

**INFORMATION FOR BRITISH NATIONALS**

**IMPRISONED IN**

**VICTORIA, SOUTH AUSTRALIA**

**TASMANIA**

**AUSTRALIA**

***BRITISH CONSULATE-GENERAL***  
***Level 17, 90 Collins Street***  
***Melbourne, Victoria***

# INFORMATION FOR IMPRISONED BRITISH NATIONALS

## The British Consulate-General, Melbourne Victoria

<b>CONTENTS</b>	<b>PAGE</b>
Introduction	3
About the Consulate	3
Who will know that I have been detained?	3
How can I contact my family or friends?	3
What will my family be told?	3
What will the Consulate do?	3
The Australian Judicial System	4
What happens when I am arrested?	4
Visits	5
Help in prison	5
Medical and dental treatment	5
Food and diet	6
Working in prison	6
Money	6
Mail	6
Parcels	6
Cell sharing	7
Prison Transfer Scheme	8
After Your Release	9
Solicitor's details in Tasmania, South Australia & Victoria	10
Prisoners Abroad	13

## **Introduction**

This guide aims to explain the Australian legal and prison system to British Nationals (and their next of kin) who are imprisoned in Victoria, South Australia & Tasmania.

## **About the Consulate**

We are impartial, we are not there to judge you. We aim to make sure that you are treated properly and fairly in accordance with Australian regulations, and that you are treated no less favourably than other prisoners are. We cannot get you better treatment than other prisoners.

We can answer questions about your welfare and about prison regulations but not questions about legal matters. You should ask your lawyer or the court these kinds of questions. We can give you a list of lawyers.

We cannot get you out of prison, pay fines or stand bail, or interfere in local judicial procedures to get you out of prison or secure you an earlier trial date; we cannot investigate a crime.

We have tried to make sure that this information is accurate and up to date, but the Consulate-General cannot accept legal responsibility for any errors or omissions in the information.

## **Who is my Consular Representative?**

Vice-Consul  
British Consulate-General  
Level 17, 90 Collins Street  
Melbourne Victoria  
Tel.: 03 9652 1600  
Fax : 03 9650 2990

## **Who will know that I have been detained?**

When a British citizen is arrested and detained in Australia the Australian are not legally obliged to inform the British Consulate General. When a British national is arrested he, or she, should be given the opportunity to contact this office.

## **How can I contact my family or friends?**

In Australia you do not have the right to make a telephone call when you are arrested. However if you contact this office we will pass on any message to your family if you so wish. No information is pass to any family is that is the wish of any person arrested.

## **What will my family be told?**

For reasons of confidentiality we are not permitted to tell anyone that you have been detained or what the charges are without your permission.

### **What will the Consulate do?**

As soon as we have been notified and you request a visit we will visit you within two working days. Please note that due to distance this may not always be possible.

We can also give your next-of-kin the address of the prison and the prison bank account number in case they wish to transfer any money to you, or tell them how to transfer money to you, without bank charges, through the Foreign & Commonwealth Office in London.

### **The Australian Judicial System**

#### **Is the system the same as in England?**

In short yes. There are various levels of courts depending on the seriousness of the crime.

There are two legal systems, a State legal system that relates to local laws and a Federal legal system that relates to more serious matters including drug trafficking etc.

### **What happens when I am arrested?**

#### **The arrest procedure**

You will be arrested if there is suspicion that a crime has been committed.

Upon arrest you will be asked to give various personal details one of which will be nationality. The Australian authorities do not automatically inform us of the arrest of a British National, however, as a British national you will be allowed to make a telephone call to the British Consulate General (Details are above).

Normally you will be presented before a magistrate on the next working day to arrange for either your release on bail or to formalise detention if the magistrate is satisfied that you have been legally detained.

#### **Legal representation**

You can employ a lawyer for yourself at any time after your arrest; a list of lawyers comes with this information sheet. Normally, if you employ a privately-engaged lawyer he may ask for an advance on his estimated legal fees before he will take on your case.

The Consulate-General cannot pay legal fees or guarantee to a lawyer that you will pay them.

If you do not engage a lawyer you may be eligible for a legal-aid lawyer free of charge. There are strict criteria for granting a legal aid solicitor and each case is judged on its merit. Your nationality is not a factor.

#### **For how long can I be remanded in Custody?**

You can only be remanded in custody whilst the authorities conduct their investigation. You will be presented to court periodically and the prosecutor has to satisfy the court that your continued detention is justified.

The total time that you are detained awaiting trial will depend on the seriousness and complexity of the crime.

## Visits

### Consular

A member of the Consulate-General will endeavour to visit you within two working days of receiving your request for a visit. This is subject to the practicalities of the distances involved.

We will offer to contact your family or next-of-kin to tell them the situation. We can give them advice on prison procedure, regulations, your morale and how you are doing. We can also pass on any messages from you.

You can write to us at any time on matters of concern.

### Visits by family, next-of-kin or friends

Each prison has its own rules regarding visits. It is advisable that friends and family contact the prison to ascertain the exact times visits are allowed. However visits can be denied, if a prisoner is being disciplined because of bad behavior, or if a visit will prejudice your case.

Visitors must identify themselves when they arrive at the prison by showing an identification document containing a photograph (e.g. passport). This is held by the prison and returned at the end of the visit.

The following websites contain information on each prison:

<http://www.justice.vic.gov.au>

<http://www.justice.tas.gov.au>

<http://www.corrections.sa.gov.au>

### What can a visitor bring?

This will vary according to the level of security you are being held and the rules of the prison at which you are being held. One item that will not be allowed is a mobile telephone. Specific guidance should be sought from the respective prison authority.

### Help in Prison

There are social workers in every prison who are there to assist you. They can pass on messages to us, or your family and explain to you how the prison system works. If you would like to apply for a telephone call, to see the doctor, to use the library, to use any sports facilities, to receive a parcel or for a legal-aid lawyer you should ask to see the social worker.

Please note that social workers are responsible for a very large number of people and so their time is stretched. It will help you if you remember to stay polite, however trying the situation!

There is usually both a Catholic priest and a Protestant Minister attached to each prison. In larger prisons they are on the permanent staff. They can often provide help or support where an over-worked social worker cannot. You can ask for a pastoral visit at any time.

### Medical and Dental Treatment

If you need medical or dental treatment you should make an appointment to see the prison doctor or dentist. In some large prisons it can be difficult to get an early appointment but if the situation is urgent you should contact the prison social worker (see above) who may be able to get you an earlier appointment.

Prison doctors are the equivalent of GPs in the UK, so unusual or complex problems may be referred to a specialist outside the prison.

If you have a long-standing medical problem and have received treatment for it in the UK, it may be useful if you have your medical records, or at least a report, sent from the UK for the information of the prison doctor/specialist.

### **Food and Diet**

The prison authorities have assured us that the food they provide is a balanced diet giving the necessary daily nutritional requirements. A special diet can only be approved where the prison doctor gives his authority on medical grounds. Vegetarians may fall into this category. If your religion requires you to have a special diet this is also usually allowed.

### **Work in Prison**

It is difficult for the prison to supply work to all prisoners because there is often not enough jobs to go round. Sometimes this means that only about half of the prisoners in a prison will be able to work so you may have to wait a while before a suitable job is found.

### **Money**

The prison will open an account for you into which friends and family can transfer money.

Money earned from working in the prison will also be deposited into this account.

Please there may be a limit on how much money can be put in, or taken out, at any one time.

If your family and friends overseas wish to transfer money to you for "prison comforts" (phone cards etc), they can do so, free of charge, through the FCO in London.

They should send a Postal Order made payable to "Foreign and Commonwealth Office", under cover of a short letter containing your details, to:

Foreign & Commonwealth Office  
Australia Desk Officer  
Consular Directorate  
Old Admiralty Building  
London SW1A 2PA

Tel: (020) 7008 0168

Fax: (020) 7008 0161

The FCO will then send us authority to process the payment, and we will send a payment to the prison in your name. The prison will deposit this into your prison account. The prison authorities usually only allow small deposits, as you are not allowed to accumulate a large balance in your prison account.

### **Mail**

There is usually no limit to the number of letters you may send or receive. The prison authorities are obliged to deliver letters with the minimum of delay. Correspondence with your lawyer does not go through the court and cannot be read. Mail to the Consulate usually gets through very quickly but it too may be read, although in practice this seldom happens. We are not permitted to forward any mail on your behalf. Please do not enclose other mail in your letters to us.

### **Parcels**

You may receive parcels but the regulations vary from prison to prison.

It is not possible to provide a full list of prohibited items but the obvious items are illegal substances, alcohol items, inflammable substances etc.

If you want to have a radio or cassette player check that the prison authorities will accept it before anyone sends one. Please note that you may have to pay for electrical equipment to be sealed so that it cannot pick up police broadcasts.

If you are not sure whether an item is allowed, check with the social worker before asking for it to be sent. If not, you may find that you are not allowed to receive all or some of the contents of the parcel containing a prohibited item.

The parcels may be inspected when they arrive at the prison. Certain items may be dissected to make sure that no prohibited items are being hidden. The prison authorities reserve the right to refuse a parcel, which does not conform to the prison guidelines.

### **Cell Sharing**

As in the UK, overcrowding is sometimes a problem in Australian prisons so you cannot expect a single cell as a matter of course. If you think that you have medical grounds for having a single cell you should approach the prison doctor.

Please note that the prison is not obliged to grant your request to share the same cell as another prisoner.

## **Prisoner Transfer Scheme**

If you have been tried and convicted you will be sent to a prison where you can expect to serve your sentence. Transfers to prisons in other states in Australia are only permitted when there are exceptional and compassionate reasons for doing so.

### **Can I be transferred to the UK to serve my sentence there?**

Yes, if all parties agree. This is possible under the Transfer of Sentenced Prisoners”.

Basically this applies to Nationals of the United Kingdom of Great Britain and Northern Ireland only.

Under certain conditions, the convention allows people who have been given a custodial sentence in a country other than their own to be transferred to their home country and to serve their sentence there.

A brief explanation of these conditions is given below. This is not an exhaustive description of the Convention.

Please note the Consulate-General has no part in the processing of your application to serve your sentence in the UK. All the paperwork is handles by the Australian Attorney General’s Office and the British Home Office in London.

### **Who has to agree to the transfer?**

A transfer requires:

1. the consent of the person concerned (you) or that of your legal representative, where applicable;
2. the consent of the State where you were sentenced;
3. the consent of the country to which you wish to be transferred.

### **What sentence would I serve after being transferred to the UK?**

The maximum sentence you would serve is the amount of your original sentence, which remains after deducting any remission earned Australia up to the date of your transfer. You may be eligible for parole in the U.K.

### **Prosecution for other offences**

Please note that if you are transferred the UK authorities are entitled to prosecute, sentence or detain you for any offence other than that for which your current sentence was imposed.

### **Pardon, Amnesty and Commutation**

Your transfer would not prevent you from benefiting from any pardon, amnesty or commutation of sentence, which might be granted by either Australia or the UK.

## **Review of original judgement**

If, after your transfer, new information comes to light which you consider grounds for a review of the original judgement passed in Australia, it is for Australia alone to decide on any application for review.

## **Termination of enforcement**

If for any reason whatsoever the sentence, which was imposed in Australia, ceases to be enforceable in Australia, the UK authorities would release you from the sentence being served as soon as they were informed of this. Similarly, if the sentence being served in the UK ceased to be enforceable in the UK, you would not have to serve the original sentence imposed in Australia if you should ever return there.

## **Information on the procedure**

You can write to the Australian Government Attorney-Generals Department at:

Robert Garran Offices  
National Circuit  
BARTON ACT 2004

Fax: (02) 6250 5900

Alternatively you can read information and print application form on the following web site:

[http://www.ag.gov.au/www/agd/agd.nsf/Page/Internationaltransferofprisoners\\_PrisonertransfersfromAustralia](http://www.ag.gov.au/www/agd/agd.nsf/Page/Internationaltransferofprisoners_PrisonertransfersfromAustralia)

## **AFTER YOUR RELEASE**

Sometimes people find that a new set of problems arises once they have left prison. You may find yourself ready for life on the outside but not prepared for living in the UK. Possibly you have never lived in Britain and have no ties there, or perhaps you have lost touch with friends and family. You may simply want to talk to another person who understands what you have been through, to help work out what to do next.

When you first arrive back in Britain you can visit Prisoners Abroad on weekdays between 10.00am and 4.00pm for advice, to take a shower, use the temporary luggage store, make essential phone calls or use a computer. If you have no belongings Prisoners Abroad may be able to help with basic toiletries and finding suitable clothing. If you know your release date in advance it is best to write and tell Prisoners Abroad when you are likely to arrive and what help you think you might need. If you have no money and nowhere to go, PA's Aftercare Service can help with –

- advice on finding emergency accommodation in the London area;
- claiming welfare benefits, including emergency benefit payments if you are destitute;
- making appointments with doctors and dentists;
- putting you in touch with local agencies if you are not returning to the London area;

Later on you may want advice on housing, looking for work, applying for training or getting counseling. Prisoners Abroad can refer you to the right agency.

Other sources of practical help back in the UK are The Salvation Army, UK Helpline – 020 7367 4888, Monday to Friday 8.00am to 4.00pm.

## **SOME TASMANIAN SOLICITORS**

### **NOTE**

**This list is provided by the British Consulate-General at Melbourne for the convenience of enquiries, but neither the British Government nor any officials of the Consulate General take responsibility for the competence or probity of any firm/advocate on the list or for the consequences of a legal action initiated or advice given:**

EAST COAST SOLICITORS TEL: 0363 751 383  
PEARCE A D & CO FAX: 0363 751 368  
64 Burgess Street  
BICHENO (Monday & Friday)

3 / 7 Pendrigh Place TEL: 036376 1885  
ST HELENS TAS 7216 (Wednesday) FAX: 0363 762 393  
34 Franklin Street TEL: 0362 578 223

SWANSEA TAS 7190 (Tuesday & Thursday) FAX: 0362 578 465  
ARCHER BUSHBY \*\* TEL: 0363 316 577  
63 Charles Street FAX: 0363 340 635  
LAUNCESTON 7250

RAE & PARTNERS LAWYERS \*\* TEL: 0363 375 555  
Third Floor, 93 York Street FAX: 0363 341 693  
LAUNCESTON 7250

DOBSON, MICHELL & ALLPORT TEL: 0362 221 111  
59, Harrington Street FAX: 0362 236 633  
Hobart  
7001

\*\* Practice Criminal Law

Revised July 2007

## **SOME SOUTH AUSTRALIA SOLICITORS**

### **NOTE**

**This list is provided by the British Consulate-General at Melbourne for the convenience of enquiries, but neither the British Government nor any officials of the Consulate General take responsibility for the competence or probity of any firm/advocate on the list or for the consequences of a legal action initiated or advice given:**

MINTER ELLISON TEL: 08 82335 555  
AMP Building 15th Floor FAX: 08 8212 7518  
Origin House  
ADELAIDE SA 5000

FINLAYSONS (Business & Commercial Law) TEL: 08 82357 400  
81 Flinders Street FAX: 08 82322 944  
ADELAIDE SA 5000

CLELANDS \*\* TEL: 08 82321 700  
208 Carrington Street FAX: 08 82321 708  
ADELAIDE SA 5000 08 82235 577

COSOFF CUDMORE & KNOX TEL: 08 82117 955  
Level 21, 25 Grenfell Street FAX: 08 82117 320  
ADELAIDE SA 5000

SCAMMELL & COMPANY TEL: 08 84474 466  
235 St Vincent Street FAX: 08 83411 566  
PORT ADELAIDE SA 5015

\*\* Practice Criminal Law

Revised July 2007

## **SOME MELBOURNE SOLICITORS**

### **NOTE**

**This list is provided by the British Consulate-General at Melbourne for the convenience of enquiries, but neither the British Government nor any officials of the Consulate General take responsibility for the competence or probity of any firm/advocate on the list or for the consequences of a legal action initiated or advice given:**

MINTER ELLISON \* TEL: 039 229 2000  
Level 23, Rialto Towers FAX: 038 608 1000  
525 Collins Street  
MELBOURNE VIC 3000 E-mail: [minterellison.com](mailto:minterellison.com)

JOHN W BALL & SONS TEL: 039 347 8311  
165 Bouverie Street FAX: 039 347 0029  
CARLTON VIC 3053

BLAKE DAWSON WALDRON TEL: 039 679 3000  
Level, 39, 101 Collins Street FAX: 039 679 3111  
MELBOURNE VIC 3000 E-mail: [dwlegalinfo@bdw.com.au](mailto:dwlegalinfo@bdw.com.au)

RUSSELL KENNEDY TEL: 039 609 1555  
469 LaTrobe Street FAX: 039 609 1600  
MELBOURNE VIC 3000 E-mail: [info@rk.com.au](mailto:info@rk.com.au)

MALLESONS STEPHENS JAQUES TEL: 039 643 4000  
Level 50 600 Bourke Street FAX: 039 643 5999  
MELBOURNE VIC 3000 E-mail: [msjmel@msj.com.au](mailto:msjmel@msj.com.au)

KENNA TEASDALE LAWYERS \*\* TEL: 03 9670 5991  
Level 4 114 WILLIAM STREET FAX: 039670 5145  
MELBOURNE VIC 3000

\* A partner in this practice, Mr. Fred Tinsley, is Honorary Legal Adviser to the Consul-General, Melbourne  
Fax 03 8608 1250; E.mail [fred.tinsley@minterellison.com](mailto:fred.tinsley@minterellison.com)

\*\* Practice Criminal Law

Revised July 2007

## **Prisoners Abroad**

### **What They Do**

Prisoners Abroad is a UK-based charity, which provides information, advice and support to Britons detained overseas, to their family and friends and to released prisoners trying to re-establish themselves in society.

### **How Prisoners Abroad Can Help:**

#### **Grants:**

- Financial assistance for those prisoners who qualify in the form of a number of grants, including regular payments to buy essentials in developing countries and a medical fund
- Financial assistance for those friends and family who qualify, towards the cost of a visit

#### **Information:**

- Provision of information on prison and criminal justice systems
- Liaison with the Foreign and Commonwealth Office, prison social workers and other relevant organisations in the UK and abroad
- Guidance and advice to families and friends

#### **Reducing Boredom and Isolation**

- Social contact and support via a pen-pal scheme, and the provision of books and magazines
- Provision of reply-paid envelopes to encourage continuing contact with relatives and friends

#### **Resettlement**

- A resettlement service that can assist a returned prisoner in accessing welfare benefits, emergency accommodation and liaison with appropriate UK-based services.

In order for a detained or returning British national to receive Prisoners Abroad services, they must:

- Be a British Citizen with a right of abode in the UK
- Be in prison in another country
- Register with Prisoners Abroad prior to their return to the UK, via the form available directly from the London office or downloadable from the website.

In order to receive a grant payment, a client must not be in receipt of regular money from any other source. This must be verified by consular staff prior to any payment being authorised. If payments from another source begin at a later date to be made regularly, Prisoners Abroad must be informed.

Further information about Prisoners Abroad can be found on [www.prisonersabroad.org.uk](http://www.prisonersabroad.org.uk). Prisoners Abroad can be contacted on +44 (0)20 7561 6820 or e-mail [info@prisonersabroad.org.uk](mailto:info@prisonersabroad.org.uk).