

Extradition Law

Date of entry into force: 18 February 1977

This legislation includes amendments up to and including: 22 July 1982

Law No. 8 of 1977.

A LAW TO MAKE PROVISION FOR THE EXTRADITION OF FUGITIVE PERSONS TO AND FROM COMMONWEALTH COUNTRIES AND FOREIGN STATES, TO REGULATE THE TREATMENT OF PERSONS ACCUSED OR CONVICTED OF OFFENCES IN SRI LANKA WHO ARE EXTRADITED FROM COMMONWEALTH COUNTRIES OR FOREIGN STATES, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. Short title

This Law may be cited as the Extradition Law.

PART I - PRELIMINARY

2. Application of the provisions of this Law in respect of Commonwealth countries

(1) The Minister may from time to time by Order published in the Gazette, declare that the provisions of this Law shall apply in respect of any country within the Commonwealth specified therein, subject to such modifications, limitations, or conditions as may be specified in such Order.

(2) Every such Order shall come into force on the date of publication of such Order or on such later date as may be specified therein.

(3) Every Order made under this section shall as soon as convenient after its publication be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.

(4) An Order made under this section shall be final and conclusive, and shall not be called in question in any court.

(5) Every country within the Commonwealth in relation to which an Order made under this section is for the time being in force is hereinafter referred to as a "designated Commonwealth country".

(6) Where any Order is deemed to be rescinded by virtue of the operation of the provisions of subsection (3) of this section, the Minister shall cause notice of such rescission to be published in the Gazette.

3. Application of the provisions of this Law in respect of foreign States

(1) Where any extradition arrangement has been made by the Government of Sri Lanka with any foreign State, whether before or after the commencement of this Law, then, subject to the provisions of section 4, the Minister may by Order published in the Gazette declare that the provisions of this Law shall apply in respect of such foreign State, subject to such modifications, limitations or conditions, as the Minister, having due regard to the terms of such arrangement, may deem expedient to specify in the Order for the purpose, and the purpose only, of implementing such terms.

(2) Every Order made under this section shall recite or embody the terms of the extradition arrangement in consequence of which such Order was made, and shall come into force on the date of publication of such Order, or on such later date as may be specified therein, and shall remain in force for so long, and so long only, as the extradition arrangement in consequence of which such Order was made remains in force.

(3) Every Order made under this section shall as soon as convenient after its publication be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.

(4) An Order made under this section shall be final and conclusive, and shall not be called in question in any court.

(5) Where any Order is deemed to be rescinded by virtue of the operation of the provisions of subsection (3) of this section, the Minister shall cause notice of such rescission to be published in the Gazette.

(6) Every foreign State in relation to which an Order made under this section is for the time being in force is hereinafter referred to as a "treaty State"

4. Special provisions as to the making of an Order under section 3

No Order shall be made under section 3 unless the extradition arrangement in consequence of which such Order is made

(a) is in conformity in all respects with the provisions of this Law containing restrictions on the extradition of persons; and

(b) is substantially in conformity with the other provisions of this Law, subject to the modifications, limitations or conditions, if any, specified in such Order for the purpose of implementing the terms of such arrangement.

5. Effect of Orders made under sections 2 and 3

(1) For so long, and so long only, as an Order under section 2 in respect of a designated Commonwealth country, or an Order under section 3 in respect of a treaty State is for the time being in force, the provisions of this Law shall apply in respect of and in relation to such country or State, as the case may be, subject to such modifications, limitations and conditions, if any, as are specified in such Order.

(2) For so long, and so long only, as an Order under section 3 in respect of a treaty State is for the time being in force, such Order shall be conclusive evidence that the extradition arrangement in consequence of which such Order was made, complies with the provisions of section 4.

6. Extraditable offences

(1) For the purposes of this Law, any offence of which a person is accused or has been convicted in any designated Commonwealth country, or any treaty State shall be an extraditable offence, if

(a) in the case of an offence against the law of a treaty State it is an offence which is provided for in the extradition arrangement;

(b) in the case of an offence against the law of a designated Commonwealth country, it is an offence which, however described in that law, falls within any description set out in the Schedule hereto and is punishable under that law with imprisonment for a term of not less than twelve months; and

(c) in any case, the act or omission constituting the offence, or the equivalent act or omission, would constitute an offence against the law of Sri Lanka if it took place within Sri Lanka, or outside Sri Lanka.

(2) In determining for the purposes of this section whether an offence against the law of any designated Commonwealth country falls within any description set out in the Schedule hereto,

any special intent or state of mind or special circumstances of aggravation which may be necessary to constitute that offence under that law shall be disregarded.

(3) Each offence described in the Schedule hereto shall be deemed to include the offence of attempting or conspiring to commit, of assisting, counselling or procuring the commission of, or being accessory before or after the act to, such offence, and of impeding the apprehension or prosecution of persons guilty of such offence.

(4) Reference in this section to the law of any designated Commonwealth country or of any treaty State shall be deemed to include reference to the law of any part of such country or State, as the case may be.

7. General restrictions on extradition

(1) A person shall not be extradited under this Law to any designated Commonwealth country or to any treaty State, or be committed to or kept in custody for the purposes of such extradition, if it appears to the Minister, to the court of committal, or to the Court of Appeal upon an application made to it for a mandate in the nature of a writ of habeas corpus

(a) that the offence of which that person was accused or was convicted is an offence of a political character;

(b) that the request for extradition, though purporting to be made on account of the extraditable offence, is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality, or political opinions; or

(c) that he might, if extradited, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, or political opinions.

(2) A person accused of an offence shall not be extradited under this Law to any designated Commonwealth country or to any treaty State, or be committed to or kept in custody for the purpose of his extradition, if it appears, as provided in subsection (1) of this section, that if charged with that offence in Sri Lanka 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 under this Law to any designated Commonwealth country or to any treaty State, or be committed to or kept in custody for the purposes of such extradition, unless provision is made by the law of that Commonwealth country, or, in the case of a treaty State, by the extradition arrangement with that State, for securing that he will not, unless he

has first been restored, or had an opportunity of returning, to Sri Lanka, be arrested, detained, remanded or otherwise dealt with in that country or State, for or in respect of any offence committed before his extradition under this Law, other than

(a) the offence in respect of which the extradition under this Law is requested;

(b) any lesser offence proved by the facts established before the court of committal; or

(c) any other offence, being an extraditable offence in respect of which the Minister may consent to his being so dealt with.

(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 any designated Commonwealth country or treaty State or any related offence described in subsection (3) of section 6.

PART II - EXTRADITION TO DESIGNATED COMMONWEALTH COUNTRIES AND TREATY STATES

8. Authority to proceed

(1) Subject to the provisions of this Law, no person shall be dealt with thereunder except in pursuance of an Order of the Minister (in this Law referred to as an "authority to proceed"), issued in pursuance of a request made to the Minister by or on behalf of the Government of the designated Commonwealth country or treaty State in which the person to be extradited is accused or was convicted.

(2) There shall be furnished with any request made for the purposes of this section by or on behalf of any designated Commonwealth country or treaty State

(a) in the case of a person accused of an offence, a warrant for his arrest issued in that country or State;

(b) in the case of a person unlawfully at large after conviction of an offence, a certificate of the conviction and sentence in that country or State, 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 was convicted, and the evidence sufficient to justify the issue of a Warrant for his arrest under section 9.

(3) On receipt of such a request the Minister may issue an authority to proceed, unless it appears to him that an order for extradition of the person concerned could not lawfully be made, or would not in fact be made, in accordance with the provisions of this Law.

9. Arrest for the purposes of committal

(1) A warrant for the arrest of a person accused of an extraditable offence, or alleged to be unlawfully at large after conviction of such an offence, may be issued

(a) on receipt, by any High Court Judge, of an authority to proceed; or

(b) without such an authority, by any High Court Judge, upon information that such person is or is believed to be on his way to Sri Lanka.

Any warrant issued by virtue of paragraph (b) of this subsection is in this Law referred to as a "provisional warrant".

(2) A warrant of arrest under this section may be issued upon such evidence as would, in the opinion of the Judge, authorize the issue of a warrant for the arrest of a person accused of committing a corresponding offence or of a person alleged to be unlawfully at large after conviction of an offence, as the case may be, within the jurisdiction of the court.

(3) Where a provisional warrant is issued under this section, the Judge by whom it is issued shall forthwith give notice of its issue to the Minister, and transmit to him the information and evidence, or certified copy of the information and evidence, upon which it was issued; and the Minister may in any case, and shall if he 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 thereunder, discharge him from custody

(4) Notwithstanding anything in the Code of Criminal Procedure Act a warrant of arrest issued under this section may, without an endorsement to that effect, be executed in any part of Sri Lanka, whether such part is within or outside the jurisdiction of the court by which it is so issued, and may be so executed by any person to whom it is directed, or by any police officer.

(5) Where a warrant is issued under this section for the arrest of a person accused of an offence of stealing or receiving stolen property, or any other offence in respect of property, the Judge shall have the like power to issue a warrant to search for the property as if the offence has been committed within the jurisdiction of his court.

10. Proceedings for committal

(1) A person arrested in pursuance of a warrant issued under section 9 shall, unless he is previously discharged under subsection (3) of that section, be brought as soon as practicable before such High Court, in this Law 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 shall have the like jurisdiction and powers, including power to remand in custody or to release on bail as though the proceedings were in respect of an offence triable by that court.

(3) 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, the court of committal may fix a reasonable period, notice of which shall be given by the court to the Minister, after which he shall be discharged from custody unless such an authority has been received.

(4) Where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied, after bearing 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 that 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 the court; or

(b) where that person is alleged to be unlawfully at large after the 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 Law, commit him to custody to await his extradition thereunder but if the court is not so satisfied, or if the committal of that person is so prohibited, the court shall discharge him from custody.

11. Application for habeas corpus

(1) Where a person is committed to custody under section 10, the court shall inform him in ordinary language of his right to make an application to the Court of Appeal for a mandate in the nature of a writ of habeas corpus, and shall forthwith give notice of the committal to the Minister.

(2) No person committed to custody under section 10, shall be extradited under this Law

(a) in any case, until the expiration of a period of fifteen days commencing on the day on which the order for his committal is made; and

(b) if an application for habeas corpus is made to the Court of Appeal, so long as proceedings on that application are pending.

(3) On any such application the Court of Appeal may, without prejudice to any other jurisdiction of the court, order the person committed to be discharged from custody if it appears to the court that

(a) by reason of the trivial nature of the offence of which he is accused or was convicted; or

(b) by reason of the passage of time since he is alleged to have committed it, or to have become unlawfully at large, as the case may be; or

(c) because the accusation against him is not made in good faith in the interests of justice, it would, having regard to all the circumstances, be unjust or oppressive to extradite him.

(4) On any such application the Court of Appeal may receive additional evidence relevant to the exercise of its jurisdiction under section 7 or under subsection (3) of this section.

12. Order for extradition

(1) Where a person is committed to await his extradition and is not discharged by order of the Court of Appeal, the Minister may by warrant order him to be extradited to the country or State by which the request for his extradition was made unless the extradition of that person is prohibited, or prohibited for the time being, by section 7, 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 a person who is serving a sentence of imprisonment, or is charged with an offence, in Sri Lanka until after the expiration of the following period, that is to say,

(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 and, if it results in a sentence of imprisonment not being a suspended sentence, until the sentence has been served.

(3)The Minister may make no order under this section in the case of any person if it appears to the Minister, on any ground set out in paragraph (a) or paragraph (b) or paragraph (c) of subsection (3) of section 11, that it would be unjust or oppressive to extradite that person.

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

(5)The Minister may make no order under this section for the extradition of a person committed in consequence of a request made by or on behalf of a designated Commonwealth country or treaty State if another request for his extradition under this Law has been made by or on behalf of another designated Commonwealth country or treaty State 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 be given to such other request.

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

13. Discharge in case of delay in extraditing

(1)If any person committed to await his extradition is in custody in Sri Lanka under this Law 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 subsection (2) of section 11, he could have been extradited; or

(b)where a warrant for his extradition has been issued under section 12, a period of one month commencing on the day on which that warrant was issued, he may apply to the Court of Appeal for his discharge.

(2)If upon any such application being made the Court of Appeal 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 from

custody and, if a warrant for his extradition has been issued under section 12 quash that warrant.

14. Evidence

(1) In any proceedings under this Law, including proceedings on an application for a mandate in the nature of a writ of habeas corpus in respect of a person in custody thereunder

(a) a document, duly authenticated, which purports to set out evidence given on oath in a designated Commonwealth country or treaty State 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 a copy of a document so received, in any proceedings in any such country or State shall be admissible in evidence;

(c) a document, duly authenticated, which certifies that such person was convicted on a date specified in the document of an offence against the law of, or of a part of, any such country or State 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 aforesaid, if the document purports to be certified by a Judge or other officer in or of the country or State 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;

(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 is authenticated either by the oath of a witness, or by the official seal of a Minister, of the designated Commonwealth country or treaty State in question.

(3) In the section "oath" includes affirmation or declaration; and 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.

15. Custody

(1) Any person remanded or committed to custody under section 10 shall be 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 by virtue of a warrant under this Law, escapes from custody, he may be taken in any part of Sri Lanka in like manner as a person escaping from custody under a warrant for his arrest issued in that part in respect of an offence committed therein.

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

(4) A warrant under section 12 for the extradition of any person to a designated Commonwealth country or treaty State shall be sufficient authority for all persons to whom it is directed and all police, prisons and other officers to receive that person, keep him in custody and convey him into the jurisdiction of that country or State.

16. Form of warrant and orders

Any warrant or order required to be issued or made by the Minister under the foregoing provisions of this Law shall be in the prescribed form and shall be given under the hand of the Secretary to the Ministry.

PART III - EXTRADITION FROM DESIGNATED COMMONWEALTH COUNTRIES AND TREATY STATES

17. Extradition of persons to Sri Lanka and certain restrictions upon proceedings against them

(1) Where a person accused or convicted of an offence in Sri Lanka, whether committed before or after the commencement of this Law, is, or is suspected of being, in any designated Commonwealth country or treaty State or within the jurisdiction of, or of a part of, such country or State, the Minister may make a request to that country or State for the extradition of that person.

(2) Where any person has been extradited to Sri Lanka upon a request for his extradition being made, such person shall not, during the period described in subsection (3) of this section, be arrested, detained, remanded or otherwise dealt with in Sri Lanka for or in respect of any offence committed before his extradition, other than

(a) the offence in respect of which he was extradited;

(b) any lesser offence proved by the facts established for the purposes of securing his extradition; or

(c) any other offence in respect of which the Government of the designated Commonwealth country or the treaty State from which he was extradited has consented to his being dealt with.

(3) The period referred to in subsection (2) of this section in relation to a person to whom this section applies is the period commencing on the day of his arrival in Sri Lanka on his extradition and ending forty-five days after the first subsequent day on which he has the opportunity to leave Sri Lanka.

18. Restoration of persons not tried or acquitted

(1) Where a person accused of an offence is extradited to Sri Lanka and

(a) proceedings against him for the offence for which he was extradited are not begun within the period of six months commencing on the day of his arrival in Sri Lanka on being extradited; or

(b) on his trial for that offence, he is acquitted or discharged by any court in Sri Lanka, 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 designated Commonwealth country or treaty State from which he was extradited.

PART IV - MISCELLANEOUS

19. Regulations

(1) The Minister may make regulations under this Law in respect of all such matters as are necessary for giving full force and effect to the principles and provisions of this Law, and in particular, in respect of any matter required by this Law to be prescribed.

(2) Every regulation shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.

(3) All regulations made under this Law shall as soon as convenient after their publication in the Gazette, be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.

20. Extradition from Sri Lanka applicable to offences committed before and after the commencement of this Law

A person whose extradition is sought by a designated Commonwealth country or treaty State shall, subject to the provisions of this Law, be liable to be arrested and extradited whether the offence in respect of which he has been accused or convicted was committed before or after the commencement of this Law.

21. Property found on fugitive offenders

Everything found in the possession of a person at the time of his arrest which may be material as evidence in proving the extraditable offence may be delivered up with such person when he is dealt with subject to the rights, if any, of third persons in respect thereto.

22. [Repeals the Fugitive Persons Act, No. 29 of 1969. Omitted here.]

23. Interpretation

In this Law, unless the context otherwise requires

"designated Commonwealth country" includes

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

"extradition arrangement" includes any treaty or agreement relating to the extradition of fugitive offenders made prior to February 4, 1948, which extends to, and is binding on, the Government of Sri Lanka;

"foreign State" means any State outside Sri Lanka other than a country within the Commonwealth;

"prescribed" means prescribed by regulations made under this Law;

"treaty State" includes

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

SCHEDULE - DESCRIPTION OF EXTRADITABLE OFFENCES [As amended by the Offences Against Aircraft Act, No. 24 of 1982.]

1. Murder.
2. Culpable homicide not amounting to murder.
3. Causing death by doing a rash or negligent act.
4. Causing miscarriage.
5. Voluntarily causing grievous hurt.
6. Voluntarily causing hurt.
7. Rape.
8. Carnal intercourse with a female between twelve and fourteen year.
9. Unnatural offences.
10. Procuring a girl or woman to become a common prostitute.
11. Bigamy.
12. Kidnapping, abduction, wrongful confinement.
13. Exposure and abandonment of a child under twelve years.
14. Bribery.
15. Giving or fabricating false evidence.
16. Mischief by fire.
17. An offence concerning counterfeit currency.
18. Forgery.

19. Theft, breach of trust, dishonest misappropriation of property, falsification of accounts, cheating dishonestly receiving stolen property or any other offences in respect of property involving fraud.
20. House breaking or house trespass.
21. Robbery.
22. Extortion.
23. An offence against bankruptcy law or company law.
24. Mischief.
25. Acts done with the intention of endangering vehicles, vessels, or aircraft.
26. An offence against the law relating to dangerous drugs or narcotics.
27. Piracy.
28. Revolt against the authority of the master of a ship or the commander of an aircraft.
29. Jeopardising the safety of aircraft in flight or of the persons or property on board such aircraft.
30. Contravention of import or export prohibitions relating to precious stones, gold and other precious metals.
31. An offence against the law relating to Exchange Control.
32. Unlawful seizure, or exercise of control, of an aircraft in flight.
33. Acts of violence against a person on board an aircraft in flight likely to endanger the safety of that aircraft.
34. Destruction of, or danger to, an aircraft in service as is likely to endanger its safety in flight.
35. Placing of device or substance on aircraft in service likely to cause destruction or damage to such aircraft.

36. Destruction of damage to, or interference with, air navigation facilities used for international air navigation.

37. Communication of false information endangering the safety of aircraft"