

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2010 No. 36**

Issued by the authority of the Minister for Home Affairs

*Extradition Act 1988*

*Extradition (United Arab Emirates) Regulations 2010*

Section 55 of the *Extradition Act 1988* (the Act) provides, in part, 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.

Section 5 of the Act defines an ‘extradition country’ to include a country that is declared by regulations to be an extradition country. Paragraph 11(1)(a) of the Act provides that regulations may apply the Act to a specified extradition country subject to such limitations, conditions, exceptions or qualifications as are necessary to give effect to a bilateral extradition treaty between Australia and that country, being a treaty a copy of which is set out in the regulations.

The Regulations give effect in Australian domestic law to the *Treaty on Extradition between Australia and the State of the United Arab Emirates* (the Treaty), signed at Hobart on 27 July 2008. A copy of the Treaty is set out in Schedule 1 of the Regulations. The Regulations apply the Act to extradition requests received from the State of the United Arab Emirates subject to the Treaty.

As with all of Australia’s extradition treaties, the Treaty contains a range of internationally accepted human rights safeguards. Under the Treaty, extradition will not be granted where the offence for which extradition is sought is a political offence or a purely military offence or the extradition request has been made for the purpose of prosecuting or punishing a person on account of that person’s race, colour, sex, language, religion, nationality or political opinions. A request for extradition must also be refused if the person sought may be subject 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.

The Regulations commence on the day the Treaty enters into force for Australia. In accordance with Article 19 of the Treaty, the Treaty will enter into force on the thirtieth day after the date on which the Parties have exchanged instruments of ratification.

Consultation outside the Australian Government was not undertaken for this legislative instrument as it relates to criminal justice and law enforcement matters. The legislative instrument does not have a direct, or substantial indirect, effect on business and does not restrict competition. The Treaty was the subject of a public hearing by the Joint Standing Committee on Treaties, which recommended binding treaty action be taken in Report 91, tabled on 12 March 2008.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

**Details of the Regulations**

**Details of the *Extradition (United Arab Emirates) Regulations 2010***

**Regulation 1** names the Regulations.

**Regulation 2** provides that the Regulations commence on the day the Treaty will enter into force.

**Regulation 3** defines Act to mean the *Extradition Act 1988* and the United Arab Emirates to mean the State of the United Arab Emirates.

**Regulation 4** declares the United Arab Emirates to be an extradition country.

**Regulation 5** provides that the *Extradition Act 1988* applies to the United Arab Emirates subject to the Treaty.

**Schedule 1** contains the text of the Treaty.