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GRENADA

STATUTORY RULES AND ORDERS NO. 21 OF 2018

IN THE EXERCISE OF POWERS CONFERRED BY SECTION 6(1) OF THE EXTRADITION ACT CAP 98 THE MINISTER FOR FOREIGN AFFAIRS MAKES THE FOLLOWING ORDER—

(Gazetted 9th November, 2018).

1. Citation. This Order may be cited as the—

EXTRADITION ACT (UNITED STATES OF AMERICA) ORDER, 2018.

2. Interpretation. In this Order—

“Act” means the Extradition Act Cap 98.

3. Application of the Act. General extradition arrangements having been made between the Government of Grenada and the Government of the United States of America, as contained in the Extradition Treaty (Government of Grenada and Government of the United States of America) Act Cap 98A, I hereby direct that from the date of publication of this Order, the extradition procedures contained in Part IV of the Act shall apply in relation to extradition matters between Grenada and the United States of America subject to the limitations set out in order 5.

4. Embodiment of the general extradition arrangements made between the Government of Grenada and the Government of the United States of America. The general extradition arrangements made between the Government of Grenada and the Government of the United States of America as contained in the Schedule to the Extradition Treaty Government of Grenada and Government of the United States of America Act Cap 98A is hereby set out as a Schedule to this Order.

5. Limitations on Surrender. The surrender of a person pursuant to this Order is subject to the following—

- (a) the exceptions and qualifications contained in the Schedule to this Order;
- (b) Part III of the Act; and
- (c) that a person may only be surrendered to the Government of the United States of America if the court of committal is satisfied that the evidence would be sufficient to warrant the trial of the person who is subject to extradition, if the extradition offence had taken place within the jurisdiction of the court.

SCHEDULE

**EXTRADITION TREATY (GOVERNMENT OF GRENADA AND
GOVERNMENT OF THE UNITED STATES OF AMERICA)**

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The Government of Grenada and the Government of the United States of America,

Recalling the Extradition Treaty between the United States of America and Great Britain and Northern Ireland, signed at London 22 December, 1931,

Noting that both the Government of Grenada and the Government of the United States of America currently apply the terms of that Treaty, and

Desiring to provide for more effective co-operation between the two States in the suppression of crime, and, for that purpose, to conclude a new treaty for the extradition of accused or convicted offenders;

Have agreed as follows:

ARTICLE 1

Obligation to Extradite

The Contracting States agree to extradite to each other, pursuant to the provisions of this Treaty, persons sought for prosecution or persons who have been convicted of an extraditable offence by the authorities in the Requesting State.

ARTICLE 2

Extraditable Offences

1. An offence shall be an extraditable offence if it is punishable under the laws in both Contracting States by deprivation of liberty for a period of more than one year or by a more severe penalty.

2. An offence shall also be an extraditable offence if it consists of an attempt or a conspiracy to commit, aiding or abetting, counselling or procuring the commission of, or being an accessory before or after the fact to, any offence described in paragraph 1.

3. For the purposes of this Article, an offence shall be an extraditable offence—

- (a) whether or not the laws in the Contracting States place the offence within the same category of offences or describe the offence by the same terminology; or
- (b) whether or not the offence is one for which United States federal law requires the showing of such matters as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court.

4. Where the offence was committed outside of the territory of the Requesting State, if the laws in the Requested State—

- (a) provide for punishment of an offence committed outside of its territory in similar circumstances, extradition shall be granted in accordance with this treaty; or
- (b) do not provide for punishment of an offence committed outside of its territory in similar circumstances, extradition may nonetheless be granted in the discretion of the executive authority of the Requested State, provided that all other requirements of this Treaty are met.

5. If extradition has been granted for an extraditable offence, it may also be granted for any other offence specified in the request even if the latter offence is punishable by less than one year's deprivation of liberty, provided that all other requirements for extradition are met.

ARTICLE 3

Nationality

If all conditions in this Treaty relating to extradition are met, extradition shall not be refused based on the nationality of the person sought.

ARTICLE 4

Political and Military Offences

1. Extradition shall not be granted if the offence for which extradition is requested is a political offence.

2. For the purposes of this Treaty, the following offences shall not be considered to be political offences—

- (a) a murder or other violent crime against the person of a Head of State of one of the Contracting States, or of a member of the Head of State's family;
- (b) an offence for which both Contracting States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution; and
- (c) a conspiracy or attempt to commit any of the foregoing offences, or aiding or abetting a person who commits or attempts to commit such offences.

3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated.

4. The executive authority of the Requested State may refuse extradition for offences under military law which are not offences under ordinary criminal law.

ARTICLE 5***Prior Prosecution***

1. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offence for which extradition is requested.

2. Extradition shall not be precluded by the fact that the authorities in the Requested State have decided not to prosecute the person sought for the acts for which extradition is requested, or to discontinue any criminal proceedings which have been instituted against the person sought for those acts.

ARTICLE 6***Extradition Procedures and Required Documents***

1. All requests for extradition shall be submitted through the diplomatic channel.

2. All requests shall be supported by—

- (a) documents, statements, or other types of information which describe the identity, and probable location of the person sought;
- (b) information describing the facts of the offence and the procedural history of the case;
- (c) information as to—
 - (i) the provisions of the laws describing the essential elements of the offence for which extradition is requested,
 - (ii) the provisions of the law describing the punishment for the offence, and
 - (iii) the provisions of law describing any time limit on the prosecution; and
- (d) the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.

3. A request for extradition of a person who is sought for prosecution shall also be supported by—

- (a) a copy of the warrant or order of arrest, if any, issued by a judge or other competent authority of the Requesting State;
- (b) a document setting forth the charges; and
- (c) such information as would provide a reasonable basis to believe that the person sought committed the offence for which extradition is requested.

4. A request for extradition relating to a person who has been convicted of the offence for which extradition is sought shall also be supported by—

- (a) a copy of the judgement of conviction or, if such copy is not available, a statement by a judicial authority that the person has been convicted;
- (b) information establishing that the person sought is the person to whom the conviction refers;
- (c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and
- (d) in the case of a person who has been convicted in absentia, the documents required by paragraph 3.

ARTICLE 7

Admissibility of Documents

The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if—

- (a) in the case of a request from the United States, they are authenticated by an officer of the United States Department of State and are certified by the principal diplomatic or consular officer of Grenada resident in the United States;
- (b) in the case of a request from Grenada, they are certified by the principal diplomatic or consular officer of the United States resident in Grenada, as provided by the extradition laws of the United States; or
- (c) they are certified or authenticated in any other manner accepted by the law of the Requested State.

ARTICLE 8***Lapse of Time***

Extradition shall not be denied because of the prescriptive laws of either the Requesting State or the Requested State.

ARTICLE 9***Provisional Arrest***

1. In case of urgency, a Contracting State may initiate the process of extradition by requesting the provisional arrest of the person sought. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the United States Department of Justice and the Attorney-General in Grenada. Such a request may also be transmitted through the facilities of the International Criminal Police Organisation (INTERPOL), or through such other means as may be settled by arrangement between the Contracting States.

2. The application for provisional arrest shall contain—

- (a) a description of the person sought;
- (b) the location of the person sought, if known;
- (c) a brief statement of the facts of the case, including, if possible, the time and location of the offence;
- (d) a description of the laws violated;
- (e) a statement of the existence of a warrant of arrest or a finding of guilt or judgement of conviction against the person sought; and
- (f) a statement that a request for extradition for the person sought will follow.

3. The Requesting State shall be notified without delay of the disposition of its application and the reasons for any denial.

4. Provisional arrest shall be terminated if, within a period of forty-five days after the apprehension of the person sought, the Requested State has not received the request for extradition and the documents mentioned in Article 6. This period may be

extended, upon the Requesting State's application, for up to an additional fifteen days after the apprehension of the person sought.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent re-arrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

ARTICLE 10

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel of its decision on the request for extradition.

2. If the request is denied in whole or in part, the Requested State shall provide an explanation of the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.

4. If the person sought is not removed from the territory of the Requested State within the time prescribed by the law of that State, that person may be discharged from custody, and the Requested State may subsequently refuse extradition for the same offence.

ARTICLE 11

Temporary and Deferred Surrender

1. If the extradition request is granted in the case of a person who is being proceeded against or is serving a sentence in the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by mutual agreement of the Contracting States.

2. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

ARTICLE 12***Requests for Extradition made by Several States***

If the Requested State receives requests from the other Contracting State and from any other State or States for the extradition of the same person, either for the same offence or for different offences, the executive authority of the Requested State shall determine to which State it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including but not limited to—

- (a) whether the requests were made pursuant to treaty;
- (b) the place where each offence was committed;
- (c) the respective interests of the Requesting States;
- (d) the gravity of the offences;
- (e) the nationality of the victim;
- (f) the possibility of further extradition between the Requesting States; and
- (g) the chronological order in which the requests were received from the Requesting States.

ARTICLE 13***Seizure and Surrender of Property***

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all articles, documents, and evidence connected with the offence in respect of which extradition is granted. The items mentioned in this Article may be surrendered even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.

2. The Requested State may condition the surrender of the property upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such property if it is needed as evidence in the Requested State.

3. The rights of third parties in such property shall be duly respected.

ARTICLE 14***Rule of Speciality***

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for—

- (a) the offence for which extradition has been granted or a differently denominated offence based on the same facts on which extradition was granted, provided such offence is extraditable, or is a lesser included offence;
- (b) an offence committed after the extradition of the person; or
- (c) an offence for which the executive authority of the Requested State consents to the person's detention, trial, or punishment. For the purpose of this subparagraph—
 - (i) the Requested State may require the submission of the documents called for in Article 6, and
 - (ii) the person extradited may be detained by the Requesting State for ninety days while the request is being processed. This time period may be extended by the Requested State upon request of the Requesting State.

2. A person extradited under this Treaty may not be extradited to a third State for an offence committed prior to his or her surrender unless the surrendering State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to a third State, if—

- (a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or
- (b) that person does not leave the territory of the Requesting State within ten days of the day on which that person is free to leave.

ARTICLE 15***Waiver of Extradition***

If the person sought consents to surrender to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings.

ARTICLE 16***Transit***

1. Either Contracting State may authorise transportation through its territory of a person surrendered to the other State by a third State. A request for transit shall be transmitted through the diplomatic channel or directly between the Department of Justice in the United States and the Attorney-General in Grenada. Such a request may also be transmitted through the facilities of the International Criminal Police Organisation (INTERPOL), or through such other means as may be settled by arrangement between the Contracting States. It shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.

2. No authorisation is required where air transportation is used and no landing is scheduled on the territory of the Contracting State. If an unscheduled landing occurs on the territory of the other Contracting State, the other Contracting State may require the request for transit as provided in paragraph 1. That Contracting State may detain the person to be transported until the request for transit is received and the transit is effected, so long as the request is received within ninety-six hours of the unscheduled landing.

ARTICLE 17***Representation and Expenses***

1. The Requested State shall advise, assist, appear in court on behalf of the Requesting State, and represent the interests of the Requesting State, in any proceedings arising out of a request for extradition.

2. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition proceedings.

3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under this Treaty.

ARTICLE 18

Consultation

The Department of Justice of the United States and the Attorney-General of Grenada may consult with each other directly in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty. Issues considered in such consultations shall include training and technical assistance.

ARTICLE 19

Application

Subject to Article 20(3), this Treaty shall apply to offences committed before as well as after the date it enters into force.

ARTICLE 20

Ratification and Entry into Force

1. This Treaty shall be subject to ratification; the instruments of ratification shall be exchanged at Washington as soon as possible.

2. This Treaty shall enter into force upon the exchange of the instruments of ratification.

3. Upon the entry into force of this Treaty, the Treaty on Extradition signed at London 22 December, 1931, shall cease to have any effect between the United States and Grenada. Nevertheless, the prior Treaty shall apply to any extradition proceedings in which the extradition documents have already been submitted to the courts of the Requested State at the time this Treaty enters into force, except that Article 15 of this Treaty shall be applicable to such proceedings. Article 14 of this Treaty shall apply to persons found extraditable under the prior Treaty.

ARTICLE 21

Termination

Either Contracting State may terminate this Treaty at any time by giving written notice to the other Contracting State, and the termination shall be effective six months after the date of receipt of such notice.

In witness whereof, the undersigned, being duly authorised by their respective Governments have signed this Treaty.

Done at St. George's, Grenada, in duplicate, this 30th day of May, 1996.

KEITH C. MITCHELL
For the Government of Grenada

JEANETTE W. HYDE
For the Government of the United
States of America

Made by the Minister this 30th day of October, 2018.

PETER DAVID
Minister responsible for Foreign Affairs

GRENADA