



<b>Procedure</b>	<b>Interstate Transfer of Community Based Sentences from the ACT Assessment Procedure</b>
<b>Procedure No.</b>	<b>C34.2</b>
<b>Scope</b>	<b>Community Operations</b>

## PURPOSE

To provide instructions to Community Operations staff on the processes involved for interstate transfers of community-based sentences. This procedure covers the formal transfer and registration of orders from the ACT to other jurisdictions. Orders will become enforceable in the receiving jurisdiction once the application has been approved and registered in that jurisdiction. Until registration has been completed in the new jurisdiction the order remains enforceable in the ACT.

## SCOPE

This procedure applies to all Interstate Transfer of Community Corrections Order applications sent from the ACT to other jurisdictions. It is noted that this procedure does not apply to Bail Orders or Parole Orders. For information on the transfer of Parole Orders, please refer to the *National Operating Procedures Interstate Transfer of Parole Orders and Parolee Interstate Travel Permits*.

Any applications made in relation to the interstate transfer of community-based orders requires the consideration of victim issues. For more detailed instruction on these related processes, please refer to the *Information for Interstate Transfer of Community Sentences Community Instruction*.

## PROCEDURES

### 1. Interstate transfer applications from the ACT

- 1.1. All actions throughout this process must be case noted as per the *Case Note Policy*.
- 1.2. When an offender informs ACT Corrective Services (ACTCS) of their interest in transferring their community-based sentence to another jurisdiction, the Community Corrections Officer (CCO) must:
  - a. provide them with *Annexure C2 – Offender Information Sheet*
  - b. determine whether the offender's sentence has a corresponding Order in the receiving jurisdiction. Please note that the Local Authority of the receiving jurisdiction will make the final determination later in the application process
  - c. recommend they seek independent legal advice for the transfer.

- 1.3. The CCO must advise the offender of the transfer process, approximate timeframes, implications of transfer including compliance obligations and consequences of breach actions in the receiving jurisdiction. This includes information such as:
  - a. an application can be withdrawn by the offender at any time prior to registration of the sentence in the receiving jurisdiction
  - b. if an application is withdrawn, a new application must be submitted if the offender wishes to proceed at a later date
  - c. there is no appeal process if the application is declined
  - d. if the application is declined, the offender cannot submit a new transfer application for six (6) months.
- 1.4. If the offender agrees to proceed, the CCO must arrange an appointment for the offender to sign the completed Annexure C3 – Application Form and Annexure C4 – Offender Consent Form.
- 1.5. The CCO must compile all transfer application documents from the offender information management system, the offender and other agencies as required. The CCO must also advise the Victim Liaison Officer (VLO) of the application, so that they can proceed with gathering victim submissions. This must be done via email to [ACTCSVictimLiaisonOfficer@act.gov.au](mailto:ACTCSVictimLiaisonOfficer@act.gov.au).
- 1.6. Transfer application documents consist of the following:
  - a. Annexure C3 – Application Form
  - b. Annexure C4 – Offender Consent Form
  - c. copies of sentence/s to be transferred
  - d. Offender’s Criminal History
  - e. Statement of Facts and/or Case Statement for offences to be transferred
  - f. any relevant pre-sentence, psychological, medical or other reports and assessments
  - g. copies of any current Protection Order/s
  - h. confirmation of no outstanding legal processes relating to criminal matters, including appeals or breach actions
  - i. any additional information that may assist the receiving jurisdiction in assessing the application, including the Victim Submission Information Form, which will be provided to the CCO by the VLO.
- 1.7. The CCO must forward the completed transfer application pack and the Victim Submission Information Form to the Community Corrections Team Leader (TL) for endorsement.
- 1.8. The TL must review the transfer application pack within 48 hours and forward to the Assistant Commissioner, Service Improvement and Community Operations (ACSICO) for endorsement as the Local Authority.
- 1.9. The Local Authority must review all transfer applications. The ACSICO will provide the signed Annexure C3 – Application Form according to the following:
  - If the transfer is **declined**, the ACSICO will send the signed form to the CCO and the VLO. The CCO will then advise the offender of the outcome and continue to provide

supervision. The CCO will also upload the signed form to the offender information management system.

- If the transfer is **endorsed**, the ACSICO will send the signed form to the Sentence Administration Section (SAS), including the TL, CCO and VLO in the email. SAS will provide the endorsed application pack to the relevant contact in the receiving jurisdiction.

1.10. SAS will follow up with the receiving jurisdiction to provide an acknowledgement of receipt of the application. SAS will manage any requests for additional information.

1.11. SAS must ensure details are recorded and updated in the offender information management system to effectively monitor progress of the application.

## 2. Travel permit

2.1. The offender may be subject to a travel permit during the application process for the duration of the Order until it has been registered in the receiving jurisdiction. The CCO should complete a *Request for Interstate Travel Permit Form* via the offender information management system. See the *Request for Interstate Travel Permit – Community Based Orders Other Than Parole Community Instruction*.

2.2. While an offender is subject to a Travel Permit, supervision remains the responsibility of ACTCS including any breach actions.

2.3. As noted in the National Operating Procedures, Travel Permits should not be used to pre-empt a decision of a delegate in relation to a formal transfer of the community-based sentence and the receiving jurisdiction retains the right to decline the transfer.

## 3. Assessment of interstate transfer application

3.1. The receiving jurisdiction will assess the application and may request additional information from SAS. Once all required information has been provided the receiving jurisdiction will have three (3) months to reach a decision and notify ACTCS via SAS of whether the application is:

- a. approved with preconditions; or
- b. declined.

## 4. Application outcome

4.1. SAS will receive and upload the *Annexure C5 – Approval Decision Form* to the offender information management system and notify the CCO of the outcome.

4.2. If the decision is to **decline** the transfer, the CCO must:

- a. contact the offender to advise of the outcome and the reasons as outlined in the *Annexure C5 – Approval Decision Form*
- b. discuss any issues (not relating to victims or intelligence information) that can be addressed to assist in gaining approval of any future applications, if applicable
- c. inform the offender that the decision is final and not subject to an appeal process.

4.3. If the decision is to **approve** the transfer, the CCO must:

- a. note the Annexure C5 – Approval Decision Form with all preconditions to be met prior to registration and final approval
- b. contact the interstate supervising officer detailed in the Annexure C5 – Approval Decision Form to arrange the precondition supervision appointment and obtain reporting instructions
- c. complete the Annexure C6 – Reporting Instruction Form with the details of the precondition supervision appointment
- d. contact the offender to discuss and confirm all preconditions, and provide the details of the precondition supervision appointment in the receiving jurisdiction as per the Annexure C6 – Reporting Instruction Form. The CCO must ensure that the offender signs the Annexure C6 – Reporting Instruction Form, and that they are provided a copy for their own records. The CCO must also upload the signed form onto the offender information management system.

## **5. Pre-condition supervision appointment**

- 5.1. Following the appointment, the receiving jurisdiction is required to notify SAS. If all preconditions have been met, the receiving jurisdiction is required to register the sentence within ten (10) business days, complete the Annexure C7 – Notice of Registration Form and provide a copy to the offender and ACTCS.
- 5.2. If the offender fails to report and does not make contact within 24 hours of the appointment, the receiving jurisdiction must notify ACTCS via SAS. If contact can be made with the offender an alternative appointment may be offered. If contact cannot be made, the application may be formally declined.
- 5.3. If the offender has not met all preconditions, a follow up appointment may be offered if preconditions can be met in a timely manner. If the offender is unable to meet the preconditions, the application may be formally declined.

## **6. Final approval and registration of order**

- 6.1. Once the offender has met all preconditions for registration and the completed Annexure C7 – Notice of Registration Interstate Transfer has been received, SAS must:
  - a. complete the order in the offender information management system with the end date as the reporting appointment date
  - b. notify the CCO, ACT Courts and/or Sentence Administration Board (SAB) Secretariat.
- 6.2. When notifying the relevant ACT Court as per 6.1(b), SAS will also request that the Court add an alert to ICMS capturing the date of the transfer and the details of the receiving jurisdiction.
- 6.3. Following registration, the receiving jurisdiction will be responsible for all supervision requirements of the community-based sentence, including all ongoing case management and non-compliance actions.

## **RELATED DOCUMENTS AND FORMS**

- Request for Interstate Travel Permit – Community Based Orders Other Than Parole Community Instruction

- Parole Transfers Community Instruction
- Victim Information for Interstate Transfer of Community Sentences Community Instruction
- Case Note Policy
- Early Termination of Supervision – Good Behaviour Order Community Instruction
- 2.1.19 Obligations Whilst Under Supervision
- Annexure C2 – Offender Information Sheet
- Annexure C3 – Application Form
- Annexure C4 – Offender Consent Form
- Annexure C5 – Approval Decision Form
- Annexure C6 – Reporting Instructions
- Annexure C7 – Notice of Registration Interstate Transfer



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