



# Extradition Amendment Act (No 2) 2002

Public Act 2002 No 64  
Date of assent 18 December 2002  
Commencement see section 2

## Contents

1	Title	11	Endorsement of warrant issued in extradition country
2	Commencement	12	Issue in New Zealand of provisional arrest warrant
3	Meaning of extradition offence	13	Powers of court
4	Request for surrender	14	Referral of case to Minister in certain circumstances
5	Provisional arrest warrant may be issued	15	Discharge of person if not surrendered within 2 months
6	Powers of court	16	Extension of Act for individual requests
7	Determination of eligibility for surrender	17	Application to appeal of certain provisions of Summary Proceedings Act 1957
8	Record of case may be submitted by exempted country at hearing		
9	Minister must determine whether person to be surrendered		
10	Discharge of person if not surrendered within 2 months		

## The Parliament of New Zealand enacts as follows:

### 1 Title

- (1) This Act is the Extradition Amendment Act (No 2) 2002.
- (2) In this Act, the Extradition Act 1999 is called “the principal Act”.

### 2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

### 3 Meaning of extradition offence

- (1) Section 4(1)(a) of the principal Act is amended by—
  - (a) omitting the words “An offence punishable under the law of an”, and substituting the words “In relation to an

extradition country, an offence punishable under the law of the”; and

- (b) omitting the words “; and”, and substituting the expression “:”.
- (2) Section 4(1)(b) of the principal Act is amended by inserting, after the word “to”, the words “a request by”.

#### **4 Request for surrender**

- (1) Section 18(1) of the principal Act is amended by omitting the words “made to the Minister of Foreign Affairs and Trade for transmission”, and substituting the word “transmitted”.
- (2) Section 18(4)(a) of the principal Act is amended by repealing subparagraph (i), and substituting the following subparagraph:
- “(i) a warrant for the arrest of the person for the offence issued in the extradition country by a court or a Judge or other person having authority under the law of the extradition country to issue it; or”.

#### **5 Provisional arrest warrant may be issued**

Section 20(1) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

- “(a) a warrant for the arrest of a person has been issued in an extradition country by a court or a Judge or other person having authority under the law of the extradition country to issue it; and”.

#### **6 Powers of court**

Section 22 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

- “(3) Despite section 46(1) and (2) of the Summary Proceedings Act 1957 (as applied by section 153 of that Act) and section 28(2) of the Bail Act 2000, a decision under this Part to remand a person in custody or on bail may be made only by a Judge.”

**7 Determination of eligibility for surrender**

Section 24(3)(b) of the principal Act is amended by inserting, before the word “that”, the words “except in relation to a matter referred to in section 30(2)(ab),”.

**8 Record of case may be submitted by exempted country at hearing**

- (1) Section 25(3) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

“(b) a certificate by a person described in subsection (3A) stating that, in his or her opinion, the record of the case discloses the existence of evidence that is sufficient under the law of the exempted country to justify a prosecution in that country.”

- (2) Section 25 of the principal Act is amended by inserting, after subsection (3), the following subsection:

“(3A) A person referred to in subsection (3)(b) is—

“(a) the Attorney-General or principal law officer of the exempted country, or his or her deputy or delegate; or  
“(b) any other person who has, under the law of the exempted country, control over the decision to prosecute.”

- (3) Section 25 of the principal Act is amended by repealing subsection (5), and substituting the following subsection:

“(5) A court to which a certificate under subsection (3)(b) is produced must take judicial notice of the signature on it of a person described in subsection (3A).”

**9 Minister must determine whether person to be surrendered**

Section 30(2) of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

“(ab) if the Minister is satisfied that a mandatory restriction on the surrender of the person applies under the provisions of the treaty (if any) between New Zealand and the extradition country; or”.

**10 Discharge of person if not surrendered within 2 months**

Section 36 of the principal Act is amended by adding the following subsections:

- “(4) Despite subsection (1), no order may be made under this section for the discharge of a person if—
- “(a) it appears to the court that another request has been made under this Act for the surrender of the person, that request having been received—
    - “(i) on or before the date on which the warrant referred to in subsection (1)(a) was issued; or
    - “(ii) if an appeal or application referred to in subsection (1)(b) was made, on or before the date that the proceedings were finally determined; and
  - “(b) a final decision on the surrender of the person in relation to that request has not been made.
- “(5) For the purposes of subsection (4), **request** includes a warrant produced for endorsement under Part 4.”

#### **11 Endorsement of warrant issued in extradition country**

Section 41(1) of the principal Act is amended by omitting the words “a judicial officer of a court having lawful authority”, and substituting the words “other person having lawful authority under the law of the extradition country”.

#### **12 Issue in New Zealand of provisional arrest warrant**

Section 42(1)(a) of the principal Act is amended by omitting the words “a judicial officer of a court having lawful authority”, and substituting the words “other person having lawful authority under the law of the extradition country”.

#### **13 Powers of court**

Section 43 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

- “(3) Despite section 46(1) and (2) of the Summary Proceedings Act 1957 and section 28(2) of the Bail Act 2000, a decision under this Part to remand a person in custody or on bail may be made only by a Judge.”

#### **14 Referral of case to Minister in certain circumstances**

- (1) Section 48(1)(c) of the principal Act is amended by omitting the expression “,—”, and substituting the expression “; or”.
- (2) Section 48(1) of the principal Act is amended by inserting, after paragraph (c), the following paragraph:

“(d) it appears to the court that another request has been made under this Act for the surrender of the person, and a final decision on the surrender of the person in relation to that request has not been made,—”.

(3) Section 48 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) For the purposes of subsection (1)(d), **request** includes a warrant produced for endorsement under this Part.”

### **15 Discharge of person if not surrendered within 2 months**

Section 57 of the principal Act is amended by adding the following subsections:

“(4) Despite subsection (1), no order may be made under this section for the discharge of a person if the case has been referred to the Minister under section 48 and—

“(a) it appears to the court that another request has been made under this Act for the surrender of the person, that request having been received—

“(i) on or before the date on which the warrant referred to in subsection (1)(a) was issued; or

“(ii) if an appeal or application referred to in subsection (1)(b) was made, on or before the date that the proceedings were finally determined; and

“(b) a final decision on the surrender of the person in relation to that request has not been made.

“(5) For the purposes of subsection (4), **request** includes a warrant produced for endorsement under this Part.”

### **16 Extension of Act for individual requests**

Section 60 of the principal Act is amended by repealing subsection (7), and substituting the following subsection:

“(7) Without limiting subsection (6), a provisional arrest warrant in relation to a person who is, or is suspected of being, in New Zealand or on his or her way to New Zealand may be issued in accordance with Part 3 even if a request to which this section applies has not yet been made.”

## **17 Application to appeal of certain provisions of Summary Proceedings Act 1957**

- (1) The heading to section 69 of the principal Act is amended by adding the words “**and Bail Act 2000**”.
- (2) Section 69 of the principal Act is amended by repealing paragraph (h) and paragraph (q).
- (3) Section 69 of the principal Act is amended by adding, as subsection (2), the following subsection:  
“(2) Section 47 of the Bail Act 2000 (which relates to the surrender of an appellant released on bail) applies with any necessary modifications to an appeal under this Part as if it were an appeal under Part IV of the Summary Proceedings Act 1957 against the determination by a District Court of an information or complaint.”

---

### **Legislative history**

12 December 2002	Divided from Statutes Amendment Bill (No 2) (Bill 198–2), third reading
18 December 2002	Royal assent

---

This Act is administered in the Ministry of Justice.

---