

# Extradition (Commonwealth Countries)

No. 111 of 1968

An Act to amend the *Extradition (Commonwealth Countries) Act 1966*.

[Assented to 2 December 1968]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title  
and citation.

1.—(1.) This Act may be cited as the *Extradition (Commonwealth Countries) Act 1968*.

(2.) The *Extradition (Commonwealth Countries) Act 1966\** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Extradition (Commonwealth Countries) Act 1966–1968*.

Commence-  
ment.

2.—(1.) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2.) Sections 18 and 19 of this Act shall come into operation on such date as is, or on such dates as respectively are, fixed by Proclamation.

Parts.

3. Section 3 of the Principal Act is amended by omitting the words—  
“ Part III.—Extradition to and from certain Commonwealth Countries  
neighbouring Australia (Sections 23–30).”

and inserting in their stead the words—

“ Part III.—Extradition to and from New Zealand (Sections 24–30).”

Interpretation.

4. Section 4 of the Principal Act is amended—

(a) by omitting from the definition of “ Australia ” in sub-section (1.) the words “, including the Territory of Nauru ”;

(b) by inserting in paragraph (b) of the definition of “ extradition crime ” in sub-section (1.), after the words “ constituting which ”, the words “, or equivalent to which,”;

(c) by omitting the definition of “ Magistrate ” in sub-section (1.) and inserting in its stead the following definition:—

“ ‘ Magistrate ’ means—

(a) a person who holds office as a Chief, Stipendiary, Police, Resident or Special Magistrate of a Territory;  
or

(b) a person who holds office as a Chief, Stipendiary, Police, Resident or Special Magistrate of a State and in respect of whom an arrangement in force under sub-section (1.) of section 31 of this Act is applicable;”;

- (d) by omitting from the definition of " Territory " in sub-section (1.) the words " and includes the Territory of Nauru ";
- (e) by omitting sub-section (4.); and
- (f) by omitting from sub-section (6.) the words " or is a country in relation to which Part III. applies ".
5. Section 5 of the Principal Act is amended by omitting the words " including the Territory of Nauru ". Extension to external Territories.
6. Section 11 of the Principal Act is amended— Restrictions on power of Attorney-General to authorize the apprehension or order the surrender of a fugitive.
- (a) by omitting from sub-paragraph (i) of paragraph (a) of sub-section (3.) the word " other " and inserting in its stead the word " lesser "; and
- (b) by omitting from sub-paragraph (i) of paragraph (b) of sub-section (3.) the words " an offence " and inserting in their stead the words " a lesser offence ".
7. Section 15 of the Principal Act is amended by omitting from sub-paragraph (i) of paragraph (b) of sub-section (6.) the words " committal for ". Proceedings after apprehension of person.
8. Section 18 of the Principal Act is amended by omitting the word " Part " and inserting in its stead the word " Division ". Discharge of fugitive who is not conveyed out of Australia within two months.
9. Section 22 of the Principal Act is amended— Person surrendered by Commonwealth country in respect of an offence not to be prosecuted or detained for other offences.
- (a) by omitting from sub-paragraph (i) of paragraph (a) the word " other " and inserting in its stead the word " lesser "; and
- (b) by omitting from sub-paragraph (i) of paragraph (b) the words " an offence " and inserting in their stead the words " a lesser offence ".
10. The heading to Part III. of the Principal Act is repealed and the following heading inserted in its stead:— Heading.
- " PART III.—EXTRADITION TO AND FROM NEW ZEALAND.".
11. Section 23 of the Principal Act is repealed. Countries in relation to which Part III. applies.
12. Section 24 of the Principal Act is amended by omitting from sub-section (1.) the words " a country in relation to which this Part applies " and inserting in their stead the words " New Zealand ". Indorsement of warrants.
13. Section 26 of the Principal Act is amended— Proceedings after apprehension of person.
- (a) by omitting from sub-section (5.) the words " the country in which the warrant referred to in section 24 of this Act was issued " and inserting in their stead the words " New Zealand ";

- (b) by omitting from sub-section (5.) the words “ bringing that warrant ” and inserting in their stead the words “ bringing the warrant referred to in section 24 of this Act ”; and
- (c) by omitting from sub-section (6.) the words “ the country referred to in the last preceding sub-section ” and inserting in their stead the words “ New Zealand ”.

Restriction on power of Magistrate to order surrender of person.

14. Section 27 of the Principal Act is amended by omitting the words “ a country in relation to which this Part applies ” and inserting in their stead the words “ New Zealand ”.

Review of order of Magistrate.

15. Section 28 of the Principal Act is amended by omitting from paragraph (b) of sub-section (1.) the words “ a country in relation to which this Part applies ” and inserting in their stead the words “ New Zealand ”.

Discharge of person who is not conveyed out of Australia within one month.

16. Section 29 of the Principal Act is amended by omitting the words “ a country in relation to which this Part applies ” and inserting in their stead the words “ New Zealand ”.

Persons surrendered from New Zealand.

17. Section 30 of the Principal Act is amended by omitting the words “ a country in relation to which this Part applies ” and inserting in their stead the words “ New Zealand ”.

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

Magistrate may take evidence.

“ 33A. Where a warrant has been issued in Australia for the apprehension of a person accused of an extraditable crime and that person is, or is suspected of being, in a declared Commonwealth country or within the jurisdiction of, or of a part of, a declared Commonwealth country, a Magistrate may, as prescribed, take evidence in Australia for transmission to that country for use in any proceedings in that country for the surrender of the person to Australia.”.

First Schedule.

19. The First Schedule to the Principal Act is amended by inserting after paragraph 9 the following paragraph:—

“ 9A. Any offence referred to in Article 1 or 2 of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, being the Convention approved by the General Assembly of the United Nations on the second day of December, 1949.”.

Second Schedule.

20. The Second Schedule to the Principal Act is amended—

- (a) by omitting from Forms 1, 2, 3, 4, 5, 7 and 9 the words “ [or a Magistrate of the District Court of the Island of Nauru] ”;
- (b) by omitting from Forms 3, 4, 7 and 8 the words “ or, in the case of the Territory of Nauru, before a Magistrate of the District Court of the Island of Nauru ”; and
- (c) by inserting in Form 9, after the words “ the law of ” (wherever occurring) and after the words “ be surrendered to ” (wherever occurring), the words “ New Zealand ”.