

2003 No. 1873

EXTRADITION

**The European Convention on Extradition (Amendment
No. 2) Order 2003**

Made - - - - - *17th July 2003*

Laid before Parliament *29th July 2003*

Coming into force - - *19th August 2003*

At the Court at Buckingham Palace, the 17th day of July 2003

Present,

The Queen's Most Excellent Majesty in Council

Whereas South Africa ratified the European Convention on Extradition (“the Convention”)(a), on 13th May 2003 and made the reservation and declaration set out in article 2(4) to this Order;

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 4(1) of the Extradition Act 1989(b), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the European Convention on Extradition (Amendment No. 2) Order 2003 and shall come into force on 19th August 2003.

2.—(1) The European Convention on Extradition Order 2001(c) shall be amended as follows.

(2) In article 2(2) (which provides that certain states shall be treated as foreign states for the purposes of the procedures under Part III of the Extradition Act 1989)—

- (a) remove “and Malta”; and
- (b) after “Cyprus” insert “, Malta and South Africa”.

(3) In Part I of Schedule 3 (which names the States parties to the Convention), at the appropriate point in alphabetical order, the following entry is inserted—

“South Africa”.

(a) Cm. 1762.

(b) 1989 c. 33.

(c) S.I. 2001/962 as amended by S.I. 2002/1829 and S.I. 2003/408.

(4) In Schedule 4 (which sets out the reservations and declarations made by States parties to the Convention), the following Part shall be inserted after Part 33—

“PART 33A
SOUTH AFRICA
RESERVATION

Article 2

For the purposes of Article 2 of the Convention, the Republic of South Africa shall not extradite any person unless the punishment awarded for a conviction in respect of which he or she is being sought, is a sentence of imprisonment of at least six months.

DECLARATION

Article 6

For the purposes of Article 6 of the Convention, the term “nationals” is defined, in terms of South Africa’s legal system, as persons who have acquired South African citizenship by means of birth, descent or naturalisation. This includes persons with citizenship of South Africa and of another country. These persons will all be liable to be extradited. South Africa’s acceptance of dual citizenship will therefore not bar the extradition of a person where he or she is also in possession of a citizenship of a country which prohibits the extradition of its nationals.”.

A. K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the European Convention on Extradition Order 2001. Article 2(3) adds South Africa to the list in Part I of Schedule 3 to that Order of the States parties to the European Convention on Extradition. Article 2(4) adds the reservation and declaration made by South Africa to those of other States parties set out in Schedule 4 to that Order.

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