

# Extradition (Lebanon) Regulations 2003 2003 No. 243

## EXPLANATORY STATEMENT

### STATUTORY RULES 2003 No. 243

Issued by the Authority of the Minister for Justice and Customs

*Extradition Act 1988*

*Extradition (Lebanon) Regulations 2003*

Section 55 of the *Extradition Act 1988* ('the Act') provides that the Governor-General may make regulations 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 definition of 'extradition country' in paragraph 5(a) of the Act provides that a country may be declared by the regulations to be an extradition country. Paragraph 11(1)(b) provides that the regulations may make provision for application of the Act subject to limitations, conditions, exceptions or qualifications. Subsection 11(2) states that this reference to limitations, conditions, exceptions or qualifications includes modification to the effect that a number of days greater or lesser than the 45 days referred to in paragraph 17(2)(a) applies for the purposes of that paragraph.

The Regulations provide that the Lebanon is an extradition country. The Regulations will enable Australia to deal with any extradition request received from Lebanon. Lebanon will not be able to grant extradition to Australia until further arrangements, such as an extradition treaty, have been concluded.

Extradition under the Regulations operates in accordance with the Act, subject to the modification of paragraph 17(2)(a) whereby a person arrested may apply to a magistrate for release after 60 days if a request for his or her extradition has not been received. The standard period under the Act is 45 days. Modification to apply a 60 day period is common and has been included, for example, in extradition agreements with Brazil, Chile, Hungary, Mexico, Paraguay, South Korea, the United States and Venezuela.

The Act applies the modern 'no evidence' extradition procedure. Under this procedure countries are not required to present evidence establishing a *prima facie* case against the person sought.

Extradition under the Regulations is subject to the various safeguards set out in the Act. For example, extradition is not permitted where the fugitive is sought for or in connection with her or his race, religion, nationality or political opinions or is to be tried, sentenced or detained for a political or military offence. Extradition must be refused where the fugitive could be liable to the death penalty, unless an undertaking is given that the death penalty will not be imposed or, if imposed, will not be carried out. In addition, the Attorney-General retains a broad discretion to refuse an extradition request by Lebanon in any particular case.

This action is consistent with the provisions of the Act. Similar 'non-treaty regulations' based on reciprocity currently provide that the Act applies to Cambodia, Denmark, Estonia, Iceland, Japan, Latvia, the Marshall Islands, Thailand and Jordan.

Details of the Regulations are as follows:

**Regulation 1** names the Regulations.

**Regulation 2** provides that the Regulations commence on gazettal.

**Regulation 3** defines terms used in the Regulations.

**Regulation 4** declares Lebanon to be an extradition country.

**Regulation 5** applies the Act to Lebanon subject to the modification of the period nominated in paragraph 17(2)(a) from 45 days to 60 days.