



Fact sheet 2 – Overview of the Extradition Process

This fact sheet is information, not legal advice

This fact sheet provides general information only. It does not give legal advice on the operation of the *Extradition Act 1988* (Cth) (the Extradition Act) and should not be relied on as legal advice.

Why do we need extradition?

Australia needs to ensure that criminals cannot evade justice simply by crossing borders. This requires an effective extradition regime that includes appropriate safeguards.

Australia's extradition relationships with other countries exist to enable Australia to ensure the effective administration of criminal justice in this country. Australia's extradition relationships also enable us to cooperate with partner countries to combat crime and prevent Australia from becoming a refuge and safe haven for persons accused of serious crimes in other countries.

Statistics about cases

Information about the number of extradition requests made and received by Australia is available in our annual report, which can be downloaded at www.ag.gov.au.

What is extradition?

Extradition is the process by which one country apprehends and sends a person to another country to face criminal charges or serve a sentence.

There is also a system of streamlined interstate extradition within Australian. This fact sheet is only about international extradition, not interstate extradition.

For example, extradition is used if a person commits an offence, such as murder, in Australia and flees to the United States (US) before he or she is prosecuted. In that case, Australia could make an extradition request to the US for the arrest of the person in the US and his or her return to Australia to face prosecution.

The Extradition Act provides Australia's legislative basis for extradition. It sets out a number of mandatory requirements which must be met before Australia can make or accept an extradition request. Those requirements may be supplemented by requirements contained in a multilateral or bilateral treaty.

The International Crime Cooperation Central Authority of the Australian Government Attorney-General's Department is the Australian Central Authority that administers the Extradition Act.

Who can make an extradition request in Australia?

Australian extradition requests can only be made by the Attorney-General. Extradition is not available at the request of members of the public.

Which countries can Australia make an extradition request to?

Australia is able to make an extradition request to any country. Australia's treaty partners have obligations to consider Australia's requests. In the absence of a treaty, it is a matter for the foreign country in accordance with its domestic laws and procedures, to determine whether the country can agree to Australia's extradition request.

Which countries can make an extradition request to Australia?

Countries defined as an 'extradition country' in Australian legislation can make an extradition request to Australia. An extradition country is defined in the Extradition Act and includes any country that is declared by the regulations to be an extradition country. For example, the *Extradition (United States of America) Regulations* declare that the US is an extradition country and enable Australia to receive extradition requests from the US.

This is different from mutual assistance. Australia can receive mutual assistance requests from any country, without the need for regulations or a treaty.

Extradition between Australia and New Zealand

There is a separate extradition process for all extradition requests between Australia and New Zealand. For general information regarding the extradition process between Australia and New Zealand, please refer to:

- Flowchart 6 – Procedure for Incoming New Zealand extradition requests
- Flowchart 7 – Procedure for Outgoing New Zealand extradition requests