

# **Extradition Amendment Regulations 2000 (No. 1) 2000 No. 177**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 2000 No. 177**

Issued by the Authority of 1e Minister for Justice and Customs

*Extradition Act 1988*

Extradition Amendment Regulations 2000 (No. 1)

Section 55 of the *Extradition Act 1988* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Extradition Regulations prescribe a number of statutory instruments/forms for use in extradition procedures set out in the Act. Many of those forms are unnecessarily long and complex and some reflect a drafting style now out of date. The amending Regulations, therefore, prescribe new forms to replace the existing ones.

The forms which have been amended are as follows:

- \* Form 4: the application form used pursuant to subsection 12(1) of the Act when obtaining the issue of an arrest warrant;
- \* Form 6: the notice issued by the Attorney-General under subsection 12(3) of the Act directing a magistrate to cancel an existing arrest warrant;
- \* Form 9: the notice issued by the Attorney-General under section 16 of the Act stating that an extradition request has been received;
- \* Form 10: the notice issued by the Attorney-General under section 17 of the Act directing a magistrate to release a person held on remand under section 15 where the Attorney-General has decided that the remand of the person should cease;
- \* Forms 13 and 15: the surrender warrants issued by the Attorney-General under sections 23 and 25 of the Act, respectively, authorising the surrender of a person to the authorities of the country requesting extradition;
- \* Forms 14 and 23: the temporary surrender warrants issued by the Attorney-General under sections 24 and 36 of the Act, respectively, authorising the temporary surrender to the authorities of the requesting country of a person serving a prison sentence in Australia for the purpose of being tried in that country and then returned to Australia to complete that sentence; and

Form 27: the application made to a magistrate for the issue of a warrant under section 48 of the Act authorising the holding in custody in Australia of a person transiting through Australia while in the process of being extradited from one country to another.

The amendments made are of the following nature:

- (a) the deletion from surrender warrants of unnecessary and repeated recitals of the offences in relation to which a person is being extradited;

(b) the replacement of dated expressions such as 'whereas' and 'now therefore F;

(c) the removal of the need to insert in a number of notices the actual name of the magistrate to whom the notices are to be presented; and

(d) the deletion of the exhaustive and unnecessary recital of matters of which the Attorney-General must be satisfied before issuing certain notices (specifically, notices issued pursuant to sections 16 and 17 of the Act and surrender warrants issued pursuant to sections 23, 24, 25 and 36 of the Act).

The new revised forms are set out in the Schedule to the amending Regulations.

The Regulations commenced on gazettal.