

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Justice

Subject - *Extradition Act 1988*

Extradition (People's Republic of China) Repeal Regulations 2017

The *Extradition Act 1988* (the Act) provides the legislative basis for extradition in Australia. The Act allows Australia to receive extradition requests from countries that are declared to be an 'extradition country' under the Act, and facilitates the making of requests for extradition by Australia to other countries.

Section 55 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing 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 *Extradition (People's Republic of China) Regulations 2017* (the Principal Regulations) give effect in Australian domestic law to the *Treaty on Extradition between Australia and the People's Republic of China*, signed at Sydney on 6 September 2007 (the Treaty). The *Extradition (People's Republic of China) Repeal Regulations 2017* (Regulations) repeal the Principal Regulations.

The Act does not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

Subsection 48E(1) of the *Legislation Act 2003* provides that regulations may repeal a legislative instrument. Subsection 48E(2) provides that, before the Governor-General makes such a regulation, the Attorney-General must be satisfied that the legislative instrument is no longer required. The Attorney-General has confirmed that he is satisfied the legislative instrument is no longer required.

Consultation outside of the Australian Government has not been undertaken for this legislative instrument, as it relates to criminal justice and law enforcement matters, does not have direct, or substantial indirect, effects on business and does not restrict competition.

The Regulations commence on the day after registration.

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not necessary for these Regulations.

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

Details of the Regulations are set out in the Attachment.

The Minute recommends that the Regulations be made in the form proposed.

Authority: Section 55 of the *Extradition Act 1988*

Details of the *Extradition (People's Republic of China) Repeal Regulations 2017*

Item 1 – Name of Instrument

This item provides that the title of the Instrument is the *Extradition (People's Republic of China) Repeal Regulations 2017*.

Item 2 – Commencement

This item provides that the whole of this Instrument commences on the day after this instrument is registered.

Item 3 – Authority

This item provides that the Instrument is made under the *Extradition Act 1988*.

Item 4 – Schedules

This item provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Repeals

This Schedule provides for the repeal of the Principal Regulations.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Extradition (People's Republic of China) Repeal Regulations 2017

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Extradition (People's Republic of China) Regulations 2017* (the Principal Regulations) give effect in Australian domestic law to the *Treaty on Extradition between Australia and the People's Republic of China*, signed at Sydney on 6 September 2007 (the Treaty). The proposed *Extradition (People's Republic of China) Repeal Regulations 2017* will repeal the Principal Regulations.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms. As these regulations will be repealing the Principal Regulations any identified engagements with human rights issues identified in the statement of compatibility for the Extradition Treaty will no longer exist.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.