

Mutual Assistance in Criminal Matters (Suppression of Terrorist Bombings) Regulations 2002 2002 No. 202

EXPLANATORY STATEMENT

Statutory Rules 2002 No. 202

Issued by the authority of the Minister for Justice and Customs

Mutual Assistance in Criminal Matters Act 1987

Mutual Assistance in Criminal Matters (Suppression of Terrorist Bombings) Regulations 2002

Section 44 of the *Mutual Assistance in Criminal Matters Act 1987* (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.

Section 7 provides that the regulations may apply the Act to a foreign country subject to any multilateral mutual assistance treaty (being a treaty to which that country is a party) that is referred to in the regulations. The application of the Act to such foreign countries is subject to the limitations, conditions, exceptions or qualifications that are necessary to give effect to the treaty in relation to the provision of assistance in criminal matters.

The Regulations give effect in Australian domestic law to the mutual assistance provisions of the International Convention on the Suppression of Terrorist Bombings (the Convention) done at New York on 15 December 1997.

The Convention requires each party to make it an offence to unlawfully and intentionally deliver, place, discharge or detonate (or attempt to unlawfully and intentionally deliver, place, discharge or detonate) an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility with the intent to cause death or serious bodily injury, or with the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.

Article 10 of the Convention provides for mutual assistance between parties of persons accused of Convention offences. Australia acceded to the Convention on 9 August 2002. The Convention enters into force for Australia on 8 September 2002.

The Regulations provide that, subject to the Convention, the Act applies to parties to the Convention.

Mutual assistance under the Regulations operates in accordance with the Act, and is subject to the various safeguards set out in the Act. For example, mutual assistance is not to be provided where the request relates to the prosecution or punishment of a person for political or military offences, or where the prosecution or punishment is on account of a person's race, sex, religion, nationality or political opinions. Mutual assistance must be refused where the fugitive could be liable to the death penalty, unless the Attorney-General considers that such assistance should be given.

The Regulations commence on the commencement of Schedule 1 to the *Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002*. A separate minute to the Federal

Executive Council is recommending that Schedule 1 commence on 8 September 2002 to coincide with the date that the Convention enters into force in Australia. This Act received Royal Assent on 3 July 2002.

Details of the Regulations are as follows:

Regulation 1 names the Regulations.

Regulation 2 provides that the Regulations commence on the date of commencement of Schedule 1 to the *Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002*.

Regulation 3 defines terms used in the Regulations.

Regulation 4 provides that the Act applies to each country specified in Schedule 2, subject to the Convention.

Schedule 1 contains the text of the International Convention for the Suppression of Terrorist Bombings.

Schedule 2 lists extradition countries to which the Act applies subject to the Convention.