

CHAPTER 98 EXTRADITION ACT

• Act • Subsidiary Legislation •

ACT

Act No. 22 of 1998

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CHAPTER 98 EXTRADITION ACT

An Act to make new provision with respect to extradition.

[Act No. 22 of 1998.]

[17th April, 2000.]

PART I

Preliminary

1. Short title

This Act may be cited as the Extradition Act.

2. Interpretation

(1) In this Act—

“appropriate authority” has the meaning assigned to it by section 8(7);

“authority to proceed” has the meaning assigned to it by section 9(1);

“Commonwealth country” means a country, other than Grenada, that is mentioned in the First Schedule;

“court of committal” has the meaning assigned to it by section 11(1);

“dependency”, in relation to a foreign State or Commonwealth country, means a dependent territory including a protectorate and a protected State of a foreign State or a Commonwealth country;

“extradition arrangements”, “general extradition arrangements” and “special extradition arrangements” have the meanings assigned to them by section 5;

“extradition offence” is to be construed in accordance with section 4;

“extradition request” has the meaning assigned to it by section 9(1);

“foreign State” means any State, other than Grenada, that is not a Commonwealth country;

“Interpol” means the International Criminal Police Organisation;

“Minister” means the Minister responsible for Foreign Affairs;

“provisional warrant” has the meaning assigned to it by section 10(1).

(2) For the purposes of this Act, a person convicted in his or her absence in a Commonwealth country or any foreign State shall be treated as a person accused of the offence of which he or she is convicted.

PART II

Application

3. Liability to extradition

(1) Where extradition procedures under Part IV are available as between Grenada and a foreign State, a person in Grenada who—

- (a) is accused in that State of the commission of an extradition offence; or
- (b) is alleged to be unlawfully at large after conviction of an extradition offence by a court in that State,

may be arrested and surrendered to that State in accordance with those procedures.

(2) Subject to the provisions of this Act, a person in Grenada who is accused of an extradition offence in a Commonwealth country or who is alleged to be unlawfully at large after conviction of such an offence in any such country, may be arrested and surrendered to that country in accordance with extradition procedures under Part IV.

4. Meaning of extradition offence

(1) In this Act, “extradition offence” means—

- (a) conduct in the territory of a foreign State or a Commonwealth country which, if it occurred in Grenada, would constitute an offence which, on indictment, is punishable with imprisonment for a term of five years, or any greater punishment, and which, however described in the laws of the foreign State or Commonwealth country, is so punishable under those laws; or
- (b) an extra-territorial offence against the laws of a foreign State or a Commonwealth country which, on indictment, is punishable under those laws with imprisonment for a term of five years, or any greater punishment, and which satisfies—

- (i) the condition specified in subsection (2), or
- (ii) all the conditions specified in subsection (3).

(2) For the purposes of subsection (1)(b)(i), the condition is that in corresponding circumstances, equivalent conduct would constitute an extraterritorial offence against the Laws of Grenada which, on indictment, is punishable with imprisonment for a term of five years, or any greater punishment.

(3) For the purposes of subsection (1)(b)(ii), the conditions are—

- (a) that the foreign State or Commonwealth country bases its jurisdiction on the nationality of the offender;
- (b) that the conduct constituting the offence occurred outside Grenada; and
- (c) that, if the conditions constituting the offence occurred in Grenada, it would constitute an offence against the Laws of Grenada which, on indictment, would be punishable with imprisonment for a term of five years, or any greater punishment.

(4) For the purposes of subsections (1) to (3)—

- (a) the laws of a foreign State or a Commonwealth country includes the laws of any part of it; and
- (b) conduct in a colony or dependency of a foreign State or a Commonwealth country, or a vessel, aircraft or hovercraft of a foreign State or a Commonwealth country, shall be treated as if it were conduct in the territory of that State or Commonwealth country.

5. Arrangements for availability of Part IV procedure

(1) In this Act, “extradition arrangements” means arrangements made with a foreign State under which extradition procedures under Part IV will be available as between Grenada and that State.

(2) Extradition arrangements may be—

- (a) arrangements of a general nature made with one or more States and relating to the operation of extradition procedures under Part IV, in this Act referred to as “general extradition arrangements”; or
- (b) arrangements relating to the operation of those procedures in particular cases, in this Act referred to as “special extradition arrangements”, made with a State with which there are no general extradition arrangements.

6. Orders as to extradition

(1) Where general extradition arrangements have been, made, the Minister may, by order reciting and embodying the terms of the arrangements, direct that this Act, so far as it relates to extradition procedures under Part IV, shall apply as between Grenada and any foreign State mentioned in the order with which they have been made, subject to the limitations, restrictions, exceptions and qualifications, if any, contained in the order.

(2) An order under this section shall not be made unless the general extradition arrangements to which it relates—

- (a) provide for their determination after the expiration of a period of notice given by a party to them and not exceeding one year or for their denunciation by means of such notice; and
- (b) are in conformity with the provisions of this Act, and in particular, with the restrictions on surrender contained in Part III.

(3) An order under this section shall be conclusive evidence that the arrangements therein referred to comply with the provisions of this Act and that this Act, so far as it relates to extradition procedures under Part IV, applies in the case of foreign State mentioned in the order.

(4) An order under this section shall be subject to negative resolution of the House of Representatives.

(5) An order under this section which does not provide that a person may only be surrendered to the foreign State requesting his or her surrender if the court of committal is satisfied that the evidence would be sufficient to warrant his or her trial if the extradition offence had taken place within the jurisdiction of the court, is null and void and of no effect.

7. Application of Act to Commonwealth countries

(1) The Minister may by order direct that this Act shall have effect in relation to the surrender of a person to, or a person from, a Commonwealth country, subject to such exceptions, adaptations or modifications as may be specified in the order.

(2) Any order under this section may contain such transitional or other incidental or supplementary provisions as may appear to the Minister to be necessary or expedient.

(3) For the purposes of any order under subsection (1), where any Commonwealth country is responsible for the external relations of a territory, that territory may be treated as part of that Commonwealth country or, if the Government of that country so requests, as a separate country.

(4) Any order under this section is subject to negative resolution of the House of Representatives.

PART III

Restrictions on Surrender

8. General restrictions

(1) A person shall not be surrendered under Part IV, or committed, or kept in custody for the purposes of surrender, if it appears to an appropriate authority that—

- (a) the offence of which that person is accused or was convicted is an offence of a political character;
- (b) the offence of which that person is accused or was convicted is an offence under military law which is not also an offence under the general criminal law;
- (c) the request for his or her surrender, though purporting to be made on account of an extradition offence, is in fact made for the purpose of prosecuting or punishing him or her on account of his or her race, religion, nationality, political opinions, sex or status;
- (d) he or she might, if surrendered, be prejudiced at his or her trial or punished, detained or restricted in his or her personal liberty by reason of his or her race, religion nationality, political opinions, sex or status;
- (e) final judgement has been given against the person in Grenada or a third country for the offence;
- (f) under the laws of the requesting country or the Laws of Grenada, the person has become immune from prosecution or punishment because of lapse of time or any other reason;

- (g) the person has already been acquitted or pardoned in the country making the extradition request or Grenada, or punished under the laws of that country or the Laws of Grenada for the offence or another offence constituted by the same conduct as constitutes the extradition offence;
- (h) the person has been or would be subjected in the country making the extradition request to torture or cruel, inhuman or degrading treatment or punishment.

(2) A person who is alleged to be unlawfully at large after conviction of an extradition offence shall not be surrendered to a foreign State, or committed or kept in custody for the purposes of surrender to a foreign State, if it appears to an appropriate authority that—

- (a) the conviction was obtained in his or her absence; and
- (b) it would not be in the interests of justice to surrender him or her on the ground of that conviction.

(3) Grenada shall not refuse to surrender a person because the person may be subjected to torture or cruel, inhuman or degrading treatment or punishment if the country making the extradition request and Grenada are parties to—

- (a) the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment being the Convention of that title that was adopted by the General Assembly of the United Nations on 10 December, 1984;
- (b) the International Covenant on Civil and Political Rights; or
- (c) any other like Convention which supersedes or replaces any Convention mentioned in paragraphs (a) and (b).

(4) A person shall not be surrendered, or committed or kept in custody for the purposes of such surrender, unless provision is made by relevant law, or by an arrangement with the country making the extradition request that the person will not, unless he or she has first had an opportunity to leave it, be dealt with there for or in respect of any offence committed before his or her surrender to that country other than—

- (a) the offence in respect of which his or her surrender is ordered;
- (b) an offence which is disclosed by the facts in respect of which his or her surrender was ordered;
- (c) any other extradition offence in respect of which the Minister may consent to his or her being dealt with.

(5) Any such arrangement as is mentioned in subsection (4) which is made with a Commonwealth country may be an arrangement made for the particular case or an arrangement of a more general nature; and for the purposes of that subsection a certificate issued by or under the authority of the Minister confirming the existence of an arrangement with a Commonwealth country and stating its terms, shall be conclusive evidence of the matters contained in the certificate.

(6) The reference in subsection (1) to an offence of a political character does not include—

- (a) an offence constituted by conduct of a kind referred to in any multilateral Convention to which Grenada is a party, being an offence in respect of which the States which are parties thereto have an obligation to extradite or to prosecute the person sought;
- (b) the offence of genocide;
- (c) an offence against the life or person of a Head of State or a member of his or her immediate family or any related offence;

- (d) an offence against the life or person of a Head of Government or of a Minister of Government or any related offence;
 - (e) any other offence in respect of which agreement has been reached with another country that it will not be treated as a political offence for the purposes of extradition.
- (7) In this Act, “appropriate authority” means—
- (a) the Minister;
 - (b) the court of committal;
 - (c) the High Court on an application for *habeas corpus* or for the review of any proceedings under this Act;
 - (d) the Court of Appeal on an appeal against any decision of the High Court under this Act.

PART IV

Procedure

9. Extradition request and authority to proceed

(1) Subject to the provisions of this Act relating to provisional warrants, a person shall not be dealt with under this Part except in pursuance of an Order of the Minister, in this Act referred to as an “authority to proceed”, issued in pursuance of a request, in this Act referred to as an “extradition request”, for the surrender of a person under this Act made—

- (a) by a person recognised by the Minister as a diplomatic or consular representative of a foreign State or a dependency of that foreign State; or
 - (b) by or on behalf of the Government of a Commonwealth country, or a dependency of that Commonwealth country.
- (2) There shall be furnished with such request—
- (a) as accurate a description as possible of the person whose extradition is sought, together with any other information that may help to establish the identity and nationality of the person;
 - (b) the text of the law creating the offence, or where the offence is a common law offence, a statement of the offence and a statement of the penalty which can be imposed for the offence;
 - (c) a statement of the conduct constituting the offence for which extradition is sought, together with details of the time and place of commission of the offence;
 - (d) in the case of a person accused of an offence, an original or authenticated copy of a warrant issued in the country making the extradition request for his or her arrest;
 - (e) where the person has been convicted of the offence for which his or her surrender is sought, the original or authenticated copy of the judgement or other document setting out the conviction and the sentence imposed, if any, and a statement that the sentence is immediately enforceable; and
 - (f) where the person has been convicted of the offence for which extradition is sought and no sentence has been imposed, the original or an authenticated copy of the judgement or other document setting out the conviction and a statement of intention to impose a sentence.

(3) Copies of the documents mentioned in subsection (2) shall be served on the person who is sought to be surrendered before he or she is brought before the court of committal.

(4) Regulations under section 32 may make provisions as to the procedure for service under subsection (3).

(5) On receipt of any extradition request, the Minister may issue an authority to proceed unless it appears to him or her that an order for the surrender of the person concerned could not lawfully be made, or could not in fact be made, in accordance with the provisions of this Act.

(6) An authority to proceed shall specify the offence under the Laws of Grenada which it appears to the Minister would be constituted by equivalent conduct in Grenada.

(7) In this section, “warrant”, in the case of a foreign State, includes any judicial document authorising the arrest of a person accused of an offence.

10. Arrest for purposes of committal

(1) For the purposes of this Part, a warrant for the arrest of a person may be issued—

- (a) on receipt of an authority to proceed by a Magistrate;
- (b) without such an authority, by a Magistrate or Justice of the Peace upon information from Interpol, or any other credible source, that the said person is or is believed to be in or on his or her way to Grenada.

(2) A warrant issued by virtue of subsection (1)(b) is in this Act referred to as a “provisional arrest warrant”.

(3) A person empowered to issue a provisional warrant under this section shall issue such warrant if he or she is supplied with such evidence as would, in his or her opinion, justify the issue of a warrant for the arrest of a person accused or, as the case may be, convicted within his or her jurisdiction and it appears to him or her that the conduct alleged would constitute an extradition offence.

(4) Where a provisional warrant is issued under this section, the authority by whom it is issued shall forthwith give notice to the Minister, and transmit to him or her the information and evidence upon which it was issued; and the Minister may in any case, and shall, if he or she decides not to issue an authority to proceed in respect of the person to whom the warrant relates, by order cancel the warrant and, if that person has been arrested under it, discharge him or her from custody.

(5) A warrant of arrest issued under this section may be executed in any part of Grenada and may be so executed by any person to whom it is directed or by any member of the Police Force.

(6) Where a warrant is issued under this section for the arrest of a person accused of the offence of stealing or receiving stolen property in a Commonwealth country or any other offence committed in that country in respect of property, a Magistrate shall have the like power to issue a warrant to search for the property as if the offence had been committed within his or her jurisdiction.

11. Proceedings for committal

(1) A person arrested in pursuance of warrant under section 10 shall, unless previously discharged under section 10(4), be brought as soon as practicable before a Magistrate, in this Act referred to as “the court of committal”, as may be directed by the warrant.

(2) For the purposes of proceedings under this section, a court of committal in Grenada shall have the like jurisdiction and powers, as nearly as may be, including power to remand in custody or admit to bail, as a Magistrate exercising jurisdiction in a preliminary inquiry.

(3) Where—

- (a) the extradition request is made by a foreign State; and
- (b) an order such as is mentioned in subsection (7) is in force in relation to that State,

there is no need to furnish the court of committal with evidence sufficient to warrant the trial of the arrested person if the extradition offence had taken place within the jurisdiction of the court.

(4) Where the person arrested is in custody by virtue of a provisional warrant and no authority to proceed has been received in respect of him or her, the court of committal may fix a period, of which the court shall give notice to the Minister, after which he or she shall be discharged from custody unless such an authority has been received.

(5) In exercising the power conferred by subsection (4) in a case where the extradition request is made under general extradition arrangements, the court shall have regard to any period specified for the purpose in the order made under section 6 in relation to such general extradition arrangements.

(6) Where—

- (a) the extradition request is made under general extradition arrangements but no period is so specified; or
- (b) the application is made under special extradition arrangements, the court of committal may fix a reasonable period.

(7) Where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied, after hearing any representations made in support of the extradition request or on behalf of such person, that the offence to which the authority relates is an extradition offence, and is further satisfied—

- (a) where that person is accused of the offence, unless an order under section 6 giving effect to the general extradition arrangements under which the extradition request was made otherwise provides, that the evidence would be sufficient to warrant his or her trial if the extradition offence had taken place within the jurisdiction of the court; or
- (b) where that person is alleged to be unlawfully at large after conviction of the offence, that he or she has been so convicted and appears to be at large,

the court, unless his or her committal is prohibited by any other provision of this Act, shall commit him or her to custody or admit him or her to bail—

- (i) to await the Minister's decision on his or her surrender, or
- (ii) if the Minister decides that he or she shall be surrendered, to await his or her surrender.

(8) If the court commits a person under subsection (7), it shall issue a certificate of the offence against the Laws of Grenada which would be constituted by his or her conduct.

(9) If the court commits a person to custody under subsection (7), it may subsequently admit him or her to bail if it considers it appropriate to do so.

(10) If—

- (a) the court is not satisfied as mentioned in subsection (7) in relation to the person arrested; or
- (b) the person's committal is prohibited by a provision of this Act,

the court shall discharge him or her.

12. Statement of case by court

(1) If the court of committal refuses to make an order in relation to a person under section 11 in respect of the offence or, as the case may be, any of the offences to which the authority to proceed relates, the foreign State or Commonwealth country seeking the surrender of that person to it, may question the proceedings on the ground that it is wrong in law by applying to the court to state a case for the opinion of the High Court on the question of law involved.

(2) If the foreign State or Commonwealth country seeking the surrender immediately informs the court of committal that it intends to make such an application, the court shall make an order for the detention of the person to whom the authority to proceed relates, or directing that he or she shall not be released except on bail.

(3) Rules of court may specify—

- (a) a period within which such an application must be made; and
- (b) a period within which the court of committal must comply with such an application.

(4) Where the court of committal fails to comply with an application under subsection (1) within the period specified by rules of court, the High Court may, on the application of the foreign State or Commonwealth country that applied for the case to be stated, make an order requiring the court to state a case.

(5) The High Court may—

- (a) remit the case to the court of committal to decide it according to the opinion of the High Court on the question of law; or
- (b) dismiss the application.

(6) Where the High Court dismisses an application relating to an offence, it shall declare that the offence is not an offence in respect of which the Minister has power to make an order for surrender in respect of the person whose surrender was requested.

(7) A detention order made by the court of committal under subsection (2) shall cease to have effect if—

- (a) the High Court dismisses the application in respect of the offence or all of the offences to which it relates; and
- (b) the foreign State or Commonwealth country does not, within seven days from the date of the dismissal, inform the High Court that it intends to appeal to the Court of Appeal.

(8) The Court of Appeal may exercise any of the power of the High Court under subsection (5), and subsection (6) shall apply to the Court of Appeal as it applies to the High Court.

(9) An order under subsection (2) shall have effect so long as the case is pending.

(10) For the purposes of this section, a case is pending until, disregarding any power of a court to grant leave to take any step out of time, there is no step that the foreign State or Commonwealth country can take.

13. Application for *habeas corpus*, etc.

(1) Where a person is committed under section 11, the court shall inform him or her in ordinary and simple language of his or her right to make an application for *habeas corpus* and shall forthwith give notice of the committal to the Minister.

(2) A person committed shall not be surrendered—

- (a) in any case, until the expiration of the period of fifteen days beginning with the day on which the order for his or her committal is made; or

(b) if an application for *habeas corpus* is made in his or her case, so long as proceedings on that application are pending.

(3) Without prejudice to any jurisdiction of the High Court apart from this section, the court shall order the applicant's discharge if it appears to the court in relation to the offence in respect of which the applicant's surrender is sought, that—

- (a) by reason of the trivial nature of the offence;
- (b) by reason of the passage of time since the applicant is alleged to have committed the offence or to have become unlawfully at large, as the case may be; or
- (c) because the accusation against him or her is not made in good faith in the interests of justice, it would, having regard to all the circumstances, be unjust or oppressive to surrender him or her.

(4) On any such application, the court may receive additional evidence relevant to the exercise of its jurisdiction under section 8 or subsection (3) of this section.

(5) Proceedings on an application for *habeas corpus* shall be treated for the purposes of this section as pending until, disregarding any power of the court to grant leave to appeal out of time, there is no further possibility of an appeal.

14. Consent to surrender

(1) If an authority to proceed has been issued in relation to a person, the person may inform a Magistrate that he or she consents to being surrendered to the country requesting his or her extradition for the offence for which his or her surrender is being sought by that country.

(2) If—

- (a) a person consents to being surrendered for the extradition offence; and
- (b) the country requesting his or her extradition requests that the person should also be surrendered for another offence that is not an extradition offence; the Magistrate must ask the person whether he or she also consents to being surrendered for that other offence.

(3) If—

- (a) the person informs the Magistrate that he or she consents to being surrendered; and
- (b) the Magistrate is satisfied that the consent was voluntarily given,

the Magistrate must—

- (c) inform the person that the effect of such consent will be that—
 - (i) he or she will be committed to prison without any proceedings being conducted under section 11 to determine whether he or she should be surrendered for an extradition offence, and
 - (ii) after the Minister issues a surrender warrant he or she will be surrendered to the country requesting his or her extradition.

(4) If the person again consents to being surrendered, the Magistrate shall—

- (a) by warrant, order that the person should be committed to prison; and
- (b) inform the Minister in writing that the person has been committed to prison and the offence for which the person is to be surrendered.

15. Order for surrender

(1) Where a person is committed under section 11 and is not discharged by order of the High Court, the Minister may by warrant order him or her to be surrendered unless his or her surrender is prohibited by this Act.

(2) Without prejudice to his or her general discretion to issue a warrant for the surrender of a person to a foreign State or Commonwealth country—

- (a) the Minister shall not issue a warrant for the surrender of any person if it appears to the Minister in relation to the offence in respect of which that person's surrender is sought, that—
 - (i) by reason of its trivial nature,
 - (ii) by reason of the passage of time since he or she is alleged to have committed it or to have become unlawfully at large, as the case may be, or
 - (iii) because the accusation against him or her is not made in good faith in the interests of justice,

it would having regard to all the circumstances, be unjust or oppressive to surrender him or her; and

- (b) the Minister may decide not to issue a warrant for the surrender of a person accused or convicted of an offence not punishable with death in Grenada if the person could be or has been sentenced to death for that offence in the country by which the request for his or her surrender is made.

(3) A warrant for surrender shall not be issued in the case of a person who is serving a sentence of imprisonment or detention, or is charged with an offence in Grenada—

- (a) in the case of a person serving such a sentence, until the sentence has been served; and
- (b) in the case of a person charged with an offence, until the charge is disposed of or withdrawn or unless an order is made for it to lie on the file and, if it results in his or her serving a term of imprisonment or detention, until the sentence has been served.

(4) The Minister may decide not to issue a warrant for surrender under this section for the surrender of a person committed in consequence of an extradition request, if another extradition request has been made in respect of that person and it appears to the Minister, having regard to all the circumstances of the case and in particular—

- (a) the relative seriousness of the offences in question;
- (b) the date on which each such request was made;
- (c) the nationality or citizenship of the person concerned and his or her ordinary place of residence,

that preference should be given to that other request.

(5) Notice of the issue of a warrant under this section for the surrender of a person to a Commonwealth country shall forthwith be given to the person to be surrendered.

16. Surrender to foreign State

(1) The Minister shall give to the person to whom an order under section 15 for the surrender to a foreign State would relate, notice in writing that he or she is contemplating making such an order.

(2) The person to whom such an order would relate shall have a right to make representations, at any time before the expiration of the period of fifteen days commencing with the date on which the notice is given, as to why he or she should not be

surrendered to the foreign State, and unless he or she waives that right, no such order shall be made in relation to him or her before the end of that period.

(3) A notice under subsection (1) shall explain in simple and ordinary language the right conferred by subsection (2).

(4) It shall be the duty of the Minister to consider any representations made in the exercise of that right.

(5) Unless the person to whom it relates waives the right conferred on him or her by subsection (6), he or she shall not be surrendered to the foreign State until the expiration of the period of seven days commencing with the date on which the warrant is issued or such longer period as rules of court may specify.

(6) At any time within the period mentioned in subsection (5), the person may apply for leave to seek judicial review of the Minister's decision to make the order.

(7) If the person applies for judicial review, he or she may not be surrendered so long as the proceedings for judicial review are pending.

(8) Proceedings for judicial review shall be treated for the purposes of this section as pending until, disregarding any power of the court to grant leave to appeal out of time, there is no further possibility of an appeal.

(9) A warrant under section 15—

(a) shall state in simple and ordinary language that the Minister has considered any representations made in the exercise of the right conferred by subsection (2); and

(b) shall explain in simple and ordinary language the rights conferred by this section on a person whose surrender to a foreign State has been ordered under section 15,

and a copy shall be given to the person to whom it relates as soon as the order for his or her surrender is made.

17. Special extradition arrangements

(1) Where special extradition arrangements have been made in respect of a person, extradition procedures shall be available in the case of that person, as between Grenada and the foreign State with which such arrangements have been made, subject to the limitations, restrictions, exceptions and qualifications, if any, contained in the arrangements.

(2) If the Minister issues a certificate of special extradition arrangements, it shall be conclusive evidence of all matters stated in it.

(3) In subsection (2), "certificate of special extradition arrangements" means a certificate—

(a) that special extradition arrangements have been made in respect of a person as between Grenada and a foreign State specified in the certificate; and

(b) that extradition procedures are available in the case of that person as between Grenada and that foreign State to the extent specified in the certificate.

18. Discharge in case of delay

(1) If a person committed under section 11 is still in Grenada after the expiration of the relevant period, that person may apply to the High Court for his or her discharge.

(2) Unless a person such as is referred to in subsection (1) has instituted proceedings for judicial review of the Minister's decision to order his or her surrender, the relevant period is—

- (a) the period of two months beginning with the first day on which, having regard to section 13(2), that person could have been surrendered; or
- (b) where a warrant for his or her surrender has been issued under section 15, the period of one month beginning with the day on which that warrant was issued.

(3) If the person referred to in subsection (1) has instituted proceedings for judicial review of the Minister's decision to order his or her surrender, the relevant period is the period expiring one month after such proceedings have ended.

(4) If upon application under this section the court is satisfied that reasonable notice of the proposed application has been given to the Minister, the court may, unless sufficient cause is shown to the contrary, by order direct the applicant to be discharged and, if a warrant for his or her surrender has been issued under section 15, quash that warrant.

19. Custody

(1) Any person remanded or committed to custody under this Part shall be committed to prison.

(2) If any person who is in custody by virtue of a warrant under this Act escapes out of custody, he or she may be retaken in like manner as a person escaping from lawful custody.

(3) A warrant for the surrender of any person shall be sufficient authority for all persons to whom it is directed and all members of the Police Force to receive that person, keep him or her in custody and convey him or her to the jurisdiction to which he or she is to be surrendered.

PART V

Treatment of Persons Surrendered

20. Restrictions on proceedings for other offences committed by persons surrendered by foreign States

Where any person is surrendered to Grenada by a foreign State in pursuance of extradition arrangements, he or she shall not, unless he or she has first been restored to that State or had an opportunity of leaving Grenada, be triable or be tried for any offence committed prior to his or her surrender other than—

- (a) an offence in respect of which he or she was surrendered;
- (b) any offence disclosed by the particulars furnished to the foreign State which formed the ground for his or her surrender; or
- (c) any other offence in respect of which the foreign State may consent to his or her being tried.

21. Restrictions on proceedings for other offences committed by persons surrendered by Commonwealth countries

(1) This section applies to any person accused or convicted of an offence under the Laws of Grenada who is surrendered to Grenada from any Commonwealth country.

(2) A person to whom this section applies shall not, during the period described in subsection (3), be dealt with in Grenada for any offence committed before he or she was surrendered to Grenada other than—

- (a) the offence in respect of which he or she was surrendered;
- (b) any lesser offence disclosed by the particulars furnished to the Commonwealth country which formed the ground for his or her surrender; or
- (c) any other offence in respect of which the Government of the Commonwealth country from which he or she was surrendered, may consent to his or her being dealt with.

(3) The period referred to in subsection (2) in relation to a person to whom this section applies, is the period beginning with the day of his or her arrival in Grenada on his or her surrender as mentioned in subsection (1) and ending forty-five days after the first subsequent day on which he or she has opportunity to leave Grenada.

(4) Where a person to whom this section applies has been convicted before his or her surrender to Grenada of an offence for which his or her surrender was not granted, any punishment for that offence shall, by virtue of this section, be remitted; however his or her conviction for the offence shall be treated as a conviction for all other purposes.

(5) In this section, “dealt with” means subjected to trial or surrendered to any country or detained with a view to such trial or surrender.

22. Restoration of persons not tried or acquitted

(1) This section applies to any person accused of an offence under the Laws of Grenada who is surrendered to Grenada in pursuance of extradition arrangements or as mentioned in section 21(1).

(2) If in the case of a person to whom this section applies either—

- (a) proceedings against him or her for the offence for which he or she was surrendered are not begun within the period of six months beginning with the day of his or her arrival in Grenada on being surrendered; or
- (b) on his or her trial for that offence, he or she is acquitted,

the Minister may, if he or she thinks fit, on the request of that person, arrange for him or her to be sent back free of charge and with as little delay as possible to the jurisdiction of the foreign State or Commonwealth country from which he or she was surrendered.

PART VI

Special Cases

23. Personal serving sentences outside country of conviction

(1) This section applies where—

- (a) a request is made—
 - (i) by a person recognised as a diplomatic or consular representative of a foreign State or a State with which Grenada has made extradition arrangements, or
 - (ii) by or on behalf of the Government of a Commonwealth country or a dependency of such Commonwealth country,

for the arrest and surrender of a person in Grenada who is alleged to be unlawfully at large from a prison in which he or she was serving a sentence in pursuance of international arrangements for the repatriation of prisoners sentenced in one country, “the

country of conviction”, to serve their sentences in another, “the country of imprisonment”; and

- (b) there are furnished with the request—
 - (i) particulars of the person whose surrender is requested,
 - (ii) particulars of the offence of which he or she was convicted, including evidence sufficient to justify the issue of a warrant for his or her arrest under the relevant legislation,
 - (iii) a certificate of the conviction and sentence, and
 - (iv) a certificate of the international arrangements for repatriation under which he or she was held.

(2) Where this section applies, the relevant provisions shall have effect—

- (a) if the request is from the country of conviction, as if the person to whom the request relates were alleged to be unlawfully at large from a prison in that country; and
- (b) if it is from the country of imprisonment, as if he or she were alleged to have been convicted of a corresponding offence under the law of that country committed there,

and the question whether the person to whom the request relates is to be surrendered shall be determined, subject to subsection (3), in accordance with the relevant provisions.

(3) A person shall not be surrendered under subsection (2)(b) unless—

- (a) the offence was committed in the country of conviction; or
- (b) the offence was not committed in the country of conviction but was committed in circumstances in which he or she might be surrendered on a request made by the country of his or her conviction.

(4) In this section, “the relevant provisions” means the provisions of this Act that are relevant—

- (a) if the case falls within subsection (2)(a), to extradition to the country of conviction; and
- (b) if the case falls within subsection (2)(b), to extradition to the country of imprisonment.

24. Application to Acts giving effect to international Conventions

(1) Except as provided by subsection (6), this section has effect where general extradition arrangements have not been made with a foreign State which is Party to a Convention to which this section applies.

(2) The Conventions to which this section applies are—

- (a) the Convention on Offences and certain other Acts committed on board Aircraft, which was signed at Tokyo on 14th September, 1963, “the Tokyo Convention”;
- (b) the Convention for the suppression of Unlawful Seizure of Aircraft, which was signed at the Hague on 16th December, 1970, “the Hague Convention”; and
- (c) such other Convention, to which Grenada is Party, as may be designated by the Minister by order.

(3) Where this section has effect, an order applying this Act may be made by the Minister as if a Convention to which this section applies that is specified in the order, constituted general extradition arrangements between Grenada and the foreign State, or

any other foreign State which is Party to the Convention; but where this Act is so applied, it shall have effect only in respect of—

- (a) the relevant offences;
- (b) an attempt to commit a relevant offence;
- (c) counselling, procuring, commanding, aiding or abetting a relevant offence; and
- (d) being accessory before or after the fact to a relevant offence.

(4) The relevant offences for the purposes of subsection (3) are—

- (a) in relation to the Tokyo Convention, any offence committed on board an aircraft in flight;
- (b) in relation to the Hague Convention, any offence committed under sections 2 and 3 of the Hijacking Act, Chapter 133; and
- (c) in relation to a Convention designated under subsection (2)(c), any offence specified in the order designating the Convention.

(5) An order such as is mentioned in subsection (3) may not provide that a court dealing with a person arrested for an offence shall not be under a duty to determine whether the evidence would be sufficient to warrant his or her trial if the offence had taken place within the jurisdiction of the court.

(6) For the purposes of general extradition procedures under Part IV, in their application, whether or not by virtue of such an order, as between Grenada and any other foreign State, any conduct, wherever it takes place, which constitutes—

- (a) a relevant offence mentioned in subsection (4); and
- (b) an offence against the Laws of that foreign State,

shall be deemed to be an offence committed within the territory of that foreign State.

25. Genocide, etc.

(1) For the purposes of this Act, no offence which, if committed in Grenada would be punishable as an offence under the Genocide Act, Chapter 122, or as an attempt, conspiracy or incitement to commit such an offence, shall be regarded as an offence of a political character, and no proceedings in respect of such an offence shall be regarded as a criminal matter of a political character.

(2) It shall not be an objection to any proceedings against a person under this Act in respect of an offence which, if committed in Grenada, would be punishable as an offence of genocide or an attempt, conspiracy or incitement to commit such an offence, that under the law in force at the time when and in the place where that person is alleged to have committed the act of which he or she is accused or of which he or she was convicted, he or she could not have been punished for it.

PART VII

General Provisions Relating to Search, Seizure and Transit

26. Search and seizure on arrest

(1) If a police officer who arrests a person under a warrant issued under this Act has reasonable grounds for suspecting that property in the vicinity of the person that is in the apparent control of the person—

- (a) may be material as evidence in proving an offence for which the warrant was issued; or
- (b) has been acquired by the person as the result of the offence for which the warrant was issued,

the police officer may seize the property.

(2) If a police officer—

- (a) arrests a person under a warrant issued under this Act; and
- (b) has reasonable grounds for suspecting that there is on the person, in the clothing that the person is wearing or in or on any property in the vicinity of the person that is under the apparent control of the person, anything, including a sum of money, that—
 - (i) may be material as evidence in proving any offence in relation to which the warrant was issued or for which surrender of the person is sought, or
 - (ii) has been acquired by the person as a result of that offence,

the police officer may search the person, the person's clothing or the property and may seize anything found as a result of the search.

(3) A person shall not be searched except by a police officer of the same sex.

(4) A police officer shall retain in safe keeping any property or thing seized pending a direction from the court which issued the warrant about how the thing is to be dealt with.

(5) Nothing in this section prevents or restricts the search of a person or of clothing worn by, or of property under the immediate control of, a person after the person is admitted to a prison after having been charged with an offence.

(6) The powers conferred by this section are in addition to, and not in derogation of, any other powers conferred by law.

27. Search and seizure warrants

(1) If a Magistrate is informed by affidavit that there are reasonable grounds for suspecting that there may be in a place—

- (a) a thing that may be material as evidence in proving an offence for which a provisional arrest warrant has been issued or surrender of a person is sought; or
- (b) a thing that has been acquired by a person as a result of such an offence,

and the affidavit sets out those grounds, the Magistrate may issue a warrant authorising a police officer named in the warrant—

- (i) to seize the thing,
- (ii) to enter the place and seize the thing, or
- (iii) to enter the place, search the place for a thing of that kind and to seize anything of that kind found in the place.

(2) The Magistrate shall not issue the warrant unless—

- (a) there has been furnished to the Magistrate by affidavit any further information that the Magistrate requires regarding the grounds on which the warrant is being sought; and
- (b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(3) The warrant shall state—

- (a) the purpose for which it is issued, including a reference to the nature of any offence referred to in subsection (1)(a);
 - (b) whether it authorises entry at any time of the day or night or during specified hours of the day or night;
 - (c) the kind of things that may be seized; and
 - (d) that it ceases to have effect on a specified day, not being later than one month after the day it is issued.
- (4) If, in the course of searching in accordance with the warrant—
- (a) a police officer finds a thing that the police believes on reasonable grounds to be connected with the offence, even though that thing is not of a kind stated in the warrant; and
 - (b) the police officer believes on reasonable grounds that it is necessary to seize that thing in order to prevent its concealment, loss or destruction,

the warrant is deemed to authorise the police officer to seize that thing.

(5) The police officer must retain in safe keeping a thing seized under subsection (4) pending a direction from the court which issued the warrant regarding how it is to be dealt with.

(6) A police officer to whom a warrant is issued under subsection (1) may execute that warrant with such assistance and by using such force as may be necessary and reasonable in the circumstances.

(7) In this section—

“place” includes a public place, area of water, premises, vessel, aircraft or vehicle in any part of Grenada; and

“thing” includes a vessel, aircraft or vehicle.

28. Return of seized property

The Minister may direct that any property seized under section 27(1) that—

- (a) may provide evidence of an offence for which surrender has been ordered; or
- (b) may have been acquired as a result of an offence referred to in paragraph (a),

must be returned to the country that sought the surrender.

29. Transit

(1) The Minister shall permit a country, hereinafter referred to as “second country”, to transport through Grenada, a person who has been surrendered to the second country by a third country if—

- (a) the second country asked for transit permission before the person entered Grenada; and
- (b) the second country is—
 - (i) a Commonwealth country or a foreign State with which Grenada has extradition arrangements, or
 - (ii) a foreign State approved by the Minister for the purposes of the request.

(2) If transit permission is given under subsection (1)—

- (a) a police officer in Grenada may give assistance, if requested, to the foreign official escorting the person who has been surrendered; and

(b) the person who has been surrendered may be held in custody in Grenada until his or her journey can continue.

(3) If it is necessary to hold referred to in subsection (1) in custody, that person shall be brought before a Magistrate who may issue a warrant to commit that person to custody.

PART VIII

Miscellaneous

30. Authentication of foreign documents

(1) In extradition proceedings in relation to a person whose surrender has been requested by a foreign State, foreign documents may be authenticated by the oath of a witness, but shall in any case be deemed duly authenticated—

- (a) if they purport to be signed by a Judge, Magistrate or officer of the foreign State where they were issued; and
- (b) if they purport to be certified by being sealed with the official seal of the Minister responsible for Legal Affairs or Justice, or some other Minister of the foreign State.

(2) Judicial notice shall be taken of such certification as is mentioned in subsection (1)(b), and documents authenticated by such certification shall be received in evidence without further proof.

31. Evidence: Commonwealth countries

(1) In any proceedings under this Act in relation to a person whose surrender has been requested by a Commonwealth country, including proceedings on an application for *habeas corpus* in respect of a person in custody under any provision of this Act—

- (a) a document, duly authenticated, which purports to set out evidence given on oath in that Commonwealth country shall be admissible as evidence of the matters stated in it;
- (b) a document, duly authenticated, which purports to have been received in evidence, or to be a copy of a document so received in evidence in any proceedings in that Commonwealth country, shall be admissible in evidence; and
- (c) a document, duly authenticated, which certifies that a person was convicted, on a date specified in the document, of an offence against the laws of any such Commonwealth country, shall be admissible as evidence of the fact and date of the conviction.

(2) A document shall be deemed to be duly authenticated for the purposes of this section—

- (a) in the case of a document purporting to set out evidence given as mentioned in subsection (1)(a), if that document purports to be certified by a Judge or Magistrate in or of the Commonwealth country in question, to be the original document containing or recording that evidence, or a true copy of such a document;
- (b) in the case of a document which purports to have been received in evidence as mentioned in subsection (1)(b), or to be a copy of such a document, if that document purports to be certified as mentioned in paragraph (a) to be a true copy of that document; and

- (c) in the case of a document which certifies that a person was convicted as mentioned in subsection (1)(c), if that document purports to be certified as mentioned in paragraph (a),

and, in each case, the document is authenticated either by the oath of a witness or by the official seal of a Minister of that Commonwealth country or, in the case of a dependency of that Commonwealth country, the Governor or a Minister, Secretary or other officer administering a department of the government of such dependency, as the case may be.

(3) Nothing in this section shall preclude or prejudice the admission in evidence of any document which is admissible in evidence apart from this section.

32. Regulations

(1) The Minister may make such regulations as are necessary for the purpose of giving effect to the provisions of this Act and for its due administration.

(2) Without limiting the generality of subsection (1), the Minister may by such regulations prescribe the form of any document required for the purposes of this Act and the form of any warrant or order to be issued or made under this Act.

(3) The Chief Justice may make such rules of court as are necessary for the purpose of giving effect to the provisions of this Act.

33. Amendment of First Schedule

The Minister may, by Order, amend the First Schedule.

34. Repeal

(1) The Extradition Acts, 1870 to 1935, of England which are in force in Grenada as applied law, and any other laws relating to extradition that were in force in Grenada immediately before the commencement of this Act shall, on the coming into operation of this Act, cease to apply to Grenada.

(2) The Acts set out in the Second Schedule are hereby repealed.

35. Savings

Notwithstanding the provisions of section 34—

- (a) the Extradition Acts, 1870 to 1935, of England and the Extradition Act shall continue to apply to any extradition proceedings pending before any court on the coming into operation of this Act;
- (b) an Order in Council made under the Extradition Acts, 1870 to 1935, of England shall have effect as if those Acts were still in force; and
- (c) an extradition treaty—
 - (i) to which Grenada is Party immediately before the commencement of this Act, or
 - (ii) otherwise binds Grenada immediately before the commencement of this Act,

remains in force and is deemed to be an extradition arrangement for the purposes of this Act;

- (d) forms or documents prescribed under the Extradition Acts, Chapter 98, 1870 to 1935, of England shall continue to be in force and applied, *mutatis mutandis*, until they are replaced.

36. Commencement

This Act comes into force on the 17th day of April, 2000.

First Schedule

EXTRADITION ACT

Commonwealth Countries

[Section 2.]

Antigua and Barbuda	Ghana	Nauru	Sri Lanka
Australia	Guyana	New Zealand	Swaziland
The Bahamas	India	Nigeria	Tanzania
Bangladesh	Jamaica	Pakistan	Tonga
Barbados	Kenya	Papua New Guinea	Trinidad and Tobago
Belize	Kiribati	St. Kitts and Nevis	Tuvalu
Botswana	Lesotho	St. Lucia	Uganda
Brunei Darussalam	Malawi	St. Vincent and the Grenadines	United Kingdom
Cameroon	Malaysia	The Grenadines	Vanuatu
Canada	Maldives	Samoa	Zambia
Cyprus	Malta	Seychelles	Zimbabwe
Dominica	Mauritius	Sierra Leone	
Fiji	Mozambique	Singapore	
The Gambia	Namibia	South Africa	

Second Schedule

EXTRADITION ACT

Acts to be Repealed

[Section 34.]

Acts of England

Extradition Act, 1870, c. 52

Extradition Act, 1873, c. 60

Extradition Act, 1906, c. 15

Extradition Act, 1932, c. 39

Acts of Grenada

Extradition Act, 1880, Chapter 98

Fugitive Offenders Act, 1987, Chapter 119

CHAPTER 98 EXTRADITION ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Extradition Act (United States of America) Order
-

Extradition Act (United States of America) Order

SRO 24 of 2001

ARRANGEMENT OF ORDERS

1. Citation.
 2. Application of Act.
 3. Limitations on surrender.
-

EXTRADITION ACT (UNITED STATES OF AMERICA) ORDER

In Exercise of the Powers Conferred by section 6(1) of the Extradition Act, Chapter 98, the Minister for Foreign Affairs makes the following Order.

[SRO 24 of 2001.]

[18th May, 2001.]

1. Citation

These Regulations may be cited as the Extradition Act (United States of America) Order, 2001.

2. Application of Act

General extradition arrangements having been made between Grenada and the United States of America, as contained in the Extradition Treaty between the Government of Grenada and the Government of the United States of America set out in the Schedule to Act No. 2 of 2001, it is directed that from the date of publication of this Order in the *Gazette* the extradition procedures contained in Part IV of the Extradition Act, 1998 (herein called “the Act”) apply as between Grenada and the United States of America.

3. Limitations on surrender

The surrender of a person pursuant to this Order is subject to—

- (a) the exceptions and qualifications contained in the Schedule to Act No. 2 of 2001;
 - (b) section 8 of the Extradition Act, 1998 (which imposes certain general restrictions);
 - (c) section 6(5) of the Extradition Act, 1998 (which requires the court of committal to be satisfied that the evidence in respect of a person would be sufficient to warrant the trial of the person if the extradition offence had taken place within the jurisdiction of the court).
-