



Extradition (Commonwealth countries) Regulations 2010¹

Select Legislative Instrument 2010 No. 154

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Extradition Act 1988*.

Dated 29 June 2010

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

BRENDAN O'CONNOR
Minister for Home Affairs

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1 Name of Regulations

These Regulations are the *Extradition (Commonwealth countries) Regulations 2010*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Repeal

The *Extradition (Commonwealth Countries) Regulations 1998* are repealed.

4 Definitions

In these Regulations:
Act means the *Extradition Act 1988*.

Commonwealth country means a country, colony, territory or protectorate declared to be an extradition country under regulation 5.

5 Extradition countries

For the definition of *extradition country* in section 5 of the Act, each country, colony, territory and protectorate mentioned in Schedule 1 is an extradition country.

6 Offences that are not political offences

An offence mentioned in paragraph (d) of the definition of *political offence* in section 5 of the Act is not a political offence in relation to a Commonwealth country.

7 Modification of Act — definition of extradition offence

For section 11 of the Act, the Act applies in relation to a Commonwealth country as if a reference to 12 months in paragraphs (a) and (b) of the definition of *extradition offence* in section 5 of the Act were a reference to 2 years.

8 Modification of Act — condition to produce documents

- (1) For section 11 of the Act, the Act applies in relation to a Commonwealth country subject to the condition that the following documents must be produced to a magistrate for subsection 19 (1) of the Act:
 - (a) a statement of the person's identity, nationality and physical description and, to the extent possible, the person's whereabouts;
 - (b) if the offence is an extradition offence of which the person is accused — documents that allow the *prima facie* evidence test to be satisfied.
- (2) For subregulation (1), the *prima facie* evidence test is satisfied in accordance with paragraph 11 (5) (b) of the Act.

Note The documents mentioned in subregulation (1) are in addition to the documents that must be produced under section 19 of the Act.

9 Modification of Act — when eligible person must not be surrendered

- (1) For section 11 of the Act, the Act applies in relation to a Commonwealth country subject to the condition that an eligible person must not be surrendered in relation to a qualifying extradition offence if the Attorney-General is satisfied that it would be unjust, oppressive or too severe a punishment:
- (a) to surrender the eligible person; or
 - (b) to surrender the eligible person before the end of a period stated by the Attorney-General.

Examples

- 1 The offence is trivial.
- 2 The accusation against the eligible person was not made in good faith or in the interests of justice.

- (2) In this regulation:

eligible person has the meaning given by section 22 of the Act.

qualifying extradition offence has the meaning given by section 22 of the Act.

10 Transitional

The *Extradition (Commonwealth Countries) Regulations 1998*, as in force immediately before the commencement of these Regulations, continue to apply to a request for extradition made by any of the following before the commencement of these Regulations:

- (a) a Commonwealth country;
- (b) Cook Islands;
- (c) Kiribati;
- (d) Nauru;
- (e) Papua New Guinea;
- (f) Samoa;
- (g) Solomon Islands;
- (h) Tonga;
- (i) Tuvalu;
- (j) Vanuatu.

Schedule 1 Extradition countries

(regulation 5)

Anguilla	Mauritius
Antigua and Barbuda	Montserrat
Bahamas	Namibia
Bangladesh	Nigeria
Barbados	Pakistan
Belize	Pitcairn, Henderson, Ducie and Oeno Islands
Bermuda	St Helena
Botswana	St Helena Dependencies
British Antarctic Territory	St Kitts and Nevis
British Indian Ocean Territory	St Lucia
British Virgin Islands	St Vincent and the Grenadines
Brunei Darussalam	Seychelles
Cayman Islands	Sierra Leone
Cyprus	Singapore
Dominica	South Georgia and the South Sandwich Islands
Falkland Islands	Sri Lanka
Gambia	Swaziland
Ghana	Tanzania
Gibraltar	The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus
Grenada	Trinidad and Tobago
Guyana	Turks and Caicos Islands
India	Uganda
Jamaica	Zambia
Kenya	Zimbabwe
Lesotho	
Malawi	
Maldives	
Malta	

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.