



New South Wales

# Crimes (Administration of Sentences) Amendment (Norfolk Island Prisoners) Bill 2004

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Crimes (Administration of Sentences) Act 1999* (*the principal Act*) to enable persons who are on remand for offences committed on Norfolk Island to be held in a New South Wales correctional centre until required for trial on Norfolk Island.

At present under the principal Act, it is lawful for a New South Wales correctional centre to receive and hold a Norfolk Island prisoner who is the subject of a warrant under the *Removal of Prisoners (Territories) Act 1923* of the Commonwealth. However, a warrant under the Commonwealth Act can only relate to a person who has been sentenced to imprisonment. Under proposed Norfolk Island legislation that is based on the ACT's *Removal of Prisoners Act 1968*, the Norfolk Island authorities will be able to issue a warrant in relation to a person who has been sentenced to imprisonment as well as in relation to a person who is in custody on remand.

The Bill will bring the provisions of the principal Act relating to Norfolk Island prisoners into line with the provisions that currently apply in relation to ACT prisoners.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent.

**Clause 3** is a formal provision that gives effect to the amendments to the *Crimes (Administration of Sentences) Act 1999* set out in Schedule 1.

**Schedule 1** contains the amendments to the *Crimes (Administration of Sentences) Act 1999* described in the overview above.

First print



New South Wales

# **Crimes (Administration of Sentences) Amendment (Norfolk Island Prisoners) Bill 2004**

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New South Wales

# **Crimes (Administration of Sentences) Amendment (Norfolk Island Prisoners) Bill 2004**

No. , 2004

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## **A Bill for**

An Act to amend the *Crimes (Administration of Sentences) Act 1999* to make further provision with respect to the transfer of prisoners from Norfolk Island; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Crimes (Administration of Sentences) Amendment (Norfolk Island Prisoners) Act 2004</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent.	6
<b>3 Amendment of Crimes (Administration of Sentences) Act 1999 No 93</b>	7
The <i>Crimes (Administration of Sentences) Act 1999</i> is amended as set out in Schedule 1.	8 9

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## Schedule 1 Amendments

		1
	(Section 3)	2
<b>[1] Section 47</b>		3
Omit the section. Insert instead:		4
<b>47 Definitions</b>		5
(1) In this Division:		6
<i>authorised person, constable, court, magistrate</i> and <i>order</i> have the same meanings as they have in the Norfolk Island Act.		7
<i>Norfolk Island Act</i> means the <i>Removal of Prisoners Act 2004</i> of Norfolk Island.		8
<i>Norfolk Island warrant</i> means a warrant issued under the Norfolk Island Act.		9
<i>prisoner</i> means a person who is liable to undergo imprisonment or other detention in custody under a law in force in Norfolk Island.		10
(2) For the purposes of this Division, a reference to an order of a court or magistrate includes a reference to a warrant issued by a court or magistrate, other than a Norfolk Island warrant.		11
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<b>[2] Section 47A</b>		19
Insert after section 47:		20
<b>47A Application of Division</b>		21
This Division does not apply to a person who is the subject of a direction under section 9 of the Norfolk Island Act.		22
		23
<b>[3] Section 48 Conveyance and detention of prisoners from Norfolk Island</b>		24
Omit “Commonwealth warrant” from section 48 (1)–(3) and (5) wherever occurring.		25
Insert instead “Norfolk Island warrant”.		26
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Schedule 1 Amendments

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<b>[4] Section 48 (3)</b>	1
Omit “Magistrate”. Insert instead “magistrate”.	2
<b>[5] Section 48 (6)</b>	3
Omit “Commonwealth Act”. Insert instead “Norfolk Island Act”.	4
<b>[6] Section 49 Return of prisoners to Norfolk Island</b>	5
Omit “Commonwealth warrant” from section 49 (1).	6
Insert instead “Norfolk Island warrant”.	7
<b>[7] Section 50</b>	8
Omit the section. Insert instead:	9
<b>50 Evidentiary provision</b>	10
A document purporting to be a Norfolk Island warrant and to be signed by an authorised person is admissible in any proceedings and is in all courts exercising jurisdiction in New South Wales and on all occasions evidence of the particulars stated in the document.	11 12 13 14 15
<b>[8] Schedule 5 Savings, transitional and other provisions</b>	16
Insert at the end of clause 1 (1):	17
<i>Crimes (Administration of Sentences) Amendment (Norfolk Island Prisoners) Act 2004</i>	18 19



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<b>[9] Schedule 5</b>	1
Insert in appropriate order with appropriate Part and clause numbers:	2
<b>Part Provisions consequent on enactment of Crimes (Administration of Sentences) Amendment (Norfolk Island Prisoners) Act 2004</b>	3 4 5 6
<b>Persons in custody</b>	7
The amendments made to this Act by the <i>Crimes (Administration of Sentences) Amendment (Norfolk Island Prisoners) Act 2004</i> extend to any person who, immediately before the commencement of those amendments, is in custody for an offence under the law in force in Norfolk Island.	8 9 10 11 12