



Extradition Legislation Amendment (Commonwealth Countries) Regulations 2024

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 5 December 2024

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Mark Dreyfus KC
Attorney-General

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1 Name

This instrument is the *Extradition Legislation Amendment (Commonwealth Countries) Regulations 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	10 December 2024

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Extradition Act 1988*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Extradition (Commonwealth countries) Regulations 2010

1 Regulation 5

Repeal the regulation, substitute:

5 Extradition countries

- (1) For the purposes of the definition of *extradition country* in section 5 of the Act, each of the following is an extradition country:
 - (a) a country that:
 - (i) is a member of the Commonwealth of Nations; and
 - (ii) is not specified by name in any other regulations that declare it to be an extradition country for the purposes of that definition;
 - (b) a country, colony, territory or protectorate specified in subregulation (2).

Note: Information identifying members of the Commonwealth of Nations could, in 2024, be viewed on the Commonwealth of Nations website (<https://www.thecommonwealth.org>).

- (2) The following are specified for the purposes of paragraph (1)(b):
 - (a) Anguilla;
 - (b) Bermuda;
 - (c) British Antarctic Territory;
 - (d) British Indian Ocean Territory;
 - (e) British Virgin Islands;
 - (f) Cayman Islands;
 - (g) Falkland Islands;
 - (h) Gibraltar;
 - (i) Montserrat;
 - (j) Pitcairn, Henderson, Ducie and Oeno Islands;
 - (k) the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus;
 - (l) South Georgia and the South Sandwich Islands;
 - (m) St Helena, Ascension and Tristan Da Cunha;
 - (n) Turks and Caicos Islands.

2 Regulation 8

Repeal the regulation, substitute:

8 Modification of Act—additional documents that must be produced for eligibility for surrender

- (1) For the purposes of section 11 of the Act, the Act applies in relation to a Commonwealth country subject to the condition that the following additional documents must be produced to a magistrate or eligible Judge in order for a person to be eligible for surrender in relation to an extradition offence under section 19 of the Act (as referred to in paragraph 19(2)(b) of the Act):
 - (a) a statement of the person's identity, nationality and physical description and, to the extent possible, the person's whereabouts;

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- (b) if the offence is an extradition offence of which the person is accused—the documents mentioned in subregulation (2).
- (2) For the purposes of paragraph (1)(b), the documents are the following:
- (a) a recital of the evidence (whether or not admissible in evidence under the law of Australia) acquired to support the application for the surrender of the person to the Commonwealth country in relation to the offence;
 - (b) a duly authenticated statement in writing of an officer of an investigating authority of the Commonwealth country stating that:
 - (i) the recital of evidence was prepared by or under the direction of that officer; and
 - (ii) the evidence mentioned in the recital in relation to the offence is available to be produced at the trial of that person;
 - (c) a certificate of an official of the Commonwealth country referred to subregulation (3) that, in the official’s opinion, the recital of evidence discloses the existence of evidence under the law of the country that justifies prosecution of the person for the offence.
- (3) For the purposes of paragraph (2)(c), the following officials of a Commonwealth country may issue the certificate:
- (a) a Minister of the government of the country;
 - (b) a judicial or prosecuting authority of the country;
 - (c) if the Commonwealth country is a colony, territory or protectorate—a person administering the government of the country or any person administering a Department of the government of the country.

3 After regulation 10

Insert:

11 Transitional—*Extradition Legislation Amendment (Commonwealth Countries) Regulations 2024*

These Regulations as in force immediately before the commencement of the *Extradition Legislation Amendment (Commonwealth Countries) Regulations 2024* continue to apply to a request for extradition received by Australia before that commencement.

4 Schedule 1

Repeal the Schedule.

Extradition Regulations 1988

5 Paragraph 2B(4)(a)

Repeal the paragraph, substitute:

- (a) each Commonwealth country within the meaning of the *Extradition (Commonwealth countries) Regulations 2010*;