

1987-88-89

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time, 29 November 1989

(Attorney-General)

**A BILL**

FOR

**An Act to amend the *Extradition Act 1988***

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

**Short title etc.**

1. (1) This Act may be cited as the *Extradition Amendment Act 1989*.

5 (2) In this Act, “Principal Act” means the *Extradition Act 1988*¹.

**Commencement**

2. This Act commences on the day on which it receives the Royal Assent.

**Interpretative provisions relating to offences**

10 3. Section 10 of the Principal Act is amended by omitting from subsection (3) “subparagraph 16 (2) (a) (i)” and substituting “subparagraph 16 (2) (a) (ii)”.

**Modification of Act in relation to certain countries****4. (1) Section 11 of the Principal Act is amended:**

(a) by adding at the end of paragraph (1) (b) “, other than such limitations, conditions, exceptions or qualifications as are necessary to give effect to a multilateral extradition treaty in relation to the country”;

(b) by inserting after subsection (1) the following subsections:

“(1A) The regulations may provide that this Act applies in relation to a specified extradition country subject to such limitations, conditions, exceptions or qualifications as are necessary to give effect to a multilateral extradition treaty in relation to the country.

“(1B) Regulations may be made under both subsections (1) and (1A) in relation to a specified extradition country.

“(1C) For the purposes of subsections (1) and (1A), the limitations, conditions, exceptions or qualifications that are necessary to give effect to a treaty may be expressed in the form that this Act applies to the country concerned subject to that treaty.”;

(c) by omitting from subsection (2) “subsection (1)” and substituting “subsections (1) and (1A)”;

(d) by inserting in subsection (2) “and subsection (1A)” after “and (b)”;

(e) by adding at the end of subsection (3) “, but only to the extent that they are not inconsistent with limitations, conditions, exceptions or qualifications provided for by regulations under subsection (1A)”.

(2) Regulations to which this subsection applies are to be regarded as if:

(a) subsections 11 (1A), (1B), (1C) and (3) of the Principal Act, as amended by this Act, had been in force on the date of commencement of the regulations; and

(b) the regulations had been made on that date under subsection 11 (1A).

(3) Subsection (2) applies to regulations made under paragraph 11 (1) (b) of the Principal Act and providing that that Act applies to a specified extradition country subject to a particular multilateral extradition treaty.

**Determination of eligibility for surrender**

**5. Section 19 of the Principal Act is amended by inserting after subsection (7) the following subsection:**

“(7A) Subsection (7) has effect in spite of any limitation, condition, exception or qualification under subsection 11 (1), (1A) or (3).”.

**Review of magistrate’s order**

**6. Section 21 of the Principal Act is amended by omitting from subparagraph (6) (f) (iv) “order” and substituting “if there are special circumstances justifying such a course, order”.**

7. After section 33 of the Principal Act the following section is inserted:

**Consent to surrender**

“33A. (1) Where:

- (a) a person is on remand under section 32; and
  - 5 (b) an indorsed New Zealand warrant has been obtained in relation to the person; and
  - (c) a request has been made to a magistrate by or on behalf of the person or New Zealand for proceedings to be conducted under section 34;
- 10 the person may inform the magistrate that he or she consents to being surrendered to New Zealand in relation to an offence for which the indorsed warrant has been obtained.

“(2) Unless there is reason to believe that the consent was not given voluntarily, the magistrate must:

- 15 (a) advise the person that the effect of so consenting will be that:
  - (i) the person will be committed to prison without any proceedings being conducted under section 34; and
  - (ii) the person will be surrendered to New Zealand as soon as practicable; and
- 20 (b) if, after the person has been so advised, the person again consents to being surrendered:
  - (i) by warrant in accordance with subsection 38 (1), order that the person be surrendered to New Zealand as soon as practicable; and
  - 25 (ii) by warrant in the statutory form, order that, pending the execution of the warrant referred to in subparagraph (i), the person be committed to prison.”.

**Review of magistrate’s order**

30 8. Section 35 of the Principal Act is amended by omitting from subparagraph (6) (g) (iv) “order” and substituting “if there are special circumstances justifying such a course, order”.

**Evidence for purposes of surrender of persons to Australia**

9. Section 43 of the Principal Act is amended:

- (a) by omitting from subsection (1) “who”;
- 35 (b) by omitting from subsection (1) “in Australia”.

10. After section 49 of the Principal Act the following section is inserted:

**Arrest of person released on bail**

40 “49A. (1) Any police officer may, without warrant, arrest a person who has been released on bail under this Act if the police officer has reasonable grounds for believing that the person has contravened, or is about to

contravene, a term or condition of a recognizance on which bail was granted to the person.

“(2) A person arrested under subsection (1) must, as soon as practicable, be brought before the court by which the person was admitted to bail.”

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**NOTE**

1. No. 4, 1988.

