



HOUSE OF REPRESENTATIVES

# Supplementary Order Paper

Tuesday, 18 May 1999

MARITIME AND AVIATION CRIMES BILL

*Proposed Amendments*

Rt Hon DON MCKINNON, in Committee, to move the following amendments:

*Clause 1:* To omit subclauses (2) to (5) (lines 26 to 34 on page 2), and substitute the following subclauses:

- (2) **Part 1** comes into force on 1 September 1999.
- (3) **Part 2** comes into force on 1 September 1999.
- (4) **Part 4** comes into force on the day after the date on which this Act receives the Royal assent.

*Clause 15:* To omit from subclause (1) the expression "Extradition Act 1965 and any Order in Council made under section 3 of that Act or referred to in section 21 of that Act," (lines 18 to 20 on page 13), and substitute the expression "**Extradition Act 1999** and any Order in Council in force under **section 14 or section 38 or section 93** of that Act,".

To omit from subclause (2) the expression "Extradition Act 1965" (line 27 on page 13), and substitute the expression "**Extradition Act 1999**".

*Clause 16:* To omit this clause (line 32 on page 13 to line 6 on page 14).

*Clause 17:* To omit this clause (line 7 on page 14 to line 4 on page 15), and substitute the following clause:

**17. Restriction on surrender**—(1) If the surrender of a person is sought in respect of any act or omission that amounts to a crime described in **section 3 or section 4**, the Minister of Justice, or the court before which that person is brought, in deciding whether to order the surrender of that person must have due regard to whether the country that is seeking the surrender will give effect to the following rights of that person:

- (a) The right to communicate, without delay, with the nearest appropriate representative of the country of which that person is a citizen or is habitually resident; and
- (b) The right to be visited by a representative of the country referred to in **paragraph (a)**.

(2) To avoid doubt, **section 89** of the **Extradition Act 1999** applies if 2 or more countries seek and obtain an order for the surrender of the same person in respect of any act or omission that amounts to a crime described in **section 3** or **section 4**.

(3) If—

(a) Two or more countries request the surrender of a person under the **Extradition Act 1999** in respect of any act or omission that amounts to a crime described in **section 3**; and

(b) Those countries are parties to the Rome Convention; and

(c) The ship in respect of which the act or omission relates was flying the flag of 1 of those countries when the alleged crime was committed,—

then the Minister of Justice must, in addition to the matters specified in **section 89 (2)** of the **Extradition Act 1999**, have due regard to the interests and responsibilities of the country whose flag the ship was flying.

(4) This section does not limit any other considerations that the Minister of Justice or a court may take into account when considering whether or not to order the surrender of a person.

*Clause 18:* To omit the expression “or **section 16**” (line 8 on page 15).

*Clause 28:* To omit from new section 7A (1) the expression “Extradition Act 1965 and any Order in Council made under section 3 of that Act or referred to in section 21 of that Act,” (lines 12 to 14 on page 18), and substitute the expression “**Extradition Act 1999** and any Order in Council in force under **section 14** or **section 93** of that Bill,”.

To omit from new section 7A (2) the expression “Extradition Act 1965” (line 22 on page 18), and substitute the expression “**Extradition Act 1999**”.

To omit new section 7A (3) (lines 28 to 30 on page 18), and substitute the following subsection:

“(3) This section does not apply in respect of an act or omission that, had it occurred within the jurisdiction of New Zealand, would not at that time have constituted an offence under New Zealand law.

*Clause 29:* To omit this clause (lines 9 to 19 on page 19).

*Part 3:* To omit this Part (lines 18 to 30 on page 20).

*Clause 37 (2):* To omit this subclause (lines 9 and 10 on page 21), and substitute the following subclause:

(2) This Part comes into force on the day after the date on which this Act receives the Royal assent.

*Clauses 38 to 41:* To omit these clauses (line 11 on page 21 to line 24 on page 22), and substitute the following clauses:

**38. Limitations on requests by convention countries—**Section 24A of the principal Act is amended by adding the following subsection:

“(6) If a convention country requests assistance under this Part in accordance with a convention specified in Part 6 of Schedule 1, the request must relate to criminal matters arising from the commission or suspected commission of an offence that, if committed within the jurisdiction of New Zealand, would correspond to an offence against **section 3** or **section 4** of the **Maritime and Aviation Crimes Act 1999**.”

**39. Further limitations on requests by convention countries**—(1) Section 24B(2)(b) of the principal Act is amended by inserting, after the expression “24A(4)”, the expression “or section 24A(6)”.

(2) Section 24B(3) of the principal Act is amended by inserting, after the expression “section 24A(4)”, the expression “or section 24A(6)”.

**40. Schedule 1 amended**—(1) Schedule 1 of the principal Act is amended by adding to Part 5 the following item:

“The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988.”

(2) Schedule 1 of the principal Act is amended by adding the Part set out in **Schedule 3**.

**41. Schedule 2 amended**—Schedule 2 of the principal Act is amended by adding to Part 4 the following item:

“Section 5A | Crimes relating to international airports”

*Schedule 1:* To omit this schedule (page 23).

*Schedule 2:* To omit this schedule (page 24).

*Schedule 3:* To omit this schedule (page 24), and substitute the following schedule:

SCHEDULE 3 Section 40  
NEW PART ADDED TO SCHEDULE 1 OF MUTUAL ASSISTANCE IN CRIMINAL  
MATTERS ACT 1992

“PART 6

The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988

The Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988”.

*Schedule 4:* To omit this schedule (page 25).

EXPLANATORY NOTE

The amendments proposed in this Supplementary Order Paper—

(a) Make changes to the Bill required for consistency between this Bill and the Extradition Bill:

(b) Revise the amendments to the Mutual Assistance in Criminal Matters Act 1992 as a consequence of the passing of the Mutual Assistance in Criminal Matters Amendment Act 1999.

*Clause 1* is amended to provide that *Parts 1 and 2* of the Bill come into force on 1 September 1999. This is the date on which the Extradition Bill will come into force. The reference to *Part 3* is omitted because that Part is omitted from the Bill by an amendment proposed in this Supplementary Order Paper. The date that *Part 4* comes into force is changed to the day after Royal assent. That Part had been expressed to come into force by Order in Council because the provisions it amends were not yet in force. Those provisions are now in force.

*Clauses 15, 16, 17, 18, 28, and 29* are amended to incorporate appropriate references to the provisions of the Extradition Bill.

*Part 3* is omitted. The amendment to the Extradition Act 1965 is no longer required.

*Clause 37(2)* is amended to insert the revised commencement date for *Part 4*.

*Clauses 37 to 41* are omitted and new clauses 37 to 41 are substituted. These clauses make amendments to section 24A, section 24B, Schedule 1, and Schedule 2 of the Mutual Assistance in Criminal Matters Act 1992. These amendments have been redrafted as a consequence of the passing of the Mutual Assistance in Criminal

Matters Amendment Act 1999 which also amended those provisions of the principal Act. No substantive change is intended to the effect of the amendments inserted into the Bill by the select committee.

*Schedules 1 and 2* are omitted. These schedules are no longer necessary as a consequence of the provisions of the Extradition Bill.

*Schedule 3* is omitted and a new schedule substituted. This schedule is amended to correspond with the changes to *clauses 38 to 41*.

*Schedule 4* is no longer needed as a consequence of the changes made to *clauses 38 to 41*, and is omitted.