

Extradition Regulations (Amendment) 1992 No. 333

EXPLANATORY STATEMENT

Statutory Rules 1992 No. 333

Issued by the authority of the Attorney-General

Extradition Act 1988

Extradition Regulations (Amendment)

Section 55 of the Extradition Act 1988 (the Act) provides that the Governor-General may make regulations for the purposes of the Act.

The Extradition Regulations (the Regulations) provide mechanisms necessary for the practical operation of the Act, such as giving magistrates the power to issue summonses, warrants of arrest and order the forfeiture of recognizances. The Regulations also prescribe forms in relation to matters required by the Act to be done in statutory form, such as issuing warrants for surrendering persons and holding them in custody. These statutory forms are contained in the Schedule to the Regulations.

The Regulations are in need of amendment to take account of amendments to the Act and to remedy deficiencies in the statutory forms. The Regulations will:

- omit the existing regulation 13 and substitute a new regulation and, as a consequential amendment, omit Statutory Form No. 3. This will have the effect of enabling the remand procedures in section 15 of the Act to be applied to a person who has been arrested, while on bail, without warrant, in accordance with section 49A of the Act;
- include references to police officers in the opening address of Form 8, references to police officers and escort officers in the opening addresses of Forms 13, 14 and 15 and references to escort officers in the opening addresses of Forms 21, 23 and 24 and make consequential amendments elsewhere in these forms;
- add two new Statutory Forms, 20A and 20B. These will be the prescribed statutory forms required by section 33A of the Act, which enables consent extraditions to New Zealand;
- amend the directive parts of Forms 21 and 22 to ensure conformity with the relevant section of the Act;
- replace the word "exemption" which was inserted by a typographical error in Forms 13 and 14 with the word "exception"; and
- amend the opening addresses of Forms 11, 12 and 22 to ensure conformity with the opening addresses of other forms.

Details of the Regulations are at Attachment A.

Attachment A

Details of the Regulations

Regulation 1: Provides that the Regulations are to be amended as set out in the amending Regulations.

Regulation 2: Omits the existing regulation 13, which provides for the issuing of an arrest warrant for non-compliance with bail conditions, and replaces it with a new regulation 13, which enables the remand procedures in section 15 of the Act to be applied to a person who has been arrested, while on bail, without warrant.

The reason for this change is that section 49A of the Act provides for arrest of a potential extraditee for non-compliance with bail conditions without wan-ant.

Regulation 3: Makes various changes to the prescribed forms that appear in the Schedule to the Regulations.

Subregulation 3.1 deletes Form 3 in the Regulations which is the prescribed form of the arrest warrant referred to in the existing regulation 13.

Subregulation 3.2 amends the opening address in Form 8 to include a reference to a specified police officer as well as a Magistrate. Form 8 is the prescribed form for a warrant enabling transfer of a person on remand in accordance with a direction by the Attorney-General to a Magistrate as provided for in section 15 of the Act. It confers authority on a specified police officer, as well as the Magistrate, to achieve its purpose, and as such the amendment includes a reference to a specified police officer in the address.

Subregulations 3.3, 3.4 and 3.5 amend the substantive part of Form 8 consequent to the change in the opening address effected by subregulation 3.2.

Subregulation 3.6 amends the opening addresses of Forms 11 and 12 to ensure they are in conformity with the opening addresses of other forms.

Subregulation 3.7 amends the opening address in Form 13 to include a reference to police officers and to escort officers, as well as to the person in whose custody the extraditee is being held. Form 13 is the prescribed form for a surrender warrant issued by the Attorney-General pursuant to section 23 of the Act. Form 13 confers authority on police officers and escorts, as well as the person in whose custody the extraditee is held, and as such the amendment includes references to the former in the address.

Subregulation 3.8 corrects a typographical error in Form 13. The word "exemption" should be replaced by the word "exception".

Subregulations 3.9 and 3.10 amend the substantive part of Form 13 consequent to the changes in the opening address effected by subregulation 3.7.

Subregulation 3.11 amends the opening address in Form 14 to include references to police officers and to escort officers, as well as to the person in whose custody the extraditee is being held. Form 14 is the prescribed form for a temporary surrender warrant issued by the Attorney-General pursuant to section 24 of the Act. It confers authority on police officers and escorts, as well as the person in whose custody the extraditee is held, and as such the amendment includes references to the former in the opening address of the form.

Subregulation 3.12 corrects a typographical error in Form 14. The word "exemption" should be replaced by the word "exception".

Subregulations 3.13 and 3.14 amend the substantive part of Form 14 consequent to the changes in the opening address effected by subregulation 3.11.

Subregulation 3.15 amends the opening address in Form 15 to include references to police officers and to escort officers, as well as to the person in whose custody the extraditee is being held. Form 15 is the prescribed form for the surrender warrant issued by the Attorney-General pursuant to section 25 of the Act. It confers authority on police officers and escorts, as well as the person in whose custody the extraditee is held, and as such the amendment includes references to the former in the opening address of the form.

Subregulations 3.16 and 3.17 amend the substantive parts of Form 15 consequent to the changes in the opening address effected by subregulation 3.15.

Subregulation 3.18 inserts two new statutory forms, Forms 20A and 20B, into the Schedule as a consequence the insertion into the Act of section 33A in 1990. Section 33A provides for an extraditee sought by New Zealand to consent to his or her surrender to that country. Subsection (2) of section 33A then provides for a Magistrate to issue warrants, in the statutory form, ordering the person's surrender to New Zealand and committing the person to prison whilst awaiting such surrender. The new Forms 20A and 20B are the prescribed forms for the warrants.

Subregulation 3.19 amends the opening address in Form 21 to include a reference to escort officers, as well as police officers. Form 21 is the prescribed form for a warrant issued by a Magistrate pursuant to section 34 of the Act ordering the surrender of an extraditee to New Zealand. It confers authority on an escort officer to achieve its purpose and, as such, the amendment includes a reference to the escort as well as police officers in the address.

Subregulation 3.20 amends that part of the surrender warrant (Form 21) that orders the surrender and authorises actions to be done to achieve it. The change brings the directive part of Form 21 into conformity with the requirements of paragraph 34 (1) (c).

Subregulations 3.21, 3.22 and 3.23 amend the substantive part of Form 21 consequent to the change in the opening address effected by subregulation 3.19.

Subregulation 3.24 amends the opening address in Form 22 to ensure conformity with the opening address of other forms.

Subregulation 3.25 amends the directive part of Form 22, which is the prescribed form for the committal warrant provided for in paragraph 34 (1) (d) of the Act. The change brings the directive part of Form 22 into conformity with the requirements of paragraph 34 (1) (d).

Subregulation 3.26 amends the opening address in Form 23 to include a reference to escort officers, as well as police officers. Form 23 is the prescribed form for a temporary surrender warrant for New Zealand issued by the Attorney-General pursuant to section 36 of the Act. It confers authority on escorts, as well as police officers, and, as such, the amendment includes references to the former in the opening address of the form.

Subregulations 3.27, 3.28 and 3.29 amend the substantive part of Form 23 consequent to the changes in the opening address effected by subregulation 3.26.

Subregulation 3.30 amends the opening address in Form 24 to include a reference to escort officers, as well as police officers. Form 24 is the prescribed form for a surrender warrant issued under section 37 of the Act following the prior issue of a temporary surrender warrant pursuant to section 36. It confers authority on escorts, as well as police officers, and, as such, the amendment includes references to the former in the opening address of the form.

Subregulations 3.31, 3.32 and 3.33 amend the substantive part of Form 24 consequent to the change in the opening address effected by subregulation 3.28.