sending country means the transfer country from which a prisoner is seeking to transfer.

State Minister means the Minister of the South Australian Government administering the law of South Australia relating to the transfer of prisoners, and includes any other South Australian Minister acting for the time being for or on behalf of that Minister and any person to whom the Minister has delegated any of the Minister's functions under that law.

- ### 2.2
- Unless the contrary intention appears, a word or expression that is used in this Arrangement and in the Act has the same meaning in this Arrangement as it has in the Act.

3 Application of Arrangement

- 3.1 Unless the contrary intention appears, this Arrangement applies to all incoming and outgoing prisoners, including parolees and mentally impaired prisoners.

4 General

- 4.1 The Commonwealth and the State of South Australia agree to co-operate in the implementation and operation of the Scheme in South Australia in accordance with:
- (a) the provisions of the Act; and
 - (b) the provisions of the *International Transfer of Prisoners (South Australia) Act 1998*; and
 - (c) the terms of this Arrangement; and
 - (d) the terms of any relevant international agreement.

5 Costs

- 5.1 The Commonwealth is to meet the costs associated with the general administration of the Scheme and the costs of carrying out the specific functions and responsibilities allocated to it by the Act or this Arrangement.
- 5.2 The South Australian Government is to meet the costs of carrying out the specific functions allocated to it by the Act, this Arrangement or the *International Transfer of Prisoners (South Australia) Act 1998*.
- 5.3 If the transfer of a prisoner (other than a Tribunal prisoner) from a sending country to South Australia has been approved, the South Australian Government is to meet the costs:
- (a) of transferring the prisoner from the sending country to South Australia; and
 - (b) of maintaining the prisoner in prison in South Australia.
- 5.4 The costs of the Commonwealth are to include:
- (a) the costs associated with Australia entering into relevant international agreements with other countries; and
 - (b) the costs involved in carrying out its responsibilities in relation to the processing of applications and requests for transfer; and
 - (c) the costs involved in the liaison with foreign countries required in processing such applications and requests; and
 - (d) the ongoing costs involved in the preparation and production of all necessary Commonwealth forms, instruments and information materials.
- 5.5 The costs of the South Australian Government are to include:
- (a) the costs of carrying out its responsibilities in relation to the processing of applications and requests for the transfer of prisoners to and from South Australia; and

- (b) the costs (including airfares and accommodation) of providing escort officers to bring incoming prisoners (other than Tribunal prisoners) from the sending country to South Australia; and
- (c) the travel costs (including airfares) of incoming prisoners (other than Tribunal prisoners); and
- (d) in the case of prisoners (other than Tribunal prisoners or parolees) — the cost of keeping them:
 - (i) in prison in South Australia; or
 - (ii) in the case of mentally impaired prisoners, in an appropriate institution in South Australia.

5.6 The costs of the South Australian Government are also to include the costs involved in escorting all outgoing prisoners (subject to any reimbursement by the prisoner) from the prison or institution to the nearest point of international departure.

5.7 If a Tribunal prisoner is transferred to South Australia, the costs of his or her transfer, the costs of his or her maintenance in prison, and the costs of his or her parole supervision are to be borne by the Commonwealth.

5.8 If the State Minister considers that an incoming prisoner is in a position to pay the costs (or a proportion of the costs) associated with his or her transfer to Australia, including the cost of transferring the prisoner's property, the State Minister may seek such costs before a transfer takes place or stipulate reimbursement of costs as a condition of the transfer. Any costs arrangement must be finalised and agreed to by the prisoner, or his or her representative, before the State Minister gives his or her consent to the transfer.

6 Consent of State Minister

6.1 The consent of the State Minister must be obtained before the transfer of any prisoner (including a joint prisoner) into or out of South Australia (except in the case of an outgoing federal prisoner).

6.2 Without limiting the circumstances in which such consent may be withheld, it is agreed that consent may be withheld in relation to incoming prisoners in any of the following circumstances:

- (a) if the prisoner has been previously transferred to Australia under the Scheme;
- (b) the State Minister determines on the basis of resource implications to withhold consent;
- (c) where applicable, if the State Minister is not satisfied of the matters set out in subclause 11.2 or 12.2 of this Arrangement (whichever is appropriate); or
- (d) if, in the opinion of the State Minister, any of the following applies:
 - (i) the security of South Australia would be jeopardised by the transfer taking place;

- (ii) the transfer is, because of the extremely serious nature of the crime, likely to cause significant and widespread public outrage;
- (iii) the prisoner is likely to engage in criminal conduct after transfer;
- (iv) the application for transfer appears to be a blatant abuse of the Scheme;
- (v) the applicant does not have community ties with South Australia;
- (vi) the prisoner has had serious behavioural problems that have been documented in the sending country and, in view of these problems, his or her transfer would constitute an unacceptable risk to the safety or welfare of prison staff, other prisoners and/or the residents of South Australia;

7 Transfer of incoming prisoners (other than Tribunal prisoners)

7.1 An application by a sending country for transfer of a prisoner to South Australia must be made to the Attorney-General.

7.2 On receiving an application, if the Attorney-General is satisfied of the matters set out in subclause 7.3, the Attorney-General must:

- (a) request information from the transfer country relating to the prisoner's criminal history, medical condition, mental health, court records, and behavioural and program reports; and
- (b) determine the method by which the sentence imposed by the sending country should, in his or her view, be enforced in Australia if the transfer were to take place; and
- (c) determine the duration and legal nature of the sentence as it is to be enforced under the Act; and
- (d) determine any other terms and conditions on which he or she considers the transfer should take place; and
- (e) send the application or request for transfer, and all accompanying information, including any criminal history, medical or mental health records, court transcripts and information relating to the applicant's behavioural and program reports, to the State Minister for consideration; and
- (f) notify the State Minister that information of the type listed in paragraph (a) was either provided by the transfer country or was not available; and
- (g) notify the State Minister of the terms and conditions determined in accordance with paragraphs (b), (c) and (d).

7.3 For subclause 7.2, the matters of which the Attorney-General must be satisfied are as follows:

- (a) the country from which the application has come is a transfer country as defined in the Act;
- (b) the application contains, or is accompanied by, the information required by the Act;

- (c) the prisoner is eligible under the terms of the Act and any relevant international convention, treaty, agreement or arrangement for transfer to Australia;
 - (d) the relevant conditions for transfer to Australia, as set out in section 15 of the Act, are satisfied;
 - (e) the application is in order in all other respects;
 - (f) there is no apparent reason, in the Attorney-General's opinion, why the transfer should not take place.
- 7.4 On receiving an application, the State Minister must, as soon as practicable in the circumstances, decide whether he or she agrees to the transfer taking place on the terms and conditions determined by the Attorney-General. If the State Minister agrees to the transfer, he or she must notify the Attorney-General, in writing, that he or she consents to the proposed transfer on those terms and conditions. The State Minister must also notify the Attorney-General of the matters set out in subsection 27 (5) of the Act.
- 7.5 If the State Minister does not agree to the transfer taking place on the terms and conditions determined by the Attorney-General, but would agree to the transfer taking place on different terms and conditions, he or she may seek to negotiate different terms and conditions with the Attorney-General. If agreement is reached on the new terms and conditions, the State Minister must notify the Attorney-General, in writing, that he or she consents to the transfer taking place on those new terms and conditions. The State Minister must also notify the Attorney-General of the matters set out in subsection 27 (5) of the Act.
- 7.6 Terms and conditions for transfer may include a limit on the volume of goods an incoming prisoner may bring to Australia.
- 7.7 If the State Minister does not agree to the transfer taking place (regardless of what terms and conditions may be proposed), he or she must notify the Attorney-General, in writing. If the prisoner has also expressed a desire to transfer to another State or Territory, subclauses 7.11 and 7.12 apply.
- 7.8 If the State Minister consents to the transfer taking place on the terms and conditions determined by the Attorney-General, the Attorney-General must notify the sending country of the terms and conditions on which the transfer is to take place and seek that country's consent to the transfer on that basis. The Attorney-General must also request the sending country to seek the consent of the prisoner (or the prisoner's representative) to the transfer taking place in accordance with those terms and conditions.
- 7.9 If the prisoner (or the prisoner's representative) and the sending country consent, in writing, to the transfer taking place in accordance with the terms and conditions agreed between the Attorney-General and the State Minister, the Attorney-General may issue a warrant for transfer under section 29 of the Act. The Attorney-General must then notify the sending country of the issue of the warrant and, as soon as practicable in the circumstances and with the approval of the relevant authorities of South Australia and the

sending country, make arrangements for the transfer of the prisoner to South Australia.

- 7.10 If, at any time during consideration of the application by the State Minister, he or she decides that more information is needed in relation to the application, the State Minister may request the Attorney-General to obtain such information from the authorities of the sending country. The Attorney-General must then contact the authorities of the sending country and request that the information be provided. On receiving the information, the Attorney-General must send it to the State Minister. If the authorities of the sending country notify the Attorney-General that they will not, for whatever reason, be providing the requested information, the Attorney-General must notify the State Minister accordingly.
- 7.11 If a prisoner applies to be transferred to Australia and nominates a number of States and Territories as places with which he or she has community ties and to which he or she would like to be transferred, the Attorney-General must ascertain the prisoner's order of preferences. When this is done, the Attorney-General must, if all relevant criteria are met, send the application to the State or Territory to which the prisoner would most prefer to be transferred. If that State or Territory refuses to consent to the transfer, the Attorney-General must, if relevant criteria are met, send the application to the next most preferred State or Territory. That process is to continue until one of the nominated States or Territories consents to the proposed transfer or each has refused to consent. The Attorney-General must inform each State or Territory to which a prisoner's application is sent of the prisoner's order of preferences and the outcome of any application made to any other State or Territory.
- 7.12 The Attorney-General must not refer an application for transfer to the State Minister if he or she has already referred an application from the same person to the Minister of another State or Territory and that application is still being considered.
- 7.13 If all the States or Territories to which a sending country has applied for transfer of a prisoner refuse the application, the Attorney-General must notify the prisoner and the relevant authorities of the sending country that the application has been unsuccessful.
- 7.14 If, for whatever reason, the State Minister notifies the Attorney-General, in writing, that he or she withdraws consent to the transfer taking place, the Attorney-General must notify the prisoner and the transfer country of the decision not to consent to the transfer.

8 Transfer of incoming Tribunal prisoners

- 8.1 On receiving a request from a Tribunal for the transfer to Australia of a Tribunal prisoner, if the Attorney-General is satisfied of the matters set out in subclause 8.2, the Attorney-General must:
- (a) determine:

- (i) the method by which he or she considers the sentence of imprisonment should be enforced in Australia; and
 - (ii) the duration and legal nature of the sentence as it is to be enforced under the Act; and
 - (iii) any other terms and conditions to which he or she considers the transfer should be subject; and
 - (b) refer the request, and any accompanying relevant information, to the State Minister for consideration; and
 - (c) notify the State Minister of the details of the terms and conditions determined in accordance with paragraph (a).
- 8.2 For subclause 8.1, the matters of which the Attorney-General must be satisfied are as follows:
- (a) the terms and conditions for transfer set out in subsection 15 (4) of the Act are satisfied;
 - (b) there is no apparent reason, in the Attorney-General's opinion, why the transfer should not be made;
 - (c) South Australia would be the most appropriate place in Australia for the prisoner to complete his or her sentence.
- 8.3 On receiving a request, the State Minister must, as soon as practicable in the circumstances, decide whether he or she agrees to the transfer taking place on the terms and conditions determined by the Attorney-General. If the State Minister agrees to the transfer, he or she must notify the Attorney-General, in writing, that he or she consents to the proposed transfer on those terms and conditions. The State Minister must also notify the Attorney-General of the matters set out in subsection 36 (5) of the Act.
- 8.4 If the State Minister does not agree to the transfer taking place on the terms and conditions determined by the Attorney-General but would agree to the transfer taking place on different terms and conditions, he or she may seek to negotiate different terms and conditions with the Attorney-General. If agreement is reached on the new terms and conditions, the State Minister must notify the Attorney-General, in writing, that he or she consents to the transfer taking place on those new terms and conditions. The State Minister must also notify the Attorney-General of the matters set out in subsection 36 (5) of the Act.
- 8.5 If the State Minister does not agree to the transfer taking place (regardless of what terms and conditions may be proposed), he or she must notify the Attorney-General, in writing.
- 8.6 If the State Minister consents to the transfer taking place, the Attorney-General must, notify the Tribunal of the terms and conditions on which the transfer is to take place and seek the Tribunal's consent to the transfer on that basis. The Attorney-General must notify the State Minister as soon as practicable of the response of the Tribunal.

- 8.7 If the Attorney-General, the State Minister and the requesting Tribunal (and the prisoner (or prisoner's representative) if that is required by the Act in the circumstances) consent to the transfer on the agreed terms and conditions, the Attorney-General may issue, under section 38 of the Act, a warrant for transfer. If the Attorney-General issues a warrant for transfer, the Attorney-General must also, with the approval of the State Minister and the Tribunal, arrange for the transfer of the prisoner.
- 8.8 If, for whatever reason, the State Minister notifies the Attorney-General, in writing, that he or she does not consent to the transfer taking place, the Attorney-General must notify the Tribunal of the decision not to consent to the transfer.

9 Transfer of outgoing prisoners

- 9.1 An application by a prisoner (or the prisoner's representative) for transfer from South Australia to a receiving country must be made to the Attorney-General.
- 9.2 On receiving an application, if the Attorney-General is satisfied, as far as practicable, of the matters mentioned in subclause 9.3, the Attorney-General must send a copy of the application to the State Minister for his or her consideration.
- 9.3 For subclause 9.2, the matters of which the Attorney-General must be satisfied are as follows:
- (a) the application is in accordance with the prescribed form;
 - (b) the country to which the prisoner wishes to transfer is a transfer country as defined in the Act;
 - (c) the application is accompanied by the information required by the Act or Regulations;
 - (d) the prisoner is eligible, under the terms of the Act and any relevant international convention, treaty, agreement or arrangement for transfer to the receiving country;
 - (e) the conditions for transfer from Australia, as set out in section 14 of the Act, are satisfied;
 - (f) the application is in order in all other respects;
 - (g) there is no apparent reason, in the Attorney-General's opinion, why the transfer should not take place.
- 9.4 For the purpose of assessing the application, the State Minister may:
- (a) notify the Attorney-General of any matter the Minister considers relevant to the processing of the application; and
 - (b) request the Attorney-General to obtain from the authorities of the receiving country any information that is relevant to the State Minister's assessment of the application.
- 9.5 On receiving an application, the Attorney-General must, if satisfied of the matters set out in subclause 9.3, also notify the receiving country as soon as

practicable that an application has been made. He or she may also seek that country's provisional views on the application, including the method by which the applicant's sentence would be enforced by the receiving country, and any other terms and conditions to which the transfer may be made subject. The Attorney-General must, if satisfied with such information, pass it on to the State Minister.

- 9.6 If the State Minister consents to the transfer taking place, the Attorney-General may make a formal request to the receiving country for the transfer of the prisoner. In deciding whether to make such a request, the Attorney-General may take into account any matter which he or she considers relevant, including any matter notified by the State Minister.
- 9.7 If the Attorney-General makes such a formal request to the receiving country and the receiving country consents to the transfer on certain terms and conditions, the Attorney-General must notify both the prisoner (or the prisoner's representative) and the State Minister of those terms and conditions.
- 9.8 If the prisoner (or the prisoner's representative) and the State Minister consent, in writing, to the transfer taking place in accordance with the agreed terms and conditions, the Attorney-General may, if he or she also consents to the transfer taking place on those terms and conditions, issue a warrant for transfer of the person from South Australia to the receiving country under section 21 of the Act. The Attorney-General must then notify the receiving country of the issue of the warrant and, as soon as practicable in the circumstances, and with the approval of the authorities of both South Australia and the receiving country, make appropriate arrangements for the transfer of the prisoner to the receiving country.
- 9.9 If an application has been made for a transfer from South Australia to a receiving country, it is the responsibility of the State Minister to keep the prisoner as fully informed as possible of progress being made in processing the application.

10 Enforcement of sentences

- 10.1 In the case of incoming prisoners, it is the responsibility of the Attorney-General to determine, in accordance with the provisions of Part 6 of the Act, the method by which the sentence of imprisonment imposed by the sending country is to be enforced in South Australia if the prisoner is transferred. The Attorney-General must also determine the duration and legal nature of the sentence of imprisonment as it is to be enforced under the Act. In reaching these decisions, the Attorney-General must consult with the State Minister and must take into account any views expressed by the State Minister and the parole or prison authorities of South Australia.
- 10.2 In the case of a prisoner who has been transferred from a sending country to South Australia, if the sending country notifies the Attorney-General that, under the law of the sending country:
 - (a) the prisoner has been pardoned; or

- (b) the prisoner has been granted any amnesty; or
- (c) the prisoner has been granted commutation of sentence of imprisonment; or
- (d) the prisoner's original conviction in the sending country has been quashed or otherwise nullified;

the Attorney-General must notify the State Minister as soon as practicable in the circumstances and inform the Minister of his or her intention to issue a direction under subsection 49 (2) of the Act.

10.3 In the case of a prisoner who has been transferred from a sending country to South Australia, if the prisoner is pardoned or granted amnesty or commutation of sentence of imprisonment under an Australian law, the Attorney-General must notify the State Minister as soon as practicable in the circumstances of his or her intention to issue a direction under subsection 49 (2) of the Act.

10.4 In the case of a prisoner who has been transferred from a sending country to South Australia, if the sending country notifies the Attorney-General that the prisoner is entitled to any remission or reduction of the sentence imposed by the sending country that is to be enforced under the Act, the Attorney-General must notify the State Minister.

10.5 In the case of a prisoner who has been transferred from South Australia to a receiving country, if the State Minister subsequently becomes aware that, under Australian law:

- (a) the prisoner has been pardoned; or
- (b) the prisoner has been granted any amnesty; or
- (c) the prisoner has been granted commutation of sentence of imprisonment; or
- (d) the prisoner's original conviction has been quashed or otherwise nullified;

the State Minister must immediately notify the Attorney-General. The Attorney-General must then notify the receiving country that the prisoner should no longer be detained in custody or otherwise subjected to detention or supervision by reason only of that original Australian sentence.

10.6 If a Tribunal prisoner has been transferred to South Australia and the Tribunal notifies the Attorney-General that:

- (a) the prisoner may be pardoned or granted amnesty or commutation of sentence of imprisonment under an Australian law and the prisoner is granted such pardon, amnesty or commutation of sentence of imprisonment; or
- (b) the prisoner's conviction has been quashed or otherwise nullified or the prisoner has been pardoned or granted amnesty or commutation of sentence of imprisonment by the Tribunal;

the Attorney-General must notify the State Minister and inform the Minister of his or her intention to issue a direction under subsection 49 (3) of the Act.

- 10.7 In the case of a Tribunal prisoner who has been transferred to South Australia, if the Tribunal notifies the Attorney-General that the prisoner is entitled to any remission or reduction of the sentence imposed by the Tribunal that is to be enforced under the Act, the Attorney-General must notify the State Minister.

11 Transfer of parolees to South Australia — additional requirements

- 11.1 This clause sets out additional requirements that must be satisfied in relation to the transfer to South Australia of a parolee.
- 11.2 Before consenting to the transfer, the State Minister must be satisfied that:
- (a) adequate facilities exist in South Australia to allow the effective supervision of the parolee after transfer; and
 - (b) appropriate counselling services are available for the parolee if required; and
 - (c) the parolee will have appropriate accommodation; and
 - (d) the parolee will have adequate means of financial support.
- 11.3 In satisfying himself or herself of the above matters, the State Minister must consult with, and seek the views of, any other State Minister with responsibilities for parolees.

12 Transfer of mentally impaired prisoners to South Australia — additional requirements

- 12.1 This clause sets out additional requirements that must be satisfied in relation to the transfer to South Australia of a mentally impaired prisoner.
- 12.2 Before consenting to the transfer, the State Minister must be satisfied that there is an appropriate institution, with appropriate staff, facilities and programs, in which to house the prisoner after his or her transfer.
- 12.3 In satisfying himself or herself of the above matters, the State Minister must consult with, and seek the views of, any other State Minister with responsibilities for mentally impaired prisoners.

13 Notification to prisoners of eligibility for transfer

- 13.1 The State Minister must ensure that all prisoners in South Australia who are potentially eligible for transfer from South Australia under the Scheme are notified of:
- (a) the existence of the Scheme; and
 - (b) the details of its operation; and
 - (c) their eligibility to apply for transfer; and
 - (d) the method of applying for transfer.

- 13.2 The State Minister must provide to a prisoner, on request, an application form for transfer from Australia.
- 13.3 The Commonwealth Attorney-General's Department is to be responsible for the production, distribution and updating of the application forms for transfer.

14 Review of Arrangement

- 14.1 The Attorney-General and the State Minister must arrange for the operation of this Arrangement to be reviewed by Commonwealth and State officials after the end of the first year of its operation.
- 14.2 After that review, the Attorney-General and the State Minister may agree on the frequency with which subsequent reviews are to be carried out.

15 Variation of Arrangement

- 15.1 This Arrangement may be varied, at any time, with the agreement of the Attorney-General and the State Minister.
- 15.2 A variation takes effect on the date when notice of the making of the variation is published in the *Commonwealth of Australia Gazette*.

16 Termination of Arrangement

- 16.1 The State Minister may, at any time, notify the Attorney-General that South Australia no longer intends to participate in the Scheme.
- 16.2 However, if the State Minister notifies the Attorney-General under subclause 16.1, this Arrangement continues to apply in relation to incoming and outgoing prisoners who have already been transferred or who have, in the process of being transferred, already left Australia or the sending country.
- 16.3 The Attorney-General may, at any time, notify the State Minister of the termination of this Arrangement.
- 16.4 However, if the Attorney-General notifies the State Minister of the termination of this Arrangement, this Arrangement continues to apply in relation to incoming and outgoing prisoners who have already been transferred or who have, in the process of being transferred, already left Australia or the sending country.

Dated

2006

GOVERNOR-GENERAL of the
Commonwealth of Australia

By His Excellency's Command

Minister for Justice and Customs
of the Commonwealth of Australia

GOVERNOR of the State
of South Australia

By Her Excellency's Command

Minister for Corrections
of the State of South Australia