



Extradition Regulations 1988

Statutory Rules 1988 No. 280 as amended

made under the

Extradition Act 1988

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Prepared by the Office of Legislative Drafting,
Attorney-General's Department, Canberra

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1 Name of Regulations [see Note 1]

These Regulations are the *Extradition Regulations 1988*.

2 Interpretation

- (1) In these Regulations, unless the contrary intention appears:
the Act means the *Extradition Act 1988*.

2A Application of *Criminal Code*

Chapter 2 of the *Criminal Code* applies to offences against these Regulations.

Note Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

3 Forms

- (1) A form in the Schedule shall be taken to be the statutory form under, or a form otherwise prescribed for the purposes of, a provision of the Act specified in the heading to that form, whether or not these Regulations make provision (other than in the Schedule) in respect of the use of the form.
- (2) In these Regulations, a reference to a form by number is a reference to the form in the Schedule that bears that number.

4 Power of magistrate to send for witnesses and documents

- (1) A magistrate who is performing functions under the Act may issue a summons in accordance with Form 1 requiring a person named in the summons to attend as a witness before the magistrate in connection with the performance by the magistrate of those functions and there to give evidence, answer questions and produce to the magistrate such documents and other articles in the person's custody or control as are referred to in the summons.

- (2) Service on a person of a summons under this regulation may be effected in any State or Territory and shall be effected by delivering a copy of the summons to the person personally and, at the same time, showing the summons to the person.

5 Duty of witness to continue in attendance

A person summoned under regulation 4 to attend before a magistrate as a witness shall attend at the place and time, and on the date, specified in the summons and then from day to day unless excused or released from attending by a magistrate.

6 Arrest of witness failing to attend

- (1) If a person summoned under regulation 4 to attend before a magistrate fails to attend as required by regulation 5, the magistrate may, on being satisfied that the summons has been duly served and that a reasonable sum for the expenses of attendance has been paid or tendered to that person, issue a warrant for the arrest of that person in accordance with Form 2.
- (2) A person named in the warrant may, under the warrant, be arrested, brought before a magistrate and detained in custody until released by order of the magistrate.
- (3) The warrant may be executed in any State or Territory.
- (4) The arrest of a person under this regulation does not relieve the person from any liability incurred by the person because of his or her failure to attend before the magistrate.

7 Witness fees

- (1) A person who attends as a witness before a magistrate in a State or Territory in accordance with a summons under regulation 4 is entitled to be paid witness fees and travelling allowances as if attending before a court of summary jurisdiction in that State or Territory or, in special circumstances, such fees and allowances as the magistrate directs.

Regulation 8

- (2) Fees and allowances are payable to a witness in accordance with subregulation (1) subject to the deduction of any amount previously paid to the witness for expenses of attendance.
- (3) Fees and allowances are payable by the person at whose request the witness was summoned.

8 Power to examine on oath or affirmation

- (1) A magistrate performing functions under the Act may administer an oath or affirmation to any person appearing as a witness before the magistrate and may examine the witness on oath or affirmation.
- (2) A person may, for the purposes of any proceeding in relation to the Act, make an affirmation instead of taking an oath.
- (3) Subject to any rules of court applicable to a proceeding in relation to the Act, the forms of oaths and affirmations shall be the same, as nearly as practicable, as those used in the Supreme Court of the State or Territory in which the oath or affirmation is administered.
- (4) An affirmation made by a person pursuant to this regulation has the same effect for all purposes as if the person had taken an oath.

9 Offences by witnesses

- (1) A person who is summoned to attend before a magistrate as a witness shall not:
 - (a) without reasonable excuse, fail to attend as required by the summons, after payment or tender of a reasonable sum for expenses of attendance;
 - (b) refuse to be sworn or to make an affirmation as a witness or, without reasonable excuse, to answer any question when required to do so by the magistrate; or
 - (c) without reasonable excuse, refuse or fail to produce any document or other article that the person was required to produce by the summons.

Penalty: 5 penalty units.

- (2) An offence against paragraph (1) (a) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

10 Offences in relation to magistrates

A person shall not, when a magistrate is performing functions under the Act:

- (a) intentionally insult or disturb the magistrate;
- (b) interrupt the proceedings before the magistrate;
- (c) use insulting language to the magistrate; or
- (d) by writing or speech use words calculated:
 - (i) to influence improperly the magistrate or a witness before the magistrate; or
 - (ii) to bring the magistrate into disrepute.

Penalty: 10 penalty units.

11 Protection in relation to functions under the Act

- (1) A magistrate who performs functions under the Act in a State or Territory has the same protection and immunity as a judge of the Supreme Court of that State or Territory has in the performance of his or her duty as a judge of the Supreme Court.
- (2) A barrister or solicitor appearing before a magistrate in a State or Territory in connection with the performance by the magistrate of functions under the Act has the same protection and immunity as a barrister or solicitor, as the case may be, has in appearing for a party in proceedings in the Supreme Court of that State or Territory.
- (3) Where a person who is not represented by a barrister or solicitor appears before a magistrate in a State or Territory in connection with the performance by the magistrate of functions under the Act, the person has the same protection and immunity as a party to proceedings in the Supreme Court of the State or Territory has in appearing before that Court when not so represented.

- (4) A witness summoned to attend or appearing before a magistrate who performs functions under the Act in a State or Territory has the same protection as a witness in proceedings in the Supreme Court of that State or Territory.

12 Forfeiture of recognizance

- (1) Where a magistrate in, or a judge of the Supreme Court of, a State or Territory is satisfied that a person admitted to bail in that State or Territory in relation to a proceeding under the Act has failed to comply with the conditions of the recognizance on which bail was granted, the magistrate or judge may, by order, declare the recognizance to be forfeited.
- (2) Where a magistrate or judge declares a recognizance to be forfeited, payment of any sum due under the recognizance by a person residing in the State or Territory in which the recognizance was so declared to be forfeited may be enforced as a fine imposed by a court having jurisdiction in that State or Territory.
- (3) An amount recovered pursuant to this section shall be transmitted to the Attorney-General of the Commonwealth.

13 Procedure after arrest of person who was on bail

- (1) The provisions of subsections 15 (2), (3), (4), (5) and (6) of the Act apply in relation to a person who has been brought before a court in accordance with subsection 49A (2) of the Act as if the person had been brought before a magistrate in accordance with subsection 15 (1) of the Act.
- (2) In the exercise of a discretion in relation to a person who has been brought before a court in accordance with subsection 49A (2) of the Act, the court may have regard, if it sees fit, to the circumstances of the arrest of the person under subsection 49A (1) of the Act.

14 Warrant — transport of person through Australia

A warrant issued by a magistrate under subparagraph 48 (1) (b) (iii) of the Act in relation to a person being transported in custody through Australia may be in accordance with Form 28.

15 Further warrant — transport of person through Australia

A warrant issued by a magistrate under subparagraph 48 (1) (b) (iv) of the Act on the authorisation of the Attorney-General may be in accordance with Form 29.

Schedule

(regulation 4)

Form 1 Summons

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

SUMMONS

In the Matter of proceedings relating to
under the *Extradition Act 1988*.

To: *(name and address of witness)*.

YOU ARE HEREBY summoned under regulation 4 of the
Extradition Regulations to appear at *(place, date and time)* and to attend
from day to day unless you are excused or released from so attending to
**give evidence/*answer questions/*and/*to produce the following/*
documents/*and/*other/*articles/:*

(specify)

Dated 19 .

(Signature)

(Description)

* *Omit if not applicable.*

Note If a person who has been served with a summons under the Extradition
Regulations and has been paid or tendered a reasonable sum for his or her expenses then
fails to attend as required by the summons, the person:

- (a) is guilty of an offence and is liable, on conviction, to a fine not exceeding \$500;
and
- (b) is liable without further notice to be arrested and brought before a magistrate.

Form 2 Warrant of arrest

(regulation 6)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

WARRANT OF ARREST

To all police officers within the meaning of the *Extradition Act 1988*.

WHEREAS:

- (a) (*name and address of witness*) was summoned to attend before me, a magistrate within the meaning of the *Extradition Act 1988*,* being a magistrate in respect of whom an arrangement is in force under section 46 of that Act, / as a witness on 19 , and then from day to day unless excused or released from so attending;
- (b) the witness has failed to attend on 19 as required by the summons; and
- (c) I am satisfied that the summons was duly served on the witness and that a reasonable sum for *his/*her/attendance was *paid/*tendered/to the witness;

NOW THEREFORE I, (*name and designation of magistrate*), under regulation 6 of the Extradition Regulations, authorise and request you to arrest the witness in any State or Territory of the Commonwealth and to bring the witness before me to *give evidence/*answer questions/* and/* produce/*documents/*and/*other/*articles/as required by the summons, and to detain the witness in custody for that purpose.

Dated 19 .

*(Signature and designation of magistrate
issuing warrant)*

* Omit if not applicable.

Form 4 Application for provisional arrest warrant

(subsection 12 (1) and
regulation 3)

Commonwealth of Australia

Extradition Act 1988

To a magistrate within the meaning of the *Extradition Act 1988* (the *Act*).

I, _____, of _____, apply under subsection 12 (1) of the Act on behalf of (*insert name of country*), an extradition country, for the issue of a warrant under that subsection for the arrest of (*insert name of person*).

The affidavit attached to this application and marked sets out information that (*insert name of person*) is an extraditable person for the purposes of the Act in relation to that extradition country.

Dated

(*Signature and designation of applicant*)

Form 5 Warrant for arrest under subsection 12 (1)

(subsection 12 (1)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

WARRANT FOR ARREST UNDER SUBSECTION 12 (1)

To all police officers within the meaning of the *Extradition Act 1988*.

WHEREAS:

- (a) an application has been made to me, in the statutory form, on behalf of (*insert name of country*), an extradition country, for the issue of a warrant for the arrest of (*insert name of person*); and
- (b) I am satisfied, on the basis of information given by the affidavit annexed to that application and marked, that † is an extraditable person for the purposes of the *Extradition Act 1988* in relation to that extradition country;

NOW THEREFORE I, (*name and designation of magistrate*), a magistrate within the meaning of the *Extradition Act 1988*, under subsection 12 (1) of that Act, hereby authorise and request you to arrest † and to bring *him/*her/, as soon as practicable, before a magistrate in the *State/*Territory/ in which *he/*she/ is arrested to be dealt with according to law.

Dated 19 .
(*Signature and designation of magistrate
issuing warrant*)

* *Omit if not applicable.*

† *Insert name of person.*

**Form 6 Notice directing magistrate to cancel
warrant**

(subsection 12 (3) and
regulation 3)

Commonwealth of Australia

Extradition Act 1988

To a magistrate within the meaning of the *Extradition Act 1988* (the *Act*).

GIVEN THAT:

- (a) I have become aware of the issue of a warrant by a magistrate under subsection 12 (1) of the *Act* for the arrest of (*insert name of person*); and

(b) *(insert name of person)* has not been arrested under that warrant;
and

(c) I consider that the warrant should be cancelled;

I, _____, Attorney-General of the Commonwealth of Australia, under subsection 12 (3) of the Act, direct you to cancel the warrant.

Dated

Attorney-General

**Form 7 Warrant under subsection 14 (1) in
relation to *search/*and/*seizure**

(subsection 14 (1)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

WARRANT UNDER SUBSECTION 14 (1) IN RELATION TO
*SEARCH/*AND/*SEIZURE

WHEREAS:

To _____, a police officer within the meaning of the
Extradition Act 1988.

WHEREAS:

(a) I have been informed by affidavit that there are reasonable grounds for suspecting that there may be in *(specify place)* a thing, namely, *(insert description of thing)*:

* that may be material as evidence in proving the offence/*s of † _____,

* in relation to which a provisional arrest warrant for the arrest of *(insert name of person)* was issued as follows:

(give details of warrant);

- * for which the surrender of (*insert name of person*) is sought by (*insert name of country*), an extradition country;
 - * that has been acquired by (*insert name of person*) as a result of the offence/*s of † ,
 - * in relation to which a provisional arrest warrant for the arrest of (*insert name of person*) was issued as follows:
(*give details of warrant*);
 - * for which the surrender of (*insert name of person*) is sought by (*insert name of country*), an extradition country;
- (b) the affidavit sets out those grounds;
- * (ba) there has been given to me by affidavit such further information as I require concerning the grounds on which the issue of the warrant is being sought;
- (c) I am satisfied that there are reasonable grounds for issuing the warrant;

NOW THEREFORE I, (*name and designation of magistrate*), a magistrate within the meaning of the *Extradition Act 1988*, under subsection 14 (1) of that Act, hereby authorise you, a police officer, for the purpose of (*state purpose for issue of warrant*) in relation to the abovementioned offence/*s of † , with such assistance, and by such force, as is necessary and reasonable:

- * between the hours of _____ and _____ ,
- * at any time of the day or night,
- * to seize any thing of the following kind: ‡ _____ ;
- * to enter *upon/*into/ (*specify place*) and to seize any thing of the following kind: ‡ _____ ;
- * to enter *upon/*into/ (*specify place*), to search that place for any thing of the following kind: ‡ _____ ; and to seize any thing of that kind found in that place.

THIS WARRANT ceases to have effect on (*insert date not being later than one month after the issue of the warrant*).

Issued on _____ 19 _____ .

(*Signature and designation of magistrate
issuing warrant*)

* *Omit if not applicable.*

† *Insert reference to nature of offence or offence.*

‡ *Insert description of kind of things authorised to be seized.*

**Form 8 Warrant under subsection 15 (4) in
relation to transfer of person on remand**

(subsection 15 (4)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

WARRANT UNDER SUBSECTION 15 (4) IN RELATION TO
TRANSFER OF PERSON ON REMAND

To a magistrate within the meaning of the *Extradition Act 1988*
AND to (*insert name of police officer*), a police officer within the
meaning of that Act.

WHEREAS:

- (a) (*insert name of person*), a person arrested under a warrant under subsection 12 (1) of the *Extradition Act 1988*, has been remanded by a magistrate in (*specify State or Territory*) under subsection 15 (2) of that Act:
- * in custody at (*specify place*);
 - * at (*specify place*) and has been granted bail on the following recognizances:
(*specify recognizances*);
- (b) it is expedient that † be transferred to (*specify State or Territory*) for the purposes of proceedings under *section 18/ *section 19/ *sections 18 and 19/ of that Act;

NOW THEREFORE I, _____, Attorney-General of the Commonwealth of Australia, under subsection 15 (4) of the *Extradition Act 1988*:

- (c) direct you, the abovementioned magistrate, to order:

- * the release of the abovementioned † into the custody of the abovenamed police officer; and
- * the discharge of those recognizances on which bail was granted to (*insert name of person*); and
- (d) authorise you, the abovenamed police officer, to take the abovementioned † in custody to appear before a magistrate in (*specify State or Territory*).

Dated 19 .

Attorney-General

* *Omit if not applicable.*

† *Insert name of person.*

Form 9 Notice of receipt of extradition request

(subsection 16 (1) and
regulation 3)

Commonwealth of Australia

Extradition Act 1988

To a magistrate before whom the person named in this notice is brought.

I, , Attorney-General of the Commonwealth of Australia, under subsection 16 (1) of the *Extradition Act 1988*, state that an extradition request has been received from (*insert name of country*), an extradition country, in relation to (*insert name of person*) for the following extradition *offence/*offences: (*specify the relevant offence or offences*).

**Omit if not applicable.*

Dated

Attorney-General

Form 10 Notice to order release from remand

(subsection 17 (1) and
regulation 3)

Commonwealth of Australia

Extradition Act 1988

To a magistrate within the meaning of the *Extradition Act 1988* (the **Act**).

GIVEN THAT I consider that the remand of (*insert name of person*)
under section 15 of the Act should cease;

I, _____, Attorney-General of the Commonwealth
of Australia, under subsection 17 (1) of the Act, direct you to order *the
release of (*insert name of person*) from custody/*the discharge of the
recognisances on which bail was granted to (*insert name of person*).

**Omit if not applicable.*

Dated

Attorney-General

**Form 11 Warrant under subsection 18 (2) in
relation to consent to being surrendered**

(subsection 18 (2)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

WARRANT UNDER SUBSECTION 18 (2) IN RELATION TO
CONSENT TO BEING SURRENDERED

To all police officers within the meaning of the *Extradition Act 1988* in
(*insert name of State or Territory*)

AND to the person in charge of (*insert name of prison*) in (*insert name of
State or Territory*).

WHEREAS:

- (a) (*insert name of person*) is on remand under section 15 of the
Extradition Act 1988;
- (b) the Attorney-General has given a notice under
subsection 16 (1) of that Act in relation to † ;
- (c) † has informed me
that *he/*she/consents to being surrendered to (*insert name of
country*), an extradition country, in relation to the following
extradition offence/*s/*, being all the extradition offences for
which surrender of † is sought by that
country:
(*specify offence or offences*);
- (d) I have no reason to believe that the consent was not given
voluntarily;
- (e) I have advised *him/*her/in accordance with paragraph 18 (2)
(a) of that Act;
- (f) after being so advised, † has again consented
to being so surrendered;

NOW THEREFORE I, (*name and designation of magistrate*), a
magistrate within the meaning of the *Extradition Act 1988*, under

subsection 18 (2) of that Act, hereby order you to commit † to
(*insert name of prison*) to await, in relation to *that offence/ *those
offences/, surrender under a surrender warrant or temporary surrender
warrant or release pursuant to an order under subsection 22 (5) of that
Act.

Dated 19 .

(*Signature and designation of magistrate*)

* *Omit if not applicable.*

† *Insert name of person.*

Form 12 Warrant under subsection 19 (9) ordering committal to prison to await surrender

(subsection 19 (9)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

WARRANT UNDER SUBSECTION 19 (9) ORDERING COMMITTAL
TO PRISON TO AWAIT SURRENDER

To all police officers within the meaning of the *Extradition Act 1988* in
(*insert name of State or Territory*)

AND to the person in charge of (*insert name of prison*) in (*insert name of
State or Territory*).

WHEREAS:

- (a) proceedings have been conducted pursuant to subsection 19 (1)
of the *Extradition Act 1988* to determine whether (*insert name
of person*) is eligible for surrender in relation to the extradition
offence/*s of (*specify offence or offences*) for which the
surrender of † is
sought by (*insert name of country*), an extradition country;
- (b) the supporting documents in relation to *that offence/* those
offences/, within the meaning of subsection 19 (3) of that Act,
have been produced to me;

- * (ba) other documents have been produced to me as required by limitations, conditions, exceptions or qualifications subject to which that Act applies in relation to ‡ ;
- (c) I am satisfied that, if the *conduct/*conduct equivalent to the conduct/of † constituting the offence in relation to ‡ had taken place in (*specify*), being the part of Australia where the proceedings are being conducted and at the time at which the extradition request in relation to † was received, that *conduct/*equivalent conduct/would have constituted an extradition offence in relation to that part of Australia;
- (d) † does not satisfy me that there are substantial grounds for believing that there is an extradition objection in relation to the following offence/*s for which *his/*her/surrender is sought:
(*specify offence or offences*);
- (e) having determined that † is eligible for surrender to ‡ in relation to the extradition offence/*s of (*insert description of offence or offences*);

NOW THEREFORE I, (*name and designation of magistrate*), a magistrate within the meaning of the *Extradition Act 1988*, under subsection 19 (9) of that Act, hereby order you to commit † to (*insert name of prison*) to await, in relation to *that offence/*those offences/, surrender under a surrender warrant or temporary surrender warrant or release pursuant to an order under subsection 22 (5) of that Act.

Dated 19 .

(*Signature and designation of magistrate
issuing warrant*)

* *Omit if not applicable.*

† *Insert name of person.*

‡ *Insert name of extradition country.*

Form 13 Surrender warrant under section 23

(section 23 and
regulation 3)

Commonwealth of Australia

Extradition Act 1988

To the person in whose custody (*insert name of person*) is being held

AND to all police officers within the meaning of the *Extradition Act 1988* (the **Act**)

AND to (*insert name of foreign escort officer*) (in this warrant called the **escort**).

GIVEN THAT I have determined, under subsection 22 (2) of the Act, that (*insert name of person*) is to be surrendered to (*insert name of country*), an extradition country, in relation to the extradition *offence/*offences of (*specify the relevant offence or offences*);

I, _____, Attorney-General of the Commonwealth of Australia, under section 23 of the Act:

- (a) require you, the person in whose custody (*insert name of person in custody*) is being held, to release *him/*her into the custody of a police officer; and
- (b) authorise that police officer to transport (*insert name of person*) in custody, and if necessary or convenient, to detain *him/*her in custody, for the purpose of enabling *him/*her to be placed in the custody of the escort and transported out of Australia; and
- (c) authorise the escort to transport (*insert name of person*) in custody out of Australia to a place in (*insert name of country*) for the purpose of surrendering *him/*her to a person appointed by that country to receive *him/*her.

**Omit if not applicable.*

Dated

Attorney-General

**Form 14 Temporary surrender warrant under
section 24**

(section 24 and
regulation 3)

Commonwealth of Australia

Extradition Act 1988

To the person in whose custody (*insert name of person*) is being held

AND to all police officers within the meaning of the *Extradition Act 1988* (the *Act*)

AND to (*insert name of foreign escort officer*) (in this warrant called the *escort*).

GIVEN THAT:

- (a) I have determined, under subsection 22 (2) of the Act, that (*insert name of person*) is to be surrendered to (*insert name of country*), an extradition country, in relation to the extradition *offence/*offences of (*specify the relevant offence or offences*); and
- (b) (*insert name of person*) is serving *a sentence/*sentences of imprisonment in relation to *an offence/*offences against *a law/*laws of Australia; and
- (c) a surrender offence in relation to (*insert name of person*) is an offence of which the person is accused;

I, _____, Attorney-General of the Commonwealth of Australia, under subsection 24 (1) of the Act:

- (d) require you, the person in whose custody (*insert name of person in custody*) is being held, to release *him/*her into the custody of a police officer; and
- (e) authorise that police officer to transport (*insert name of person*) in custody, and if necessary or convenient, to detain *him/*her in custody, for the purpose of enabling *him/*her to be placed in the custody of the escort and transported out of Australia; and

- (f) authorise the escort to transport (*insert name of person*) in custody out of Australia to a place in (*insert name of country*) for the purpose of surrendering *him/*her to a person appointed by that country to receive *him/*her.

**Omit if not applicable.*

Dated

Attorney-General

Form 15 Surrender warrant under section 25

(section 25 and
regulation 3)

Commonwealth of Australia

Extradition Act 1988

To the person in whose custody (*insert name of person*) is being held

AND to all police officers within the meaning of the *Extradition Act 1988* (the **Act**)

AND to (*insert name of foreign escort officer*) (in this warrant called the **escort**).

GIVEN THAT:

- (a) (*insert name of person*) has been surrendered to (*insert name of country*), an extradition country, in accordance with a temporary surrender warrant issued under section 24 of the Act; and
- (b) (*insert name of person*) has been returned to Australia in accordance with undertakings mentioned in subparagraph 24 (1) (d) (ii) of the Act; and
- (c) (*insert name of country*) still seeks the surrender of (*insert name of person*) for the following surrender *offence/*offences of (*specify the relevant offence or offences*);

I, _____, Attorney-General of the Commonwealth of Australia, under subsection 25 (1) of the Act:

- (d) require you, the person in whose custody (*insert name of person in custody*) is being held, to release *him/*her into the custody of a police officer; and
- (e) authorise that police officer to transport (*insert name of person*) in custody, and if necessary or convenient, to detain *him/*her in custody, for the purpose of enabling *him/*her to be placed in the custody of the escort and transported out of Australia; and
- (f) authorise the escort to transport (*insert name of person*) in custody out of Australia to a place in (*insert name of country*) for the purpose of surrendering *him/*her to a person appointed by that country to receive *him/*her.

**Omit if not applicable.*

Dated

Attorney-General

**Form 16 Application under section 28 for
endorsement of New Zealand warrant**

(section 28
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

APPLICATION UNDER SECTION 28 FOR ENDORSEMENT OF
NEW ZEALAND WARRANT

To (*name and designation of magistrate*), a magistrate within the
meaning of the *Extradition Act 1988*.

I, _____, of _____, apply under section 28 of the *Extradition Act 1988* on behalf of New Zealand for the indorsement of the New Zealand warrant annexed to this application and marked _____, being a warrant for the arrest of (*insert name of person*). The affidavit annexed to this application and marked _____ sets out information that (*insert name of person*), for whose arrest the warrant is in force, is, or is suspected of being, in or on **his/*her/* way to Australia.

Dated _____ 19 ____ .

(*Signature and designation of applicant*)

**Form 17 Endorsement of New Zealand warrant
under section 28 authorising execution
of warrant in Australia**

(section 28
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

ENDORSEMENT OF NEW ZEALAND WARRANT UNDER
SECTION 28 AUTHORISING EXECUTION OF WARRANT IN
AUSTRALIA

To all police officers within the meaning of the *Extradition Act 1988*.

I, (*name and designation of magistrate*), a magistrate within the meaning of the *Extradition Act 1988*, under section 28 of that Act, hereby authorise and request you to arrest (*insert name of person*), being the person named in the New Zealand warrant to which this endorsement relates, in any State or Territory of the Commonwealth, and to bring **him/*her/*, as soon as practicable, before a magistrate in the State or Territory in which **he/*she/* is arrested to be dealt with according to law.

Dated _____ 19 ____ .

(*Signature and designation of magistrate*)

* *Omit if not applicable.*

Form 18 Application under section 29 for provisional arrest warrant

(section 29
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

APPLICATION UNDER SECTION 29 FOR PROVISIONAL ARREST
WARRANT

To *(name and designation of magistrate)*, a magistrate within the
meaning of the *Extradition Act 1988*.

I, _____, of _____, apply under
section 29 of the *Extradition Act 1988* on behalf of New Zealand for the
issue of a warrant in relation to *(insert name of person)* under that
section.

The affidavit annexed to this application and marked.....provides
information that a New Zealand warrant has been issued in relation to
(insert name of person).

Dated _____ 19 .

(Signature and designation of applicant)

Form 19 Provisional arrest warrant under section 29

(section 29
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

PROVISIONAL ARREST WARRANT UNDER SECTION 29

To all police officers within the meaning of the *Extradition Act 1988*.

WHEREAS:

- (a) an application has been made to me under section 29 of the *Extradition Act 1988*, in the statutory form, on behalf of New Zealand for the issue of a warrant in relation to (*insert name of person*) under that section 29;
- (b) I am informed by the affidavit annexed to that application and markedthat a New Zealand warrant has been issued in relation to that person;
- (c) no application is before me under section 28 of that Act for the indorsement of such a warrant in relation to that person; and
- (d) I consider that the issue of a warrant in relation to † under that section 29 is, having regard to such information as I consider relevant, justified in all the circumstances;

NOW THEREFORE I, (*name and designation of magistrate*), a magistrate within the meaning of the *Extradition Act 1988*, under section 29 of that Act, hereby authorise and request you to arrest † and to bring *him/*her/, as soon as practicable, before a magistrate in the State or Territory in which *he/*she/is arrested to be dealt with according to law.

Dated 19 .

(*Signature and designation of magistrate
issuing warrant*)

* Omit if not applicable.

† Insert name of person.

**Form 20 Warrant under subsection 31 (1) in
relation to *search/*and/*seizure**

(section 31 (1)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

WARRANT UNDER SUBSECTION 31 (1) IN RELATION TO
*SEARCH/*AND/*SEIZURE

To _____, a police officer within the meaning of the *Extradition Act 1988*.

WHEREAS:

- (a) I have been informed by affidavit that there are reasonable grounds for suspecting that there may be in (*specify place*) a thing, namely, (*insert description of thing*):
- * that may be material as evidence in proving the offence/*s of † _____ in relation to which *an indorsed New Zealand warrant/*a provisional arrest warrant/(*identify warrant*) was issued;
 - * that has been acquired by (*insert name of person*) as a result of the offence/*s of † _____ in relation to which *an indorsed New Zealand warrant/* a provisional arrest warrant/(*identify warrant*) was issued;
- (b) the affidavit sets out those grounds;
- * (ba) there has been given to me by affidavit such further information as I require concerning the grounds on which the issue of the warrant is being sought;
- (c) I am satisfied that there are reasonable grounds for issuing the warrant;

NOW THEREFORE I, (*name and designation of magistrate*), a magistrate within the meaning of the *Extradition Act 1988*, under subsection 31 (1) of that Act, hereby authorise you, a police officer, for the purpose of (*state purpose for issue of warrant*) in relation to the abovementioned offence/*s of † _____, with such assistance, and by such force, as is necessary and reasonable:

- * between the hours of _____ and _____,
- * at any time of the day or night,
- * to seize any thing of the following kind: ‡ _____ ;
- * to enter *upon/*into/(*specify place*) and to seize any thing of the following kind: ‡ _____ :
- * to enter *upon/*into/(*specify place*), to search that place for any thing of the following kind: ‡ _____, and to seize any thing of that kind found in that place.

THIS WARRANT ceases to have effect on *(insert date not being later than one month after the issue of the warrant)*.

Issued on 19 .

*(Signature and designation of magistrate
issuing warrant)*

* *Omit if not applicable.*

† *Insert reference to nature of offence or offence.*

‡ *Insert description of kind of things authorised to be seized.*

Form 20A Surrender warrant under subsection 33A (2)

(subsection 33A (2)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

SURRENDER WARRANT UNDER SUBSECTION 33A (2)

To all police officers within the meaning of the *Extradition Act 1988*

AND to [*name of escort*] (in this warrant called 'the escort').

I, [*name and designation of magistrate*], a magistrate within the meaning of the *Extradition Act 1988*, acting under subparagraph 33A (2) (b) (i) of that Act, by this warrant, order that the prisoner be surrendered to New Zealand as soon as practicable, and for this purpose I:

- (a) authorise you, the abovementioned police officers:
 - (i) to take the prisoner into custody; and
 - (ii) to transport the prisoner in custody; and
 - (iii) if necessary or convenient, to detain the prisoner in custody;

for the purpose of enabling the prisoner to be placed in the custody of the escort and transported out of Australia; and

- (b) authorise you, the escort, to transport the prisoner in custody out of Australia to a place in New Zealand for the purpose of surrendering the prisoner to a person appointed by New Zealand to receive the prisoner.

Dated .

*[Signature and designation of magistrate
issuing warrant]*

**Form 20B Warrant of committal under
subsection 33A (2)**

(subsection 33A (2)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

WARRANT OF COMMITTAL UNDER SUBSECTION 33A (2)

To all police officers within the meaning of the *Extradition Act 1988* in
[*name of State or Territory*]

AND to the person in charge of [*name of prison*] in [*name of State or
Territory*] (in this warrant called ‘the designated prison’).

I, [*name and designation of magistrate*], a magistrate within the meaning
of the *Extradition Act 1988*, acting under subparagraph 33A (2) (b) (ii) of
that Act, by this warrant, order that, pending the execution of the warrant
issued by me under subparagraph 33A (2) (b) (i) of that Act ordering that
the prisoner be surrendered to New Zealand, the prisoner be committed to
prison, and for this purpose I:

- (a) authorise you, the abovementioned police officers:
- (i) to take the prisoner to the designated prison; and
 - (ii) to deliver the prisoner to the person in charge of the
designated prison; and

- (b) authorise and request you, the person in charge of the designated prison:
- (i) to receive the prisoner into your custody; and
 - (ii) to keep the prisoner safely in that prison pending the execution of the abovementioned warrant ordering that the prisoner be surrendered to New Zealand.

Dated

[*Signature and designation of magistrate
issuing warrant*]

**Form 21 Surrender warrant under
subsection 34 (1)**

(subsection 34A (1)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

SURRENDER WARRANT UNDER SUBSECTION 34 (1)

To all police officers within the meaning of the *Extradition Act 1988*
AND to [*name of escort*] (in this warrant called “the escort”).

WHEREAS:

- (a) **(insert name of person)* has been remanded after being arrested under an indorsed New Zealand warrant (*identify warrant*);
**(insert name of person)* has been remanded after being arrested under a provisional arrest warrant (*identify warrant*) and an indorsed New Zealand warrant (*identify warrant*) has been obtained in relation to **him/*her/*; and
- (b) a request has been made to me **by/**on behalf of/ **(insert name of person)**New Zealand/for proceedings to be conducted under section 34 of the *Extradition Act 1988*;

NOW THEREFORE I, (*name and designation of magistrate*), a magistrate within the meaning of the *Extradition Act 1988*, under

subsection 34 (1) of that Act, by this warrant, order that the prisoner be surrendered to New Zealand, and for this purpose I:

- (c) authorise you, the abovementioned police officers, to take † into custody, to transport *him/*her/in custody, and, if necessary or convenient, to detain *him/*her/in custody, for the purpose of enabling *him/*her/to be placed in the custody of the escort and transported out of Australia; and
- (d) authorise you, the escort, to transport † in custody out of Australia to a place in New Zealand for the purpose of surrendering *him/*her/to a person appointed by New Zealand to receive † .

Dated 19 .

(*Signature and designation of magistrate
issuing warrant*)

* *Omit if not applicable.*

† *Insert name of person.*

Form 22 Warrant of committal under subsection 34 (1)

(subsection 34A (1)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

WARRANT OF COMMITTAL UNDER SUBSECTION 34 (1)

To all police officers within the meaning of the *Extradition Act 1988* in
(*insert name of State or Territory*)

AND to the person in charge of (*insert name of prison*) in (*insert name of
State or Territory*)

WHEREAS:

- (a) **(insert name of person)* has been remanded after being arrested under an indorsed New Zealand warrant (*identify warrant*);
**(insert name of person)* has been remanded after being arrested under a provisional arrest warrant (*identify warrant*), and an indorsed New Zealand warrant (*identify warrant*) has been obtained in relation to **him/*her/*;
- (b) a request has been made to me **by/*on behalf of/* (insert name of person)/*New Zealand/for* proceedings to be conducted under section 34 of the *Extradition Act 1988*;
- (c) a warrant has been issued by me under subsection 34 (1) of that Act ordering that † be surrendered to New Zealand;

NOW THEREFORE I, (*name and designation of magistrate*), a magistrate within the meaning of the *Extradition Act 1988*, under subsection 34 (1) of that Act, by this warrant, order that, pending the execution of the warrant referred to in paragraph (c), the prisoner be committed to prison, and for this purpose I:

- (d) authorise and request you, police officers in (*insert name of State or Territory*) to take † to (*insert name of prison*) in (*insert name of State or Territory*) and deliver **him/*her/*to the person in charge of that prison together with this warrant; and
- (e) authorise and request you, the person in charge of (*insert name of prison*) in (*insert name of State or Territory*) to receive † into your custody and keep **him/*her/safely* in that prison pending the execution of the abovementioned warrant ordering that **he/*she/be* surrendered to New Zealand.

Dated 19 .

(*Signature and designation of magistrate
issuing warrant*)

* *Omit if not applicable.*

† *Insert name of person.*

**Form 23 Temporary surrender warrant under
section 36**

(section 36 and
regulation 3)

Commonwealth of Australia

Extradition Act 1988

To all police officers within the meaning of the *Extradition Act 1988*
(the *Act*)

AND to (*insert name of New Zealand escort officer*) (in this warrant
called the *escort*).

GIVEN THAT:

- (a) a surrender warrant has been issued in relation to (*insert name of person*) *under subsection 34 (1) of the Act/*in compliance with an order of a court under subparagraph 35 (2) (b) (ii) of the Act (including on any appeal referred to in section 35 of the Act); and
- (b) no proceedings are being conducted or available under section 35 of the Act in relation to *the order set out in the warrant/*the order of the court; and
- (c) (*insert name of person*) is serving *a sentence/*sentences of imprisonment in relation to *an offence/*offences against *a law/*laws of Australia; and
- (d) the offence in relation to which endorsed New Zealand warrant (*identify the warrant*) in relation to (*insert name of person*) was issued is an offence of which *he/*she is accused;

I, _____, Attorney-General of the Commonwealth of Australia, under subsection 36 (1) of the Act:

- (e) authorise you, the police officers to whom this temporary surrender warrant is addressed, to take (*insert name of person*) into custody, to transport *him/*her in custody and, if necessary or convenient, to detain *him/*her in custody, for the purpose of enabling *him/*her to be placed in the custody of the escort and transported out of Australia; and
- (f) authorise you, the escort, to transport (*insert name of person*) in custody out of Australia to a place in New Zealand for the purpose

of surrendering *him/*her to a person appointed by New Zealand to receive *him/*her.

**Omit if not applicable.*

Dated

Attorney-General

Form 24 Surrender warrant under section 37

(section 37
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

SURRENDER WARRANT UNDER SECTION 37

To all police officers within the meaning of the *Extradition Act 1988*
AND to [*name of escort*] (in this warrant called “the escort”).

WHEREAS:

- (a) (*insert name of person*) was surrendered to New Zealand under a warrant under subsection 36 (1) of the *Extradition Act 1988*;
- (b) *he/*she/has been returned to Australia in pursuance of undertakings referred to in subparagraph 36 (1) (e) (ii) of that Act;
- (c) New Zealand still seeks the surrender of † for the following surrender offence/*s:
(*specify offence or offences*);

NOW THEREFORE I, _____, Attorney-General of the Commonwealth of Australia, under section 37 of that Act:

- (d) authorise you, the abovementioned police officers, to take † into custody, to transport *him/*her/in custody and, if necessary or convenient, to detain *him/*her/in custody, for the purpose of enabling

- *him/*her/to be placed in the custody of the escort and transported out of Australia; and
- (e) authorise you, the escort, to transport † in custody out of Australia to a place in New Zealand for the purpose of surrendering *him/*her/to a person appointed by New Zealand to receive †

Dated 19 .

Attorney-General

* Omit if not applicable.

† Insert name of person

**Form 25 Notice under subsection 43 (1)
authorising taking of evidence in
Australia**

(subsection 43 (1)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

NOTICE UNDER SUBSECTION 43 (1) AUTHORISING TAKING OF
EVIDENCE IN AUSTRALIA

I, , Attorney-General of the Commonwealth of Australia, suspecting that (*insert name of person*) is an extraditable person for the purposes of the *Extradition Act 1988* in relation to Australia, hereby authorise the taking of evidence in Australia for use in any proceedings for the surrender of (*insert name of person*) to Australia.

Dated 19 .

Attorney-General

**Form 26 Certificate under subsection 43 (2) in
relation to taking of evidence in Australia**

(subsection 43 (2)
regulation 3)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

CERTIFICATE UNDER SUBSECTION 43 (2) IN RELATION TO
TAKING OF EVIDENCE IN AUSTRALIA

I, (*name and designation of magistrate*), a magistrate within the meaning
of the *Extradition Act 1988*:

- (a) hereby certify under subsection 43 (2) of that Act that the
evidence in writing marked to which this certificate
is attached is, reduced to writing, the evidence taken on
*oath/*affirmation/*oath or affirmation/of
- * the witness (*insert name of witness*)
 - * each witness, namely: (*insert name of each witness*)
- appearing before me at (*specify place*) to give evidence in
relation to proceedings, namely (*identify proceedings*), for the
surrender of (*insert name of person*) to Australia, being
evidence taken in Australia for use in those proceedings
pursuant to authorisation (*identify authorisation*) by the
Attorney-General of the Commonwealth of Australia under
subsection 43 (1) of that Act;
- *(b) hereby certify that the document/*s to which this certificate is
attached, being *a document/*documents/ forming part of
evidence taken in Australia for use in the abovementioned
proceedings for the surrender of (*insert name of person*) to
Australia, *is/*are/*the original document/*s/*and/*a true
copy/*true copies/of the document/*s received by me as part
of that evidence;
- *(c) hereby certify that the *article/*s/*and/*thing/*s/
*document/*s accompanying this certificate and
labelled.....,

being *an article/*articles/*and/*a thing/*things/*a document/*documents relating to *an article/*articles/*and/*a thing/*things /forming part of evidence taken in Australia for use in the abovementioned proceedings for the surrender of (*insert name of person*) to Australia *is/*are/:

- * the original article/*s/*and/*the original thing/*s;
- * a true/*reproduction/*representation/*true/*reproductions /*representations/of *the original article/*s/*and/*the original thing/*s; received by me as part of that evidence.

Dated 19 .

(*Signature and designation of magistrate*)

* *Omit if not applicable.*

Form 27 Application for transport in custody through Australia

(subsection 48 (1) and regulation 3)

Commonwealth of Australia

Extradition Act 1988

To a magistrate within the meaning of the *Extradition Act 1988* (the **Act**).

I, _____, of _____, on behalf of (*insert New Zealand or name of extradition country*) (in this application called the **receiving country**) apply for the issue under subsection 48 (1) of the Act of a warrant ordering (*insert name of person who is to have custody*) to hold in custody (*insert name of person who is to be held in custody*), being a person whom the receiving country wishes to transport in custody through Australia to be surrendered to the receiving country by (*insert name of other country*), for such period or periods as you consider necessary to facilitate the transporting of that person in custody through Australia.

Dated

(*Signature and designation of applicant*)

Form 28 Warrant under subsection 48 (1) to hold in custody person being transported through Australia

(regulation 14)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

WARRANT UNDER SUBSECTION 48 (1) TO HOLD IN CUSTODY PERSON BEING TRANSPORTED THROUGH AUSTRALIA

To the person designated to hold † in custody to be transported through Australia.

WHEREAS:

- (a) **(name of country)*, an extradition country/**New Zealand/wishes to transport in custody through Australia* (*insert name of person*), a person who is being surrendered to that country by (*name of other country*);
- (b) application has been made to me **by/*on behalf of/* (*insert name of country*) under subsection 48 (1) of the *Extradition Act 1988* for the issue of a warrant ordering you to hold † in custody for such period or periods as I consider necessary to facilitate the transporting of that person in custody through Australia;

NOW THEREFORE I, (*name and designation of magistrate*), a magistrate within the meaning of the *Extradition Act 1988*, under subsection 48 (1) of that Act, order you, (*name of person*), to hold † in your custody for (*specify period or periods*), being such period/**s* as I consider necessary to facilitate the transporting of that person in custody through Australia.

Dated 19 .

(*Signature and designation of magistrate issuing warrant*)

** Omit if not applicable.*

† *Insert name of person to be transported through Australia.*

**Form 29 Warrant under subsection 48 (1) to hold
person in custody for further period**

(regulation 15)

COMMONWEALTH OF AUSTRALIA

Extradition Act 1988

WARRANT UNDER SUBSECTION 48 (1) TO HOLD PERSON IN
CUSTODY FOR FURTHER PERIOD

To the person designated to hold † in custody for a further
period to be transported through Australia.

WHEREAS:

- (a) a warrant (*identify warrant*) has been issued by a magistrate under subsection 48 (1) of the *Extradition Act 1988* ordering (*insert name of person*) to hold (*insert name of person*) in custody for (*specify period or periods*), being such period/*s as that magistrate has considered necessary to facilitate the transport of † in custody through Australia for the purpose of being surrendered to *(*insert name of country*), an extradition country/*New Zealand/by another country;
- (b) *(*insert name of country*)/*New Zealand/has applied to the Attorney-General of the Commonwealth of Australia to authorise a magistrate to issue a warrant ordering you to hold † in custody for a further period in order to facilitate the transporting of † in custody through Australia;
- (c) the Attorney-General of the Commonwealth of Australia has, in writing, authorised me to issue the warrant accordingly;

NOW THEREFORE I, (*name and designation of magistrate*), a magistrate within the meaning of the *Extradition Act 1988*, under subsection 48 (1) of that Act, by this order, authorise you, (*insert name of person*), to hold in your custody †, a person held in custody for (*specify period or periods*), for the further period of

(specify period) in order to facilitate the transporting of that person in custody through Australia.

Dated 19 .

*(Signature and designation of magistrate
issuing warrant)*

* *Omit if not applicable.*

† *Insert name of person to be transported through Australia.*

Table of Statutory Rules

Notes to the *Extradition Regulations 1988***Note 1**

The *Extradition Regulations 1988* (in force under the *Extradition Act 1988*) as shown in this compilation comprise Statutory Rules 1988 No. 280 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
1988 No. 280	30 Nov 1988	1 Dec 1988 (see <i>Gazette</i> 1988, No. S366)	
1992 No. 333	27 Oct 1992	27 Oct 1992	—
2000 No. 177	12 July 2000	12 July 2000	—
2001 No. 268	5 Oct 2001	5 Oct 2001	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1.....	rs. 2000 No. 177
R. 2A	ad. 2001 No. 268
Rr. 9, 10.....	am. 2001 No. 268
R. 13.....	rs. 1992 No. 333
Schedule	am. 1992 No. 333
Form 3	rep. 1992 No. 333
Form 4	rs. 2000 No. 177
Form 6	rs. 2000 No. 177
Form 8	am. 1992 No. 333
Forms 9, 10	rs. 2000 No. 177
Forms 11, 12	am. 1992 No. 333
Forms 13–15	am. 1992 No. 333 rs. 2000 No. 177
Form 20A, 20B	ad. 1992 No. 333
Forms 21, 22	am. 1992 No. 333
Form 23	am. 1992 No. 333 rs. 2000 No. 177
Form 24	am. 1992 No. 333
Form 27	rs. 2000 No. 177

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