

LAWS OF GUYANA

FUGITIVE OFFENDERS ACT

CHAPTER 10:04

Act

15 of 1988

Amended by

30 of 2009

Current Authorised Pages

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Note
on
Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note
on
Repeal

This Act repeals the Extradition (French Guiana) Act, and upon the commencement of this Act the Acts entitled the Extradition Acts, 1870 to 1935, and the Fugitive Offenders Act 1881, ceased to have effect in Guyana.

CHAPTER 10:04
FUGITIVE OFFENDERS ACT
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CHAPTER 10:04

FUGITIVE OFFENDERS ACT

15 of 1988

An Act to make provision with respect to the extradition of fugitive offenders from and to Guyana and for matters connected therewith.

[11th AUGUST, 1988]

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Fugitive Offenders Act.

Interpretation.

2. In this Act—

c.1:01

“Commonwealth country” means any country mentioned in article 47 (3) of the Constitution, and includes—

- (a) a colony, territory, protectorate or other dependency of any such country;
- (b) a territory for the international relations of which any such country is responsible; and
- (c) a ship or aircraft of, or registered in, any such country;

“extraditable offence” has the meaning given to that expression in section 5;

“foreign territory” means any country other than Guyana or a Commonwealth country;

“Form” means a form set out in the Schedule;

“fugitive offender” means a person who is accused, or alleged to be unlawfully at large after conviction, of an extraditable offence committed within the jurisdiction of Guyana or any Commonwealth country or foreign territory and is or is suspected to be in any country or territory, other than the country or territory in which the offence was committed or the person was convicted;

“treaty territory” means a foreign territory in respect of extradition to and from which, from or to Guyana, the provisions of this Act apply with or without modifications, limitations or conditions by virtue of section 4 and includes—

- (a) a colony, territory, protectorate or other dependency of any such foreign territory;
- (b) a territory for the international relations of which any such foreign territory is responsible; and
- (c) a ship or aircraft of, or registered in, any such foreign territory.

PART II GENERAL PROVISIONS

Application of this Act in respect of Commonwealth countries.

3. (1) The provisions of this Act shall apply in respect of extradition from and to Guyana to and from every Commonwealth country:

Provided that the Minister may, by order, declare that the provisions of this Act shall apply in respect of

extradition from or to Guyana to or from any Commonwealth country specified therein, subject to such modifications, limitations or conditions as may be specified in the order.

(2) Every order made under subsection (1) shall be subject to negative resolution of the National Assembly.

Application of
this Act in
respect of
treaty
territories.

4. (1) Where—

- (a) an arrangement made between the Government of the United Kingdom and the Government of a foreign territory relating to the extradition of fugitive offenders, prior to the 26th May, 1966, extends to and remains in force in Guyana; or
- (b) an arrangement has been made by the Government of Guyana with the Government of a foreign territory relating to the extradition of fugitive offenders, prior to the commencement of this Act, the provisions of this Act shall apply in respect of extradition from and to Guyana to and from that foreign territory so long, and so long only, as that arrangement remains in force:

Provided that the Minister may, by order, declare that this Act shall apply in respect of extradition from or to Guyana to or from a foreign territory referred to in paragraph (a) or (b) subject to such modifications, limitations or conditions as the Minister, having due regard to the terms of the arrangement referred to in paragraph (a) or (b), as the case may be, may deem expedient to specify in the order for the purpose of implementing the terms of the arrangement and any such order shall remain in force so long, and so long only, as such arrangement remains in force.

(2) Where, after the commencement of this Act, an arrangement is made by the Government of Guyana with the Government of any foreign territory relating to the extradition of fugitive offenders, the Minister may, subject to subsection (4), by order, declare that the provisions of this Act shall apply in respect of extradition from and to Guyana to and from that foreign territory subject to such modifications, limitations or conditions as the Minister, having due regard to the terms of the arrangement, may deem expedient to specify in the order for the purposes of implementing such terms.

(3) Every order made under subsection (2) shall recite and embody the terms of the arrangement in consequence of which the order is made and shall remain in force so long, and so long only, as such arrangement remains in force and any such order shall be conclusive evidence of the existence and terms of the arrangement and that the arrangement complies with the provisions of subsection (4).

(4) The Minister shall not make an order under subsection (2) unless the arrangement, in consequence of which the order is made, is, in the opinion of the Minister—

- (a) in conformity in all respects with the provisions of this Act containing restrictions on the extradition of fugitive offenders; and
- (b) substantially in conformity with the other provisions of this Act subject to the modifications, limitations or conditions, if any, specified in the order for the purpose of implementing the terms of such arrangement.

(5) Every order made under the proviso to subsection

(1) or under subsection (2) shall be subject to negative resolution of the National Assembly.

Extraditable
offence.

5. (1) For the purposes of this Act, an offence of which a person is accused or has been convicted in Guyana or any Commonwealth country or treaty territory, shall be an extraditable offence, where the act or omission constituting the offence, however described, constitutes an offence, and is punishable with death or imprisonment for life or for a term of not less than two years, under the law of Guyana and of the Commonwealth country or treaty territory making to the Government of Guyana the request for extradition or of the Commonwealth country or treaty territory to which the request for extradition is made by the Government of Guyana.

(2) In determining for the purpose of this section whether an offence against the law of Guyana or a Commonwealth country or a treaty territory is an extraditable offence, any special intent, state of mind or special circumstances of aggravation which may be necessary to constitute that offence under that law shall be disregarded.

(3) Each extraditable offence, however described, shall be deemed to include the offence of attempting or conspiring to commit, of aiding, abetting, counselling, commanding or procuring the commission of, or of being accessory before or after the fact to, such offence, and of impeding the apprehension or prosecution of any person guilty of such offence.

(4) A reference in this section to the law of Guyana, any Commonwealth country or treaty territory shall be deemed to include a reference to the law in force in any part only of Guyana or such country or territory, as the case may be.

Mode of proof
of certain
arrangements.

6. A certificate issued by the Minister assigned responsibility for foreign affairs, or on his behalf by any other person authorised by him—

- (a) confirming the existence of an arrangement, referred to in section 4 (1) (a), made between the United Kingdom and the Government of a foreign territory, and that the arrangement extends to and remains in force in Guyana, and stating the terms thereof; or
- (b) confirming the existence of an arrangement referred to in section 4 (1) (b), made between the Government of Guyana and the Government of any foreign territory, and stating the terms thereof,

shall be admissible in evidence as conclusive proof of the matters stated therein without proof of the signature of that Minister or the other person or of the authorisation of the other person by the Minister.

PART III

EXTRADITION FROM GUYANA

Persons liable
to extradition
from Guyana.

7. Subject to this Act, a person found in Guyana who is accused of an Extraditable offence in any Commonwealth country or treaty territory, or who is alleged to be unlawfully at large after conviction of any such offence in any such country or territory, may be arrested and returned to that country or territory as provided by this Act.

General
restrictions on
extradition.
[30 of 2009]

8. (1) A person shall not be extradited under this Act from Guyana to a Commonwealth country or treaty territory, or be committed to, or held in, custody for the purposes of

such extradition, if it appears to the Minister, to the magistrate before whom he is brought in pursuance of a warrant issued under section 13, to the High Court, where any application under section 17 (1) or 19 (1) is made to that court, or to the Court of Appeal, having regard to any question of law arising in any appeal under section 21, that—

- (a) the offence of which the person is accused or has been convicted is an offence of a political character;
- (b) the request for extradition, though purporting to be made on account of an extraditable offence, is in fact made for the purpose of prosecuting or punishing him on account of his race, tribe, sex, religion, nationality or political opinions; or
- (c) he might, if extradited, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, tribe, sex, religion, nationality or political opinions.

(2) A person accused of an offence shall not be extradited from Guyana under this Act, other than under section 14, to any Commonwealth country or treaty territory or be committed to, or kept in, custody for the purpose of such extradition, if it appears to the Minister, or to the magistrate, the High Court or the Court of Appeal as aforesaid in subsection (1), that, if the person is charged with that offence in Guyana, he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.

(3) A person shall not be extradited from Guyana under this Act to any Commonwealth country or treaty

territory, or be committed to, or kept in, custody for the purpose of such extradition, unless provision has been made by the law of that Commonwealth country, or, in the case of a treaty territory, by the arrangement with that territory relating to the extradition of fugitive offenders, for securing that he will not—

- (a) until he has left or has been free to leave that Commonwealth country or treaty territory, as the case may be, be arrested, detained, remanded or otherwise dealt with in that Commonwealth country or treaty territory for or in respect of any offence committed before his aforesaid extradition under this Act, other than—
 - (i) the extraditable offence in respect of which the said extradition under this Act is requested;
 - (ii) any lesser offence proved by the facts established before the court before which he is brought in pursuance of a warrant issued under section 13; or
 - (iii) any other extraditable offence in respect of which the Minister may consent to his being so dealt with; or
- (b) be extradited by the Government of that Commonwealth country or treaty territory to any other Commonwealth

country or foreign territory, to be dealt with for any offence committed before his aforesaid extradition under this Act, without the consent of the Minister.

(3A)(a) Notwithstanding anything contained in subsection 3 (b) or any other law or treaty a fugitive offender or any class or category of fugitive offenders may be committed to, or kept in custody for the purpose of extradition or may be extradited to the Commonwealth country or a treaty territory in connection with any extraditable offence, if the Minister considers it necessary in the interest of justice.

(b) In determining under paragraph (a) whether it is in the interest of justice, the Minister may take into account any relevant factors, including but not limited to, any creditable evidence that there is a likelihood of the fugitive offender being extradited to a third country from the Commonwealth country or a treaty territory.

(3B)(a) Notwithstanding the requirement of the express provision in subsection (3)(b) but subject to paragraph (b) a person may be extradited from Guyana under this Act to any Commonwealth country or treaty territory and prior to the extradition, be committed to, or kept in custody for the purpose of extradition where the law of a Commonwealth country or a treaty with a treaty territory relating to the extradition of fugitive offenders does not contain the provision required by sub-section (3)(b).

(b) Where the law of a Commonwealth country or a treaty territory or a treaty relating to the extradition of fugitive offenders does not contain the provision required by the subsection (3)(b), the law or treaty shall by necessary implication be read and construed by the Minister, Magistrate, High Court, Full Court and Court of Appeal as if

the provision was incorporated into the law or treaty.

(c) The right to complain of infractions, if any in the extradition agreements lies in the asylum state and the person whose extradition is sought is not entitled so to complain to the court in any proceedings.

(4) The reference in this section to an offence of a political character does not include an offence against the life or person of the Head of State, or a Minister, of Guyana or any Commonwealth country or treaty territory or any related offence referred to in section 5 (3), or an offence established under an international convention to which any Commonwealth country or treaty territory, as the case may be, and Guyana are parties and declared by such convention as an offence not of a political character for the purposes of extradition.

(5) In this section "Head of State" includes—

- (i) any member of a collegial body performing the functions of a Head of State under the constitution of the state concerned; and
- (ii) any head of the Government of the state.

(6) For the purposes of this section an offence against the law of a Commonwealth country or a treaty territory may be regarded as being an offence of a political character notwithstanding that there are not competing political parties in that country or territory.

Request for extradition.

9.(1) A request for the extradition to a Commonwealth country of a person who is, or is suspected to be in or to be arriving in, Guyana may be made to the

Minister—

- (a) by any person resident in Guyana who is recognised by the Minister as a consular officer of that Commonwealth country;
- (b) by the Head of State, Head of Government or any Minister of the Government of the Commonwealth country who communicates with the Minister through the diplomatic representative of Guyana in or for that Commonwealth country; or
- (c) by such other person or in such other manner as may be approved by the Minister where it is not convenient for any person referred to in paragraph (a) or (b) to make the request or, in the case of a person referred to in paragraph (b), to make the request in the manner provided in that paragraph.

(2) A request for the extradition to a treaty territory of a person who is, or is suspected to be in or to be arriving in, Guyana may be made to the Minister—

- (a) by any person resident in Guyana who is recognised by the Minister as a consular officer of that treaty territory;
- (b) by any Minister of the treaty territory who communicates with the Minister through the diplomatic representative of Guyana in or for that treaty territory; or

- (c) by such other person or in such other manner as may be approved by the Minister where it is not convenient for any person referred to in paragraph (a) or (b) to make the request or, in the case of a person referred to in paragraph (b), to make the request in the manner provided in that paragraph.

(3) A request made under subsection (1) or (2) by or on behalf of any Commonwealth country or treaty territory shall be accompanied by—

- (a) in the case of a person accused of an offence, a warrant for his arrest issued in the Commonwealth country or treaty territory; or
- (b) in the case of a person unlawfully at large after conviction of an offence, a certificate of the conviction and sentence in the Commonwealth country or treaty territory and a statement of the part, if any, of such sentence which has been served,

together with, in each case, the particulars of the person whose extradition is requested and of the facts upon which and the law under which he is accused or has been convicted, and of the evidence sufficient to justify the issue of a warrant for his arrest under section 13.

Concurrent requests.

10. Where in respect of any person, the Minister receives requests for his extradition from Guyana—

- (a) from more than one Commonwealth

country;

- (b) from more than one treaty territory;
or
- (c) from one or more Commonwealth countries and one or more treaty territories,

that person may, subject to the other provisions of this Act, be ordered to be extradited in response to the request of that Commonwealth country or treaty territory which, having regard to all the circumstances, should, in the opinion of the Minister, be preferred.

Powers of
Minister on
request made
under section 8
(3) (a) (iii) or
(b).

11. (1) Where a request is made by or on behalf of a Commonwealth country, or treaty territory for the consent of the Minister in respect of an extraditable offence referred to in section 8(3)(a)(iii), the Minister may call for such information as he may deem necessary for the purpose of satisfying himself that such request relates to an extraditable offence for which extradition is not prohibited by this Act and may refuse consent where he is not so satisfied or is of opinion that, on the facts known to the Commonwealth country or treaty territory at the time of the request for the extradition of the fugitive offender, a request for his extradition in respect of that offence could also have been made.

(2) Where a request is made for the consent of the Minister for the extradition of a fugitive offender under section 8 (3) (b), the Minister may call for such information as he may deem necessary for the purpose of satisfying himself that the request does not relate to an offence for which extradition is prohibited by this Act and may refuse consent where he is not so satisfied.

(3) The powers of the Minister referred to in this section shall be without prejudice to any other power he may have under this Act.

Authority to
proceed.
Form 1.

12.(1) On receipt of a request under section 9 the Minister may issue an order in Form 1 (hereinafter referred to as "authority to proceed") signifying to a magistrate that the request for the extradition of the person mentioned in the order has been received and requiring the magistrate to proceed with the case in accordance with the provisions of this Act.

(2) The Minister shall not issue an authority to proceed if it appears to him that an order for the extradition of the person concerned could not lawfully be made, or would not in fact be made, in accordance with this Act.

(3) Subject to this Act, no person shall be dealt with by a magistrate under this Act except in pursuance of an authority to proceed issued by the Minister.

Arrest for
purposes of
committal.
Form 2.

13. (1) On the receipt, by a magistrate, of an authority to proceed in relation to any person the magistrate may issue a warrant for the arrest of the person in Form 2.

(2) Where a magistrate has received information that a person accused of an extraditable offence, or unlawfully at large after conviction of an extraditable offence in a Commonwealth country or foreign territory is, or is believed to be in or on his way to Guyana, the magistrate may issue a warrant (hereinafter referred to as provisional warrant) for the arrest of the person in Form 3.

Form 3

(3) A warrant for the arrest of any person under subsection (1) or (2), may be issued upon such evidence as would, in the opinion of the magistrate, justify the issue of a warrant for the arrest of the person if he were accused of committing in Guyana an offence corresponding to the offence of which he is accused, or if he were alleged to be unlawfully at large after conviction in Guyana of any such corresponding offence, as the case may be.

(4) Without prejudice to the provisions of subsection (3), for the purposes of the issue of a provisional warrant, a magistrate may receive in evidence any document which purports to bear the seal of the International Police Organisation (generally referred to as Interpol) and is issued to the Commissioner of Police of Guyana for the purpose of requesting the assistance of the Commissioner of Police in the ascertainment of the location of a person accused of an extraditable offence, or alleged to be unlawfully at large after conviction of an extraditable offence, in a Commonwealth country or foreign territory.

(5) Where a provisional warrant is issued under subsection (2), the magistrate by whom it is issued shall forthwith give notice of its issue to the Minister, and transmit to him the information and evidence, or a certified copy of the information and evidence, upon which it was issued; and the Minister shall, if he decides not to issue an authority to proceed in respect of the person to whom the warrant relates, or may in any other case, cancel the warrant and, if that person has been arrested thereunder, discharge him from custody.

(6) A warrant issued under this section may be executed in any part of Guyana and may be so executed by any person to whom it is directed or by any police constable.

(7) Where a warrant is issued under subsection (1) or (2) for the arrest of a person accused of the offence of stealing or receiving stolen property or any other offence in respect of property, the magistrate issuing the said warrant shall have power to issue a warrant to search for the property as if the offence had been committed within his jurisdiction.

Consent order
for return.

14. (1) Where the extradition of any person from Guyana is requested under this Act by a Commonwealth country or a treaty territory and such person is arrested in pursuance of any warrant under section 13, he may request

the Minister to order his return without any proceedings before a magistrate under section 15.

Form 4. (2) Where the Minister consents to the request made by such person under subsection (1), after being satisfied that such person understands the consequences of the request, the Minister may, without any proceedings before a magistrate under section 15, make an order in Form 4 directing the person to be committed to custody, to be kept there for the purposes of his extradition unless admitted to bail; and at any time thereafter the Minister shall, with the consent of such person, by warrant in Form 5 order him to be extradited to the Commonwealth country or treaty territory by which the request for his extradition was made.

Form 5.

(3) Where a person whose extradition has been ordered under subsection (2) withdraws his consent to the order before his departure from Guyana, he shall be brought as soon as practicable before a magistrate for the purposes of proceedings under section 15, and thereupon shall be dealt with as if the Minister had not made the order.

(4) The provisions of sections 8(3) and 11 shall apply to the extradition of any person under this section unless, on a request made by that person, the Minister agrees to the waiver thereof.

Proceedings for committal.

15. (1) A person arrested in pursuance of a warrant issued under subsection (1) or (2) of section 13 shall, unless he is previously discharged under subsection (5) of that section, be brought as soon as practicable before the magistrate's court (hereinafter referred to as the "court of committal"), specified in the warrant for that purpose.

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

(3) Where a person arrested under a provisional warrant is in custody and no authority to proceed has been received in respect of him, the court of committal may fix a reasonable period, not exceeding one month, for the Minister to decide whether an authority to proceed should be issued and notice of the period so fixed shall be given by the court to the Minister, and after the period so fixed the person shall be discharged from custody unless such an authority is received within that period.

(4) Where an authority to proceed has been issued in respect of a person arrested as referred to in subsection (1) and the court of committal is satisfied, after hearing any evidence tendered in support of the request for the extradition of that person or on behalf of that person, that the offence to which the authority relates is an extraditable offence and is further satisfied –

- (a) where the person is accused of the offence, that the evidence would be sufficient to warrant his trial for that offence if it had been committed within the jurisdiction of that court; or
- (b) where the person is alleged to be unlawfully at large after conviction of the offence, that he has been so convicted and appears to be so at large, the court shall, unless his committal is prohibited by any other provision of this Act, commit him to custody by warrant in Form 6 to await his extradition under this Act, but if the court is not so satisfied or if his committal is so prohibited, the court shall discharge him from custody.

Form 6.

Information as to right to apply for *habeas corpus*.

16. Where a person is committed to custody under section 15 (4) the court of committal shall inform him in ordinary language of his right to make an application to the High Court, within the period allowed by section 17, for *habeas corpus* and shall forthwith give notice of the committal to the Minister.

Application for *habeas corpus*.

17. (1) A person committed to custody under section 15 (4) may make an application to the High Court for *habeas corpus* within fifteen days from the day on which the order of committal is made and, on such application, the High Court may, without prejudice to any other jurisdiction of that Court, exercise any of the powers conferred upon it by this Act.

(2) On an application made by any person under subsection (1), the High Court may order the person committed to be discharged from custody if that court is satisfied that by reason of—

- (a) the trivial nature of the offence of which he is accused or was convicted;
- (b) the passage of time since he is alleged to have committed it or to have become unlawfully at large, as the case may be;
- (c) the accusation against him being not made in good faith or in the interests of justice; or
- (d) any other sufficient cause,

it would, having regard to all the circumstances, be unjust or oppressive to extradite him.

Extradition to be delayed in certain cases.

18. (1) A person committed to custody under section 15 (4) shall not be extradited under this Act—

- (a) until the expiration of the time allowed by section 17 (1) for the making, by him, of an application to the High Court for *habeas corpus*; and
- (b) if any such application is made to the High Court, so long as proceedings on that application are pending.

(2) For the purposes of this section proceedings on an application for *habeas corpus* made to the High Court shall be deemed to be pending—

- (a) until the expiration of the time allowed by section 21 for the making of an appeal to the Court of Appeal from the decision of the High Court on the application; and
- (b) where any such appeal is made to the Court of Appeal, until the appeal is disposed of.

Application for review by requesting Government.

19. (1) Where a person, whose extradition is requested by the Government of a Commonwealth country or a treaty territory is ordered by a magistrate under section 15 (4) to be discharged from custody, the Government which requested the extradition of that person may, within fifteen days of the making of the order by the magistrate, apply to the High Court for review of the order of discharge on any question of law or fact and on such application being made the High Court may review the order.

(2) Where any Government referred to in subsection (1) desires to make any application thereunder that Government shall, at the time of the making of the order of discharge by the magistrate, give to the magistrate notice of

its intention to apply to the High Court for review of the order and such notice shall operate as a stay of the order of the magistrate—

- (a) until the expiration of the time allowed by this section for the making of the application to the High Court for the review of the order of discharge; and
- (b) if any such application is made to the High Court, until the determination of the application by the High Court.

(3) Where any Government referred to in subsection (1) gives notice of its intention to apply for review of the order of discharge, the magistrate shall immediately grant bail to the person in respect of whom the order of discharge has been made, pending the determination by the High Court of the application.

(4) Upon application for review of the order of the magistrate being made by the Government referred to in subsection (1), the Registrar of the High Court shall immediately make a request to the magistrate for a statement of the evidence tendered before the magistrate and on which the magistrate came to his decision and of his reasons for his decision and his finding on any question of law or fact under review, and the magistrate shall, with all convenient dispatch, transmit the same to the Registrar.

(5) The High Court may, on an application made to it by any Government referred to in subsection (1), and if that Court is satisfied that the magistrate has erred on a question of law or fact raised in the application, direct the magistrate to commit the person so discharged to custody to await his extradition and shall forthwith inform the Minister of the decision.

Power of High Court to receive additional evidence.

20. On an application for *habeas corpus* under section 17 or for review under section 19, the High Court may receive additional evidence relevant to the exercise of its jurisdiction under section 8 or under section 17 (2).

Appeal to Court of Appeal.

21. (1) Any person whose extradition is sought, or the Government of any Commonwealth country or treaty territory which is seeking his extradition, if dissatisfied with the decision of the High Court on an application for *habeas corpus* under section 17 or on application for review under section 19, may, within fifteen days of the pronouncing of the decision, appeal to the Court of Appeal on any question of law.

(2) Where any person or Government desires to appeal under subsection (1) the person or the Government, as the case may be, shall at the time of the pronouncing of the decision of the High Court, give to the High Court notice of his or its intention to appeal to the Court of Appeal and any such notice shall operate as a stay of the decision of the High Court—

- (a) until the expiration of the time allowed for making the appeal to the Court of Appeal under subsection (1); and
- (b) if any such appeal is made under subsection (1), until the determination of the appeal by the Court of Appeal.

(3) Where any Government referred to in subsection (1) gives notice of its intention to appeal to the Court of Appeal under that subsection, the High Court shall immediately grant bail to the person whose extradition is sought if he is in custody, or, if he has been granted bail under section 19(3), he shall continue to be on bail, pending

the determination of the appeal by the Court of Appeal.

(4) Where an appeal has been made to the Court of Appeal under subsection (1), the High Court shall with all convenient dispatch transmit to the Court of Appeal—

- (a) all documents transmitted to the High Court by the magistrate in accordance with section 19; and a statement of any additional evidence received by the High Court under section 20; and
- (b) a statement of the reasons for the decision of the High Court and the findings of the High Court.

(5) Subject to the provisions of this Act, and on being satisfied that the High Court has erred on a question of law, the Court of Appeal may on an appeal by the person whose extradition is sought discharge him from custody or on an appeal by the Government of a Commonwealth country or treaty territory direct the magistrate to commit the said person to custody to await his extradition and shall forthwith inform the Minister of the decision.

Bail in certain cases.

22. Without prejudice to the provisions of sections 19 (3) and 21(3), the High Court, where an application has been made to it under section 17 for *habeas corpus* by a person who has been committed to custody, or the Court of Appeal, where an appeal has been made to it under section 21 by any person whose extradition is sought, having regard to all the circumstances of the case, may grant bail to the person.

Magistrate to comply with direction under section 19 (5) or 21 (5).
Form 6.

23. The magistrate shall, on receipt of any direction under section 19(5) or 21(5) comply with such direction and for that purpose may, if the person in respect of whom the direction is given is not in custody, issue a warrant for his arrest and on his apprehension commit him to custody by

warrant in Form 6.

Evidence for
extradition.

24. (1) In any proceedings under this Act, including proceedings on an application for habeas corpus under section 17 or for review under section 19—

- (a) a document, duly authenticated, which purports to set out evidence given on oath or affirmation in a Commonwealth country or treaty territory shall be admissible as evidence of the matters stated therein;
- (b) a document, duly authenticated, which purports to have been received in evidence, or to be copy of a document so received, in any proceedings in any Commonwealth country or treaty territory 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 law of, or a part of, any Commonwealth country or treaty territory shall be admissible as evidence of the fact and the 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 aforesaid, if the document purports to be certified by a judge or magistrate or

other officer in or of the Commonwealth country or treaty territory in question to be the original document containing or recording that evidence or a true copy of such document;

- (b) in the case of a document which purports to have been received in evidence as aforesaid or to be a copy of a document so received, if the document purports to be certified as aforesaid to have been, or to be a true copy of a document which has been, so received; and
- (c) in the case of a document which certifies that a person was convicted as aforesaid, if the document purports to be certified as aforesaid,

and, in any such case, the document purports to be authenticated either by the oath or affirmation of a witness, or by the official seal of a Minister, or a secretary or other officer administering a department of the Government, of the Commonwealth country or treaty territory in question.

(3) Nothing in this section shall be deemed or construed to affect or prejudice the admission in evidence of any document which is admissible in evidence otherwise than under this section.

Evidence for
fugitive
offender.

25. A magistrate shall receive any relevant evidence, that is tendered by or on behalf of any person whose extradition has been sought, in the manner provided by section 24, to show—

- (a) that the offence of which the person is

accused or alleged to have been convicted is not an extraditable offence; or

- (b) that, for any other reason, the person is not liable to be committed to custody for extradition or to be extradited under this Act in respect of the offence of which he is accused or alleged to have been convicted.

Order for
extradition.

Form 7.

26. (1) Where a person is committed to custody under this Act to await his extradition and is not discharged from custody by the High Court on an application for *habeas corpus* or the Court of Appeal on appeal from the decision of the High Court, the Minister may by warrant in Form 7 order him to be extradited to the Commonwealth country or treaty territory by or on behalf of which the request for his extradition was made unless the extradition of that person is prohibited by section 8 or this section or the Minister decides under this section to make no such order in his case.

(2) The Minister shall not make an order under this section in the case of any person if it appears to the Minister, on any ground mentioned in section 17 (2), that it would be unjust or oppressive to extradite that person.

(3) The Minister shall not make an order under this section in the case of a person who is serving a sentence of imprisonment, or is charged with an offence, in Guyana—

- (a) in the case of a person serving such a sentence, until the sentence has been served; or
- (b) in the case of a person charged with an offence, until the charge is disposed of or withdrawn and, if it

resulted in a sentence of imprisonment, not being a suspended sentence of imprisonment, but including imprisonment for non-payment of fine, until the sentence has been enforced or served:

Provided that where a person is serving a sentence of imprisonment or is charged with an offence in Guyana, the Minister may make an order for the temporary transfer of that person to a Commonwealth country or treaty territory in which he is accused of an extraditable offence, to enable proceedings to be brought against him in relation to the extraditable offence, on such conditions as may be agreed upon between Guyana and the Commonwealth country or treaty territory, as the case may be.

(4) The Minister may decide to make no order under this section in respect of a person who is accused, or has been convicted, of an extraditable offence which is not punishable with death in Guyana, if that person could be, or has been, sentenced to death for the offence in the Commonwealth country or treaty territory by or on behalf of which the request for his extradition is made.

(5) The Minister may decide to make no order under this section for the extradition of a person committed to custody on a request made by or on behalf of a Commonwealth country or treaty territory if another request for his extradition under this Act has been made by or on behalf of another Commonwealth country or treaty territory 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; and

- (c) the nationality or citizenship of the person concerned and his ordinary residence,

that preference should be given to the other request.

(6) Notice of the issue of a warrant under this section shall forthwith be given to the person to be extradited thereunder.

Discharge in case of delay in extradition.

27. (1) If any person committed to await his extradition is in custody in Guyana under this Act after the expiration of the following period that is to say—

- (a) in any case, the period of two months commencing on the first day on which, having regard to sections 18 (1) and 21 (2), he could have been extradited; or
- (b) where a warrant for his extradition has been issued under section 26, a period of one month commencing on the day on which that warrant was issued,

he may apply to the High Court for his discharge from custody.

(2) If, upon any such application, the High Court is satisfied that reasonable notice of the proposed application has been given to the Minister, that Court may, unless sufficient cause is shown to the contrary, by order direct the applicant to be discharged from custody and, if a warrant for his extradition has been issued under section 26, quash that warrant.

(3) Without prejudice to the preceding provisions of this section, where the Minister has by warrant ordered the extradition of any person, he may, if that person is in custody in Guyana after the expiration of one month commencing on the day on which the warrant was issued, cancel the warrant and discharge the person from custody.

Execution of
warrant under
section 26.

28. A warrant under section 26 ordering the extradition of a person to any Commonwealth country or treaty territory shall be sufficient authority for all persons to whom it is directed and all police constables to receive that person, keep him in custody and convey him into the jurisdiction of that country or territory.

Custody.

29. (1) Any person remanded or committed to custody under any provision of this Act shall be remanded or committed to a like institution as a person charged with an offence before the court of committal.

(2) If any person, who is in custody in Guyana by virtue of a warrant under this Act, escapes out of custody, he may be apprehended in any part of Guyana in like manner as a person escaping from custody under a warrant for his arrest issued in Guyana in respect of an offence committed therein.

(3) Where a person, being in custody in any part of Guyana, whether under this Act or otherwise, is required to be removed in custody under this Act to another part of Guyana and is so removed by sea or air, he shall be deemed to be in legal custody until he reaches the place to which he is required to be removed.

Delivering up
person for
extradition.

30. (1) Where the Minister has made an order under section 26 ordering the extradition of any person to a Commonwealth country or treaty territory, the Minister may, by order under his hand, direct any person who has the custody of the person to surrender that person to such

persons (to be named in order) as are, in the opinion of the Minister, duly authorised to receive the person in the name and on behalf of that Commonwealth country or treaty territory, as the case may be.

(2) A person is extradited under this Act when he is delivered, as ordered by the Minister, into the custody of the persons named in the order under subsection (1).

Powers of
custodian of
extradited
person.

31. The persons to whom a fugitive offender is surrendered pursuant to an order under section 30 may—

- (a) receive and hold the fugitive offender within the jurisdiction of Guyana; and
- (b) convey the fugitive offender to a place within the Commonwealth country or treaty territory to which he has been extradited under this Act.

Property found
on persons
arrested under
this Act.

32. Everything found in the possession of a person at the time of his arrest under this Act that may be material evidence in proving the extraditable offence may be delivered up with the person on his extradition, but such delivery shall be subject to the rights of third parties with regard to that thing.

Expenses.

33. All expenses incurred in respect of any person whose extradition is sought shall be paid by the Commonwealth country or treaty territory that requests his extradition under this Act unless other provisions for the payment of the expenses have been made by treaty, convention or other arrangement, between Guyana and that Commonwealth country or treaty territory.

PART IV
EXTRADITION TO GUYANA

Extradition of persons to Guyana and certain restrictions upon proceedings against them.

34. (1) Where a person accused of an extraditable offence in Guyana, or alleged to be unlawfully at large after conviction in Guyana of any such offence whether committed before or after the commencement of this Act, is, or is suspected to be in or to be arriving, in any Commonwealth country or treaty territory or within the jurisdiction of any such country or territory, the Minister may make a request to that country or territory for the extradition of that person.

(2) Where a person has been extradited to Guyana upon a request for his extradition being made, that person shall not, during the period specified in subsection (3)–

- (a) be arrested, detained, remanded or otherwise dealt with in Guyana for or in respect of any offence committed before his extradition other than:
 - (i) the extraditable offence in respect of which he was extradited;
 - (ii) any lesser offence proved by the facts established for the purpose of securing his extradition; or
 - (iii) any other extraditable offence in respect of which the Government of the Commonwealth country or treaty territory from which he was extradited has consented to his being so dealt with; or

- (b) be extradited by the Government of Guyana to any other country to be dealt with for any offence committed before his extradition without the consent of the Government of the Commonwealth country or treaty territory from which he was extradited.

(3) The period referred to in subsection (2) in relation to a person to whom this section applies is the period commencing on the day of his arrival in Guyana on his extradition and ending on the expiry of forty- five days from the day on which he is free to leave Guyana.

Restoration of
persons
acquitted or not
tried.

35. Where a person accused of an extraditable offence is extradited to Guyana and –

- (a) proceedings against him for that offence are not begun within the period of six months commencing on the day of his arrival in Guyana on being extradited; or
- (b) on his trial for that offence, he is acquitted or discharged by any court in Guyana, and in the event of one or more appeals from the decision of such court, he is acquitted or discharged by the court determining the appeal or the last appeal, as the case may be,

the Minister may, if he thinks fit, on the request of that person, arrange for him to be sent back free of charge, and with as little delay as possible, to the Commonwealth country or treaty territory from which he was extradited.

PART V
EXTRADITION IN SPECIAL CASES

Extradition to and from Non-Commonwealth countries, where no arrangement exists.
Form 1.

36. (1) Notwithstanding any other provision of this Act, although no arrangement as is referred to in section 4(1) or (2) exists between the Government of Guyana and the Government of any foreign territory, upon the request of the Government of that foreign territory, the Minister may issue an authority to proceed in Form 1 signifying to a magistrate that a request has been received for the extradition of the person mentioned therein and requiring the magistrate to proceed with the case in accordance with the provisions of this Act as if the request for the extradition had been received from the Government of a treaty territory, if the Minister is satisfied that—

- (a) the person whose extradition is sought is accused of, or is alleged to be unlawfully at large after conviction of, any offence in such foreign territory, which offence if committed in a treaty territory would be an extraditable offence;
- (b) the aforesaid person is, or is suspected to be in or to be arriving in, Guyana; and
- (c) it is in the interests of justice that the said person should be extradited to the foreign territory referred to in paragraph (a).

(2) On an authority to proceed being issued under subsection (1) in relation to any person, whose extradition has been sought by a foreign territory referred to therein, the provisions of this Act relating to extradition from Guyana to a treaty territory shall *mutatis mutandis* apply to all matters and

proceedings arising from the request for extradition and relating to the extradition of the person in the same manner and to the same extent as if the said foreign territory were a treaty territory.

(3) Notwithstanding any other provision of this Act, where under the law in force in any foreign territory, not being a treaty territory, such request can be made the Minister may make a request to the Government of that foreign territory for the extradition to Guyana of any person who—

- (a) is accused of, or is unlawfully at large after conviction, in Guyana of any offence which would be an extraditable offence if that foreign territory were a treaty territory; and
- (b) is, or is suspected to be in or to be arriving in, that foreign territory.

(4) The provisions of this Act in relation to persons extradited to Guyana from any treaty territory shall *mutatis mutandis* apply to and in relation to a person extradited to Guyana upon a request made under subsection (3) as if the foreign territory to which the request was made were a treaty territory.

(5) This section applies whether or not any offence referred to in subsection (1) or (3) of which a person is accused or is alleged to have been convicted was committed before or after the commencement of this Act.

PART VI MISCELLANEOUS

Jurisdiction regarding offence on aircraft.

37. (1) For the purposes of the application of this Act, an offence committed on board an aircraft, being an aircraft registered in a Commonwealth country or a treaty territory, in

which the Tokyo Convention is in force, at any time while that aircraft is in flight, shall be deemed to be committed within the jurisdiction of that country or territory as the case may be, notwithstanding that when the offence was committed the aircraft was within the jurisdiction of any other Commonwealth country or foreign territory.

(2) For the purposes of this section, a certificate issued by the Minister assigned responsibility for foreign affairs, or on his behalf by another person authorised by him, that a Commonwealth country or a treaty territory is a country or territory in which the Tokyo Convention is in force, shall be admissible in evidence as conclusive proof of the matters stated therein without proof of the signature of that Minister or the other person or of the authorisation of the other person by the Minister.

(3) In this section, "Tokyo Convention" means the Convention on offences and certain other acts committed on board aircraft signed in Tokyo on 14th September 1963.

Power to make regulations.

38. The Minister may make regulations for carrying out the purposes of this Act, and without prejudice to the generality of the foregoing may, in particular, prescribe the form for any purposes under this Act.

Power to amend Schedule.

39. The Minister may by regulations amend any form in the Schedule.

Cesser of operation of extradition laws of the United Kingdom.

40. On and from the commencement of this Act the applied Acts entitled the Extradition Acts, 1870 to 1935, and the Fugitive Offenders Act, 1881, shall cease to have effect in Guyana.

ss. 12(1) and 36

SCHEDULE

FORM 1

AUTHORITY TO PROCEED

GUYANA

To His Worship

A request having been made to the Minister by or on behalf of..... for the return to that country/territory of A.B. who is accused (or alleged to be unlawfully at large after conviction) of the offence ofagainst the law of

The Minister hereby requires you to proceed with the case in accordance with the provisions of the Fugitive Offenders Act, Cap 10:04.

Dated the day of20.....
Minister.



s. 13(1)

FORM 2

WARRANT OF ARREST

GUYANA

County of

To.....

The Minister by authority to proceed having required me, the undersigned Magistrate for theDistrict, to proceed in accordance with the provisions of the Fugitive Offenders Act, Cap 10:04; in respect of A. B. (hereinafter referred to as the defendant) who is accused (or who is alleged to be unlawfully at large after conviction) of the offence of against the law of

.....;

And there being evidence that the offence is an extraditable offence as defined in section 5 of that Act;

And there being in my opinion such evidence as would justify the issue of a warrant for the arrest of a person accused of committing a corresponding offence (or alleged to be unlawfully at large after conviction of such an offence) in my magisterial district:

You are hereby commanded to arrest the defendant forthwith and to bring him before me before to be dealt with in accordance with the provisions of that Act.

Dated the..... day of20 ...

Magistrate.



s. 13(2)

FORM 3

PROVISIONAL WARRANT OF ARREST

GUYANA

County of

To

There being information that A. B. (hereafter referred to as the "defendant") is accused (or is alleged to be unlawfully at large after conviction) of the offence ofagainst the law of.....and that the offence is an extraditable offence as defined in section 5 of the Fugitive Offenders Act, Cap 10:04.

And there being in my opinion such evidence as would justify the issue of a warrant for the arrest of a person accused of committing a corresponding offence (or alleged to be unlawfully at large after conviction of such an offence) in my magisterial district:

And there being information that the defendant is or is believed to be in or on his way to GUYANA:

You are hereby commanded to arrest the defendant and to bring him before me or some other magistrate to be dealt with in accordance with the provisions of that Act.

Dated the.....day of, 20
Magistrate

14(2)

FORM 4

WARRANT OF COMMITTAL (BY CONSENT)

GUYANA

To all constables and to the keeper of.....Prison.

A.B., having been arrested pursuant to a warrant issued under section 13 of the Fugitive Offenders Act, Cap. 10:04 and having requested the Minister to order his return without any proceedings before a magistrate under section 15 of that Act;

And the Minister having consented to that request of A.B.:

This is to command you, the said constables, to convey A. B. to the said prison, and there deliver him to the keeper thereof, together with this warrant; and I do hereby command you, the keeper of the said prison, to receive him into your custody and keep him until he is thence delivered in accordance with the provisions of that Act.

Dated the day of....., 20
Minister.

14(2)

FORM 5

**WARRANT FOR EXTRADITION (BY CONSENT) TO
REQUESTING
COUNTRY OR TERRITORY**

GUYANA

To the keeper of..... Prison and to all constables.

Whereas a request has been made to the Minister by or on behalf of for the return to that country/territory of A.B. who is accused (or alleged to be unlawfully at large after conviction) of the offence of against the law of

And whereas A. B. has requested the Minister to order his return without any proceedings before a magistrate under section 15 of the Fugitive Offenders Act, Cap 10:04;

And whereas the Minister has consented to that request of A. B. and ordered A.B. to be committed to the said prison on the day of....., 20..... to await his return to

Now, therefore, the Minister hereby orders with the consent of A. B. that A. B be returned to in respect of the offence for which he was committed to custody by the Minister.

Dated the day of, 20.....
Minister.

ss. 15(4) and 23

FORM 6

WARRANT OF COMMITTAL

GUYANA

County of

To all constables and to the keeper of
Prison A.B. (hereinafter referred to as the defendant) having
been brought this day, before me, the undersigned magistrate
for the..... District, pursuant to a warrant for his arrest
issued under section 13, of the Fugitive Offenders Act Cap
10:04;

And an authority to proceed having been issued by the
Minister under section 12(3) of that Act in respect of the
defendant;

And I being satisfied that the following offence (of which the
defendant is accused in namely
..... being an offence to which the authority to
proceed relates, is an extraditable offence as defined in section
5 of that Act, and that the evidence given before me would be
sufficient to warrant the defendant's committal for trial for
that offence if it had been committed in Guyana (or that the
defendant has been convicted of the offence and appears to be
unlawfully at large):

This is to command you, the said constables, to convey the
defendant to the saidprison and there deliver
him to the keeper thereof, together with this warrant, and I
do hereby command you, the keeper of the said
..... prison, to receive him into your custody
and keep him until he is thence delivered in accordance with
the provisions of that Act.

Dated the day of, 20.....
Magistrate.

26(1)

FORM 7

**WARRANT FOR RETURN TO REQUESTING
COUNTRY/TERRITORY**

GUYANA

To the keeper of Prison and to all constables.

Whereas a request has been made to the Minister by or on behalf of for the return to that country/territory of A.B. (hereinafter referred to as the prisoner) who is accused (or alleged to be unlawfully at large after conviction) of the offence of against the law of

And whereas a magistrate, the High Court and/or Court of Appeal, being satisfied that the evidence given before him/it, would be sufficient to warrant the prisoner's trial for that offence (or the offence of.....) if it had been committed in Guyana (or that the prisoner had been convicted of that offence) (or the offence of) (and appeared to be unlawfully at large), has committed the prisoner to the prison on the day of 20..... to await his return to

Now therefore, the Minister hereby orders that the said prisoner be returned to in respect of the offence for which he was committed to custody.

Dated theday of 20.....

Minister.