

EXPLANATORY STATEMENT

Statutory Rules 2004 No. 369

Issued by the Authority of the Minister for Justice and Customs

Extradition Act 1988

Extradition (Latvia) Regulations 2004

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. 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 *Extradition (Latvia) Regulations 2004* (“the Regulations”) give effect in Australian domestic law to the Treaty on Extradition between Australia and the Republic of Latvia, signed at Riga on 14 July 2000 (“the Treaty”).

The Joint Standing Committee on Treaties recommended ratification of the Treaty in Report 36, tabled on 12 October 2000.

The Treaty enters into force 30 days after the date on which the Contracting States have notified each other in writing that their respective requirements for the entry into force of the Treaty have been complied with. On 12 March 2003, in accordance with Article 16 of the Treaty, Latvia advised by Note Verbale that Latvia had fulfilled the domestic legal requirements necessary for the Treaty to enter into force. Australia's requirement for the Treaty's entry into force is the making of the Regulations. Latvia will be notified on 17 December 2004 that Australia's requirements for the Treaty's entry into force have been complied with. Thirty days after that date, on 16 January 2005, the Treaty will enter into force. Accordingly, 16 January 2005 is also the commencement date of the Regulations.

The *Extradition (Latvia) Regulations 2000* (“the 2000 Regulations”) applied the Act to the Republic of Latvia and enabled Australia to consider extradition requests from Latvia. The Regulations repeal the 2000 Regulations. Once the Treaty has entered into force, any subsequent requests for extradition may be granted irrespective of whether the offence in relation to which extradition is sought was committed before or after the entry into force of this Treaty.

As with all of Australia's extradition treaties, the extradition treaty with Latvia contains all the internationally accepted human rights safeguards which are now a part of modern extradition. Under the Treaty, extradition will not be permitted where the request is for a political or military offence or the request has been made for the purpose of prosecuting or punishing a person on account of his or her race, religion, nationality or political opinions or where the person would be tried, sentenced or detained for a political or military offence. In addition, extradition may be refused where the fugitive could be liable to the death penalty, unless an undertaking is given

by the requesting state that either the death penalty will not be imposed or, if imposed, will not be carried out.

Details of the Regulations are as follows:

Regulation 1 names the Regulations.

Regulation 2 provides that the Regulations commence on 16 January 2004, which is the date the Treaty will enter into force.

Regulation 3 repeals the interim Regulations.

Regulation 4 defines Latvia to mean the Republic of Latvia

Regulation 5 declares Latvia to be an extradition country.

Regulation 6 provides that the *Extradition Act 1988* applies to Latvia subject to the Treaty.

Schedule 1 sets out the text of the Treaty.