

CONSOLIDATED TO 1 DECEMBER 2014

LAWS OF SEYCHELLES

CHAPTER 78

EXTRADITION ACT

[1st July 1995]

Act 16 of 1991
S.I 45 of 1995

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PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Extradition Act.

Interpretation

2. In this Act -

"authority to proceed" means an authority to proceed under section 7;

"designated Commonwealth country" means a Commonwealth country, other than the Republic, in respect of which an order has been made under section 3;

"designated foreign state" means a foreign country, other than a designated Commonwealth country, in respect of which an order has been made under section 3;

"extraditable offence" means an offence described in section 4;

"fugitive offender" means a person who is accused or has been convicted of an extraditable offence committed within the jurisdiction of, or part of, the Republic or a designated Commonwealth country or foreign state, as the case may be, and is or suspected of being in the Republic or a designated Commonwealth country or foreign state, as the case may be;

"Interpol" means the International Criminal Police Organisation;

"person committed" means a person committed to custody to await extradition;

"treaty" means any agreement, arrangement or treaty from time to time in force between the Republic and a foreign state for the extradition of fugitive offenders which is in conformity with this Act and includes –

"extraditable offence" means an offence described in section 4;

"fugitive offender" means a person who is accused or has been convicted of an extraditable offence committed within the jurisdiction of, or part of, the Republic or a designated Commonwealth country or foreign state, as the case may be, and is or suspected of being in the Republic or a designated Commonwealth country or foreign state, as the case may be;

"Interpol" means the International Criminal Police Organisation;

"person committed" means a person committed to custody to await extradition;

"treaty" means any agreement, arrangement or treaty from time to time in force between the Republic and a foreign state for the extradition of fugitive offenders which is in conformity with this Act and includes -

(a) any treaty between the United Kingdom and a foreign state relating to the extradition of fugitive offenders prior to the 29th June, 1976 which was extended to the Republic, and which continues to bind the Republic after the 29th June, 1976 and was in force immediately before the commencement of this Act; and

(b) any treaty between the Republic and any foreign state relating to extradition of fugitive offenders in force prior to the commencement of this Act;

"warrant of arrest" includes, unless otherwise specified, a provisional warrant of arrest.

PART II - DESIGNATED COUNTRIES AND STATES, EXTRADITABLE OFFENCES AND EXTRADITABLE PERSONS

Designated Commonwealth country and foreign state

3. (1) The Minister may, by Order published in the Gazette declare that this Act shall apply, subject to such modification, limitation or condition as may be specified in the Order, in respect of

-

(a) a Commonwealth country,

(b) where there is a treaty between the Republic and a foreign state, the foreign state,

specified in the Order.

(2) An Order made under subsection (1) in respect of a foreign state shall recite or embody the terms of the treaty and shall be coterminous with the treaty.

(3) Where an Order is made under subsection (1) in respect of a foreign state, the treaty between the Republic and the foreign state shall be read subject to this Act.

(4) Where an Order is made under subsection (1) -

(a) the Order shall be conclusive evidence that this Act applies in relation to the designated Commonwealth country or foreign state named in the Order; and

(b) the validity of the Order shall not be questioned in any legal proceedings whatsoever.

(5) For the purposes of this section a treaty entered into between the United Kingdom and a foreign state prior to the 29th June, 1976 relating to extradition of fugitive offenders which was extended to the Republic and which continues to bind the Republic after the 29th June, 1976 and was in force immediately before the commencement of this Act shall be deemed to be a treaty between the foreign state and the Republic.

Extraditable Offences

4. (1) For the purposes of this Act, an offence of which a person is accused or was convicted in a designated Commonwealth country or foreign state is an extraditable offence if -

(a) it is an offence against the law of the Commonwealth country or foreign state which, however described in the law, falls within any description set out in the First Schedule and is punishable under the law of the Commonwealth country or foreign state, as the case may be, with death or imprisonment for a term of not less than twelve months; and

(b) the facts constituting the offence would constitute, in the Republic, an offence falling within any description set out in the First Schedule under a written law.

(2) In determining for the purposes of this section whether an offence against the law of a designated Commonwealth country or foreign state falls within any description set out in the First Schedule, any special intent or state of mind or special circumstances of aggravation which may be necessary to constitute the offence under the law of the Commonwealth country or foreign state shall be disregarded.

(3) The description of each of the offences set out in the First Schedule includes the offences of attempting or conspiring to commit, of assisting, counselling or procuring the commission of or being accessory before or after the fact to the offence, and of impeding the apprehension or prosecution of a person guilty of the offence.

(4) Reference in this section to the law of a designated Commonwealth country or foreign state includes reference to the law of any part of the Commonwealth country or foreign state.

Persons liable to be extradited from Seychelles

5. (1) Subject to this Act, a person found in the Republic -

(a) who is accused of an extraditable offence; or

(b) who is alleged to be unlawfully at large after conviction of an extraditable offence,

in a designated Commonwealth country or foreign state may be arrested and returned to the designated Commonwealth country or foreign state by or on behalf of which the request for extradition was made.

(2) Subsection (1) applies whether or not the extraditable offence of which a person is accused or was convicted was committed before or after the commencement of this Act.

Restrictions on extradition

6. (1) A person shall not be extradited, or committed or kept in custody for the purpose of extradition, from the Republic if it appears to the Attorney-General, the Magistrates' court in proceedings under section 11 or the Second Schedule, the Supreme Court on a review under section 13 or an application for habeas corpus or the Court of Appeal on an appeal under section 14 -

(a) that the offence of which the person is 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 an extraditable offence, is in fact made for the purpose of prosecuting or punishing the person on account of his race, religion, nationality or political opinion; 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 opinion.

(2) A person accused of an offence shall not, unless he consents in accordance with section 10, be extradited, or committed to or kept in custody for the purpose of his extradition, from the Republic if it appears, as provided in subsection (1), that if charged with that offence in the Republic he would be entitled to be discharged under any written law relating to previous acquittal or conviction.

(3) A person shall not be extradited, or committed to or kept in custody for the purposes of his extradition, from the Republic unless under the law of the designated Commonwealth country or foreign state, or the treaty between the Republic and the designated foreign state, to which he is to be extradited provides that he will not, until he has left or has had an opportunity to leave the country or state -

(a) be arrested, detained, remanded or otherwise dealt with in the country or state

for or in respect of an offence committed before his extradition from the Republic under this Act other than -

(i) the extraditable offence in respect of which he has been extradited from the Republic;

(ii) any lesser offence proved by the facts proved before the Magistrates' court in proceedings under section 11 or the Second Schedule; or

(iii) any other extraditable offence which the Attorney-General may consent to his being so arrested, detained, remanded or dealt with; or

(b) be extradited to any other country to be arrested, detained, remanded or otherwise dealt with for any offence committed before his extradition from the Republic under this Act without the consent of the Attorney-General.

(4) The Attorney-General shall not give his consent -

(a) in the case of a request under subsection (3)(a)(iii) if-

(i) extradition from the Republic for the offence to which the request for consent relates is prohibited under this Act; or

(ii) he has reasonable ground to believe that if due diligence had been exercised that a request for extradition in respect of the offence could have been made at the time when the request for extradition of the person from the Republic was made;

(b) in the case of a request under subsection (3)(b), if the extradition from the Republic for the offence to which the request for consent relates is prohibited under this Act.

(5) The reference in this section to an offence of a political character does not include -

(a) an offence against the life or person of the Head of State or a Minister of a designated Commonwealth country or foreign state,

(b) an offence under a multilateral international convention or agreement to which the designated Commonwealth country or foreign state concerned and the Republic are parties and which offence is declared by the convention or agreement not to be of a political character for the purposes of extradition in the Commonwealth country or foreign state and the Republic.

(6) For the purposes of this Act, an offence against a law of a designated Commonwealth country or foreign state may be regarded as being an offence of a political character notwithstanding that there are no competing political parties in the country or state.

PART III - PROCEDURES FOR EXTRADITION

Request for extradition

7. (1) Subject to this Act, a person shall not be arrested, detained, or otherwise dealt with under this Act except in pursuance of an authority to proceed issued by the Attorney- General, after he has obtained the written consent of the President, in pursuance of a request made to the Attorney- General -

(a) by the Commissioner of Police; or

(b) by or on behalf of the Government of a designated Commonwealth country or foreign state in which the person to be extradited is accused or was convicted.

(2) A request by the Commissioner of Police under subsection (1)(a) shall give -

(a) the particulars of the person whose extradition is being sought;

(b) the particulars of the extraditable offence of which the person is accused or is alleged to have been convicted;

(c) the name of the designated Commonwealth country or foreign state where the extraditable offence has been committed or where the person concerned was convicted; and

(d) information relating to the person's whereabouts, and

shall be accompanied by the document, if any, purporting to be issued by Interpol in relation to that person.

(3) A request for extradition made for the purpose of subsection (1)(b) shall be accompanied by -

(a) in the case of a person accused of an extraditable offence, a warrant for his arrest issued in the designated Commonwealth country or foreign state; or

(b) in the case of a person unlawfully at large after conviction of an extraditable offence, a certificate of the conviction and sentence in the designated Commonwealth country or foreign state and a statement of the amount, if any, of that sentence which has been served,

together, in each case, with particulars of the person whose extradition is being requested, and 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 8.

(4) Subject to subsection (5), on receipt of a request under subsection (1) the Attorney-General may, unless it appears to him that an Order of extradition of the person concerned could not be made or would not in fact be made, in accordance with this Act, issue, after he has obtained the written consent of the President, -

(a) in the case of a request by the Commissioner of Police, an authority to proceed for the purpose of issuing a provisional warrant for the arrest of the person under section 8; or

(b) in the case of a request by a designated Commonwealth country or foreign state, an authority to proceed for the purpose of -

(i) issuing a warrant for the arrest of; and

(ii) dealing with,

(iii) the person under this Act.

(5) The Attorney-General may, before issuing an authority to proceed under subsection (4), call for any further information which he deems necessary for the purpose of making a decision under this section and may refuse to proceed further with a request until he receives the information called for.

Arrest

8 (1) A warrant for the arrest of a person accused of, or alleged to be unlawfully at large after conviction of, an extraditable offence may be issued by a magistrate on receipt of an authority to proceed.

(2) Where the Attorney-General has issued an authority to proceed under section 7(4)(a), a magistrate may only issue a provisional warrant for the arrest of the person named in the authority to proceed.

(3) Subject to subsection (4), a warrant of arrest under this section may be issued upon such evidence as would, in the opinion of the magistrate, justify the issue of a warrant for the arrest of a person accused of, or alleged to be unlawfully at large after conviction of, a corresponding offence in the Republic under a written law.

(4) For the purpose of issuing a provisional warrant of arrest under subsection (2), a magistrate may receive in evidence any document which purports to bear the seal of or be issued by, Interpol.

(5) A warrant of arrest issued under this section may be executed by any person to whom it is directed or by a police officer.

(6) Where a magistrate issues a warrant of arrest under this section, the magistrate may also, where he is satisfied that there is anything in any place, vehicle or vessel in the Republic by or in respect of which the extraditable offence concerned was committed, or necessary for the conduct of the investigation into the extraditable offence concerned, issue a warrant of search of the place, vehicle or vessel.

Person arrested to be brought before magistrate

9 (1) A person arrested in pursuance of a warrant of arrest issued under section 8 shall be

brought as soon as practicable before a magistrate.

(2) Where a person is arrested under a provisional warrant of arrest under section 8 and the Attorney-General has not issued an authority to proceed under section 7(4)(b) in his respect, the magistrate, before whom the person is brought, shall -

(a) fix a reasonable period, not exceeding 30 days, for the purpose of allowing the Attorney-General to issue an authority to proceed under section 7(4)(b);

(b) notify the Attorney-General of the period fixed under paragraph (a), and

(c) remand the person arrested for the period fixed under paragraph (a).

(3) A person remanded under subsection (2) shall be discharged from custody if the Attorney-General does not issue an authority to proceed under section 7(4)(b) within the time fixed by the magistrate under subsection (1).

(4) Where a person is arrested under a warrant under section 8 and the Attorney-General has issued an authority to proceed under section 7(4)(b) in his respect, the magistrate shall remand the person pending the holding of committal proceeding in his respect.

Person arrested may consent to be extradited

10 Where a person has been arrested under a warrant issued under section 8 and the Attorney-General has issued an authority to proceed under section 7(4)(b) in his respect, the person may at any time consent to the magistrate before whom he is brought making an order of committal to await his extradition and the magistrate may, if he is satisfied that the person understands the significance of the giving of the consent, make the order of committal without proceeding, or proceeding further, under section 11 or the Second Schedule.

Proceeding for committal

11 (1) Subject to sections 10 and 12, where an authority to proceed under section 7(4)(b) has been issued in respect of a person arrested under a warrant of arrest under section 8 and the magistrate before whom the person is brought, after considering the evidence tendered in support of the request for extradition of the person or on behalf of the person, is satisfied that the offence to which the authority to proceed relates is an extraditable offence and -

(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 in Seychelles; or

(b) where that person is alleged to be unlawfully at large after the conviction of the offence, that he was so convicted and appears to be at large,

the magistrate shall commit the person to custody to await extradition; but if the magistrate is not so satisfied or if the committal of the person is prohibited under this Act, the magistrate shall discharge the person from custody.

(2) On committing a person under subsection (1) the magistrate shall inform him of his right to apply to the Supreme Court under section 13 for review of the order of committal or for habeas corpus.

(3) Where a magistrate discharges a person under this section and the designated Commonwealth country or foreign state which has requested his extradition gives notice forthwith to the magistrate of its intention to apply for review under section 13, the magistrate shall stay the order of discharge for a period of 7 days beginning with the day on which the order of discharge was made and, if an application for review under section 13 is made within that period, until the determination of the application.

(4) For the purposes of proceedings under this section a magistrate shall have the like jurisdiction and powers, as nearly as may be, including power to remand or admit on bail, as a magistrate conducting a preliminary inquiry under the Criminal Procedure Code.

Proceeding for committal (Special provision)

12 (1) Where there is an arrangement between the Republic and a designated Commonwealth country or foreign state providing for the replacement of the committal proceeding under section 11 by the provisions of the Second Schedule, notwithstanding any other written law, the Second Schedule shall have effect, subject to this section, for the purpose of the proceeding for committing a person in connection with his extradition under this Act.

(2) Except as provided in the Second Schedule, for the purpose of proceedings under the Second Schedule a magistrate shall have the like jurisdiction and powers, as nearly as may be, including power to remand or admit on bail, as a magistrate conducting a preliminary inquiry under the Criminal Code of Procedure.

(3) On committing a person under the Second Schedule, the magistrate shall inform the person of his right to apply to the Supreme Court under section 13 for review of the order of committal or for habeas corpus.

(4) Where a magistrate discharges a person under the Second Schedule and the designated Commonwealth country or foreign state which has requested his extradition gives notice to the magistrate of its intention to apply for review under section 13, the magistrate shall stay the order of discharge for a period of 7 days beginning with the day on which the order of discharge was made and, if an application for review under section 13 is made within that period, until the determination of the application.

(5) A certificate under the hand of the Attorney-General that an arrangement referred to in subsection (1) exists between the Republic and a designated Commonwealth country or foreign state shall be conclusive evidence of the existence of such arrangement.

(6) Notwithstanding any other written law, this section and the Second Schedule shall have effect on a review by the Supreme Court under section 13 of an order made under the Second Schedule or on an appeal by the Court of Appeal under section 14.

Review of decision of magistrate by Supreme Court

13 (1) Subject to subsection (7), a person committed to await extradition under section 11 or

the Second Schedule or, where an order of discharge has been made under section 11 or the Second Schedule, the designated Commonwealth country or foreign state may, within 15 days of the making of the order of committal or discharge, apply to the Supreme Court for a review of the order upon a question of fact and law.

(2) The Supreme Court may, on an application under subsection (1) -

(a) in the case of an application for review by a person committed -

(i) reverse the order of committal made by the magistrate and order the discharge of the person;

(ii) order the magistrate to inquire further into the case; or

(iii) confirm the order of committal; and

(b) in the case of an application for review by a designated Commonwealth country or foreign state -

(i) reverse the order of discharge and direct the magistrate to make further inquiry into the case;

(ii) reverse the order of discharge and commit the person discharged to custody to await extradition and, if the person is not in custody, issue a warrant for his arrest.

(3) Without prejudice to any other jurisdiction of the Supreme Court, the Supreme Court may discharge a person committed if it appears to it that by reason of -

(a) the trivial nature of the extraditable offence of which the person is accused or was convicted;

(b) the passage of time since the person alleged to have committed the extraditable offence or to have become unlawfully at large;

(c) any other sufficient cause proved before the Supreme Court,

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

(4) On an application under subsection (1) the Supreme court may receive additional evidence.

(5) Where the Supreme Court discharges a person under this section and the designated Commonwealth country or foreign state which has requested his extradition gives notice forthwith to the Supreme Court of its intention to appeal to the Court of Appeal under section 14 against the decision, the Supreme Court shall stay its decision to discharge the person for a period of 15 days beginning with the day on which the order was made and, if an appeal is made within that period, until the determination of the appeal.

Appeal to the Court of Appeal

14 A designated Commonwealth country or foreign state or a person committed or aggrieved by the decision of the Supreme Court on a review under section 13 may, within 15 days beginning with the day the Supreme Court has given its decision, appeal against the decision to the Court of Appeal on a question of law.

No extradition pending review

15 (1) A person committed shall not be extradited under this Act -

(a) in any case, until the expiration of the period of 15 days beginning on the day on which the order for his committal was made; or

(b) in the case where an application for review under section 13(1) or habeas corpus has been made to the Supreme Court, so long as proceedings on the application are pending.

(2) For the purpose of this section, proceedings on an application shall be treated as pending until any appeal in those proceedings is disposed of; and an appeal shall be treated as disposed of at the expiration of the time within which the appeal may be brought if the appeal is not brought within that time.

Order of extradition

16 (1) Subject to this Act, where a person is committed to custody to await extradition, the Attorney General, after he has obtained the written consent of the President, may, by warrant, order him to be extradited to the designated Commonwealth country or foreign state by or on behalf of which the request for his extradition was made.

(2) The Attorney-General shall not make an order under subsection (1) in the case of a person who is serving a sentence of imprisonment, or is detained under any written law, or is charged with an offence, in the Republic -

(a) in the case of a person serving a sentence, until the sentence has been served;

(b) in the case of a person who is detained, until the release of that person from detention; or

(c) 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, until the sentence has been served.

(3) The Attorney-General shall not make an order under subsection (1) if it appears to him on any grounds set out in paragraphs (a) to (c) of section 13(3) that it would be unjust or oppressive to return the person committed.

(4) The Attorney General may refuse to make an order under subsection (1) if-

(a) the person committed is accused or has been convicted of an extraditable offence which is not punishable with death in the Republic; and

(b) the person could be or has been sentenced to death for the extraditable offence in the designated Commonwealth country or foreign state which has requested his extradition,

unless the Commonwealth country or foreign state satisfies the Attorney-General that the sentence of death will not be carried into effect.

(5) The Attorney-General may refuse to make an order under subsection (1) if he has received a request for the extradition of the person committed from another designated Commonwealth country or foreign state and it appears to the Attorney-General, having regard to all the circumstances of the case, and in particular,

(a) the relative seriousness of the extraditable offences in question;

(b) the date on which each request for extradition was made;

(c) the nationality or citizenship of the person committed and his ordinary residence, that preference should be given to the request of the other designated Commonwealth country or foreign state.

(6) Notice of the issue of a warrant under subsection (1) shall forthwith be given to the person to be extradited under the warrant.

Discharge in case of delay in extradition

17 (1) The Attorney-General may, where he has issued a warrant under section 16, cancel the warrant and discharge the person to be extradited under the warrant if the person is still in custody in the Republic after the expiration of 30 days from the date on which the warrant was issued.

(2) If a person committed is in the Republic after -

(a) in any case, the period of 60 days beginning with the first day on which, having regard to section 15, he could have been extradited;

(b) in the case where a warrant for his extradition has been issued under section 16, a period of 30 days beginning with the day on which the warrant was issued,

the person may apply to the Supreme Court for his discharge.

(3) If upon an application under subsection (2) the Supreme Court is contrary, by order, direct the applicant to be discharged from custody and, if a warrant for satisfied that reasonable notice of the proposed application has been given to the Attorney-General, the Supreme Court may, unless sufficient cause is shown to the his extradition has been issued under section 16, quash the warrant.

Custody

18 (1) A person remanded or committed to custody under section 9 or section 11 or the Second Schedule shall be remanded or committed to the like institution as a person charged with an offence before a Magistrates' court or the Supreme Court.

(2) If a person who is in custody by virtue of a warrant under this Act escapes from custody he may be retaken in any part of the Republic in like manner as a person escaping from legal custody in the Republic.

(3) Where a person who is in lawful custody under this Act or otherwise in any part of the Republic is required to be removed to another part of the Republic, he shall be deemed to continue to be in lawful custody until he reaches the place to which he is required to be removed.

(4) A warrant under section 16(1) for the extradition of any person to any designated Commonwealth country or foreign state shall be sufficient authority for all persons to whom it is directed and all police officers to receive that person, keep him in custody and convey him into the jurisdiction of the designated Commonwealth country or foreign state.

Evidence

19 (1) Notwithstanding any other written law, in any proceedings under this Act-

(a) a document, duly authenticated, which purports to set out evidence given on oath or affirmation in a designated Commonwealth country or foreign state shall be admissible as evidence of the matters stated in the document;

(b) a document, duly authenticated, which purports to have been received in evidence, or to be a copy of a document received in evidence, in any proceeding in a designated Commonwealth country or foreign state is admissible in evidence;

(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 part of, a designated Commonwealth country or foreign state is admissible in evidence of the fact and date of the conviction.

(2) A document is deemed to be duly authenticated for the purposes of subsection (1)-

(a) in the case of a document referred to in sub-section (1)(a), if the document purports to be certified by a judge or magistrate or officer in or of the designated Commonwealth country or foreign 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 referred to in subsection (1)(b) or to be a copy of a document received in evidence, if the document purports to be certified by a judge or magistrate or officer in or of the designated Commonwealth country or foreign state in question to have been, or to be a true copy of a document which has been, so received.

(c) in the case of a document referred to in subsection (1)(c), if the document purports to be certified by a judge or magistrate or officer in or of the designated Commonwealth country or foreign state,

and, in any such case, the document is authenticated either by the oath of a witness or by the official seal of the Governor, Minister or officer administering a department of the Government, of the designated Commonwealth country or foreign state.

(3) 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 the person being extradited, subject to the right, if any, of any other person in respect thereto.

PART IV - EXTRADITION TO THE REPUBLIC

Extradition to the Republic from any country

20 Subject to section 21, where a person accused or convicted of an offence under the laws of the Republic is, or is suspected to be, in any jurisdiction of any country or state, the Attorney-General may make a request to the country or state for the extradition of that person.

Restriction in relation to a fugitive offender extradited from a designated Commonwealth country or foreign state

21 (1) This section applies to a fugitive offender who is extradited to the Republic from a designated Commonwealth country or foreign state.

(2) A fugitive offender referred to in subsection (1) shall not, during the period referred to in subsection (3), be arrested, detained or otherwise dealt with in the Republic for or in respect of any offence committed before he was extradited to the Republic other than -

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

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

(c) any other offence in respect of which the Government of the designated Commonwealth country or foreign state from which he was extradited may consent to his being arrested, detained or otherwise dealt with.

(3) The period referred to in subsection (2) is the period beginning with the day of the arrival of the fugitive offender in the Republic on his extradition from the designated Commonwealth country or foreign state and ending 45 days after the first subsequent day on which he has the opportunity to leave the Republic.

(4) A fugitive offender referred to in subsection (1) shall not be extradited from the Republic to any other country or jurisdiction for the purposes of being arrested, detained or otherwise dealt with in that country or jurisdiction unless the Government of the country or jurisdiction which has extradited the fugitive offender to the Republic consents to his being extradited.

Restoration of person extradited after acquittal

22 Where -

(a) proceedings against a fugitive offender referred to in section 21(1) for the offence for which he was extradited are not begun within the period of 6 months beginning with the day of the arrival of the fugitive offender in the Republic; or

(b) on the trial of a fugitive offender referred to in section 21(1) for the offence for which he was extradited, the fugitive offender is acquitted,

the Attorney General may, if he thinks fit, on the request of the fugitive offender, arrange for him to be sent back free of charge and with as little delay as possible to the designated Commonwealth country or foreign state from which he was extradited.

PART V - MISCELLANEOUS

Regulations

23 (1) The Minister may make regulations for carrying into effect the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1) the Minister may, by regulations

-

(a) amend the Schedules;

(b) prescribe any form for the purposes of this Act.

Repeal etc, Saving and Transitional

24 (1) Subject to subsections (2) and (3), the Extradition Act and the Extradition (Commonwealth Countries) Act, 1979 are repealed and the Extradition Acts 1870 to 1935, and the Fugitive Offenders Act, 1967, of the United Kingdom as extended to the Republic shall cease to have effect as part of the laws of the Republic.

(2) Notwithstanding subsection (1), any order, other than an order extending the Extradition Acts 1870 to 1935, and the Fugitive Offenders Act 1967, of the United Kingdom to the Republic, made under -

(a) the Extradition Acts 1870 to 1935, or

(b) the Fugitive Offenders Act, 1967,

of the United Kingdom and having effect as part of the laws of the Republic and in force immediately before the commencement of this Act shall continue to be in force, and shall be construed, as if made under this Act until repealed under this Act.

(3) Notwithstanding subsection (1), where, before the application of this Act in relation to

any country or jurisdiction any proceedings have been commenced or any request has been made for the extradition of a fugitive offender to the country or jurisdiction under the Extradition Acts 1870 to 1935 or the Fugitive Offenders Act 1967 of the United Kingdom so far as the Extradition Acts 1870 to 1935 or the Fugitive Offenders Act 1967 had effect as part of the laws of the Republic, any arrest, detention of the fugitive offender lawfully arising out of the proceedings shall be deemed to have been lawfully procured under and for the purposes of this Act, and such further proceedings as may be necessary for the extradition of the fugitive offender may be taken under and in accordance with this Act.

FIRST SCHEDULE - DESCRIPTION OF EXTRADITABLE OFFENCES

(section 4)

1. Murder.
2. Manslaughter.
3. An offence against the law relating to abortion.
4. Maliciously or wilfully wounding or inflicting grievous bodily harm.
5. Assault occasioning actual bodily harm.
6. Rape.
7. Unlawful sexual intercourse.
8. Indecent assault.
9. Procuring, or trafficking in person for immoral purposes.
10. Bigamy.
11. Kidnapping, abduction or false imprisonment or dealing in slaves.
12. Stealing, abandoning or exposing or unlawfully detaining a child.
13. Bribery.
14. Perjury or subornation of perjury or conspiring to obstruct or defeat the course of justice.
15. Arson.
16. An offence concerning counterfeit currency.
17. An offence against the law relating to forgery.

18. Stealing, embezzlement, fraudulent conversion, fraudulent false accounting, obtaining property or credit by false pretences, receiving stolen property or any other offence in respect of property involving fraud.
19. Burglary, housebreaking or any similar offence.
20. Robbery.
21. Blackmail or extortion by means of threats or by abuse of authority.
22. An offence against bankruptcy or company law.
23. Malicious or wilful damage to property.
24. Acts done with the intention of endangering vehicles, vessels or aircraft.
25. An offence against the law relating to dangerous drugs or narcotics.
26. Piracy.
27. Revolt against authority of the master of a ship or the commander of an aircraft.
28. An offence relating to pollution of or endangering or damaging the environment.
29. Offences established under international conventions or agreement to which the requesting country or state or requested country or state and the Republic are parties.

SECOND SCHEDULE - PROCEEDING FOR COMMITTAL (SPECIAL PROVISION)

(section 12)

1. Where an authority to proceed under section 7(4)(b) has been issued in respect of a person arrested under a warrant under section 8, the magistrate before whom the person is brought shall commit the person to custody to await extradition if -

(a) in the case of a person accused of an extraditable offence, the magistrate is satisfied that the contents of the record of the case, whether or not admissible in evidence under the laws of the Republic, and any other evidence would be sufficient to warrant his trial for that offence, or

(b) in the case of a person who is alleged to be unlawfully at large after conviction of an extraditable offence, if the magistrate is satisfied that he was so convicted and appears to be at large;

but the magistrate shall discharge the person from custody if he is not so satisfied or if the committal of the person is prohibited under this Act.

2. For the purpose of this Schedule the record of a case shall contain -
- (a) the particulars of the description, identity, nationality and, to the extent available, the whereabouts of the person sought;
 - (b) the particulars of each offence or conduct in respect of which the extradition is being sought, specifying the date and place of commission, the legal definition of the offence and a copy, certified by the Minister of Justice or the Attorney-General of the designated Commonwealth country or foreign state, of the relevant provisions in the law in the designated Commonwealth country or foreign state which has requested extradition;
 - (c) the original or a copy, in both cases certified by the Minister of Justice or Attorney-General of the designated Commonwealth country or foreign state, of any document of process issued in the designated Commonwealth country or foreign state against the person whose extradition is being sought;
 - (d) a recital of the evidence obtained to support the request for extradition of the person;
 - (e) a copy, reproduction or photograph, all certified by the Minister of Justice or Attorney-General of the designated Commonwealth country or foreign state, of exhibits or documentary evidence;

and shall be accompanied by -

- (i) an affidavit of the officer who has investigated the case or is in charge of the investigation of the case that the record of the case was prepared by or under the direction of the officer and the evidence in respect of the case has been preserved for use in court; and
- (ii) a certificate of the Minister of Justice or Attorney General of the designated Commonwealth country or foreign state that in his opinion the record of the case discloses the existence of evidence under the law of the designated Commonwealth country or foreign state requesting extradition sufficient to justify a prosecution.

LAWS OF SEYCHELLES

EXTRADITION ACT

CHAPTER 78

**SUBSIDIARY LEGISLATION: SECTION 3: EXTRADITION (DESIGNATION OF
COMMONWEALTH COUNTRIES) ORDER**

1. This Order may be cited as the Extradition (Designation of Commonwealth Countries) Order.
2. The Extradition Act shall apply in respect of the Commonwealth Countries specified in the Schedule.

SCHEDULE

(para. 2)

Designated Commonwealth Countries

1. United Kingdom
2. Kenya
3. The Extradition (Designation of Commonwealth Countries) Order, 1996 is revoked.

SUBSIDIARY LEGISLATION: EXTRADITION (DESIGNATED FOREIGN STATE BELGIUM) ORDER 2012

[2nd April 2012]

SI 14 of 2012

In exercise of his powers conferred by Section 3(1)(b) of the Extradition Act 1991, the President makes the following Order—

1. This Order may be cited as the Extradition (Designated Foreign State Belgium) Order.
2. The Kingdom of Belgium is hereby declared a designated foreign state in pursuance of section 3 of the Extradition Act and in terms of the Treaty between the United Kingdom of Great Britain and Ireland and Belgium for the Mutual Surrender of Fugitive Criminals entered into between the United Kingdom of Great Britain and the Kingdom of Belgium, signed in Brussels on 29th October 1901, as set out in the schedule attached hereto save the references therein to the judicial and executive authorities of the United Kingdom be read as referring to the judicial and executive authorities of the Republic of Seychelles.
3. This Order shall remain in force until the said Treaty is revoked or resiled from by the Republic of Seychelles or Belgium, or further Order.

SCHEDULE

TREATY BETWEEN THE UNITED KINGDOM AND BELGIUM FOR THE MUTUAL SURRENDER OF FUGITIVE CRIMINALS

Article I

It is agreed that His Britannic Majesty and His Majesty the King of the Belgians shall, on requisition made in their name by their respective diplomatic agents, deliver up to each other reciprocally, under the circumstances and conditions stated in the present Treaty, any persons who, being accused or convicted, as principals or accessories, of any of the crimes hereinafter specified, committed within the territories of the requiring party, shall be found within the territories of the other party—

1. Murder (including assassination, parricide, infanticide, poisoning), or attempt, or conspiracy to murder, in cases jointly provided for by the laws of the two countries.
2. Administering drugs or using instruments with intent to procure the miscarriage of women.
3. Manslaughter.
4. Bigamy.
5. (a) Counterfeiting or altering money, or uttering counterfeit or altered money;
(b) Knowingly making, without lawful authority, any instrument, tool or engine adapted and intended for the counterfeiting of the coin of the realm.
6. Abandoning children, exposing or unlawfully detaining them.
7. Forgery, counterfeiting or altering or uttering what is forged, or counterfeited, or altered.
8. Any malicious act done with intent to endanger persons in a railway train.
9. Embezzlement or larceny.
10. Receiving any chattel, money, valuable security or other property, knowing the same to have been embezzled, stolen or feloniously obtained.
11. Obtaining money, goods or valuable securities by false pretences.
12. Crimes by bankrupts against bankruptcy law.
13. Fraud by a bailee, banker, agent, factor, trustee or director, or member or public officer of any company, made criminal by any law for the time being in force.
14. Rape.
15. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age, so far as such acts are punishable by the law of the State upon which the demand is made.
16. Indecent assault. Indecent assault without violence upon children of either sex under 13 years of age.
17. Abduction.

18. Child-stealing.
19. Kidnapping and false imprisonment.
20. Burglary or housebreaking.
21. Arson.
22. Robbery with violence (including intimidation).
23. Threats by letter or otherwise, with intent to extort.
24. Piracy by law of nations.
25. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
26. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
27. Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.
28. Perjury and subornation of perjury.
29. Malicious injury to property, if the offence be indictable.
30. Assault occasioning actual bodily harm. Malicious wounding, or inflicting grievous bodily harm.
31. Offences in connection with the slave trade punishable by the laws of both States.

Provided that the surrender shall be made only when, in the case of a person accused, the commission of the crime shall be so established as that the laws of the country where the fugitive or person accused shall be found would justify his apprehension and commitment for trial if the crime had been there committed, and in the case of a person alleged to have been convicted, on such evidence as, according to the laws of the country where he is found, would prove that he had been convicted.

In no case can the surrender be made unless the crime shall be punishable according to the laws in force in both countries with regard to extradition.

In no case, nor on any consideration whatever, shall the High Contracting Parties be bound to surrender their own subjects, whether by birth or naturalization.

Article II

In the dominions of His Britannic Majesty, other than the colonies or foreign possessions of His Majesty, the manner of proceeding shall be as follows:

1. In the case of a person accused—

The requisition for the surrender shall be made to His Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Minister or other diplomatic agent of His Majesty the King of the Belgians, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorised to take cognizance of the acts charged against the accused in Belgium, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

The said Secretary of State shall transmit such documents to His Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

When the fugitive shall have been apprehended, he shall be brought before a competent Magistrate. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in England, the Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender, sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorised to receive him on the part of the Government of His Majesty the King of the Belgians.

2. In the case of a person convicted—

The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Minister or other diplomatic agent in support of his requisition shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place and date of his conviction. The evidence to be produced before the Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

After the Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of habeas corpus; if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant.

Article III

In the dominions of His Majesty the King of the Belgians, other than the colonies or foreign

possessions of his said Majesty, the manner of proceeding shall be as follows:

1. In the case of a person accused—

The requisition for the surrender shall be made to the Minister for Foreign Affairs of His Majesty the King of the Belgians by the Minister or other diplomatic agent of His Britannic Majesty, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorised to take cognizance of the acts charged against the accused in Great Britain, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

The Minister for Foreign Affairs shall transmit the warrant of arrest, with the documents thereto annexed, to the Minister of Justice, who shall forward the same to the proper judicial authority, in order that the warrant of arrest may be put in course of execution by the Chamber of the Council (Chambre du Conseil) of the court of first instance of the place of residence of the accused, or of the place where he may be found.

The foreigner may claim to be provisionally set at liberty in any case in which a Belgian enjoys that right, and under the same conditions.

The application shall be submitted to the Chamber of the Council (Chambre du Conseil).

The Government will take the opinion of the Chamber of Indictments or Investigation (Chambre des Mises en Accusation) of the Court of Appeal within whose jurisdiction the foreigner shall have been arrested.

The hearing of the case shall be public, unless the foreigner should demand that it should be with closed doors.

The public authorities and the foreigner shall be heard. The latter may obtain the assistance of counsel.

Within a fortnight from the receipt of the documents they shall be returned, with a reasoned opinion, to the Minister of Justice, who shall decide and may order that the accused be delivered to the person duly authorised on the part of the Government of His Britannic Majesty.

2. In case of a person convicted—

The course of proceeding shall be the same as in the case of a person accused, except that the conviction or sentence of condemnation issued in original, or in an authenticated copy, to be transmitted by the Minister or other diplomatic agent in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place and date of his conviction. The evidence to be produced shall be such as would, according to the Belgian laws, prove that the prisoner was convicted of the crime charged.

Article IV

A fugitive criminal may, however, be apprehended under a warrant signed by any Police

Magistrate, Justice of the Peace or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant, justify the issue of a warrant if the crime had been committed or the prisoner convicted in that part of the dominions of the two Contracting Parties in which he exercised jurisdiction: Provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a competent Magistrate. He shall be discharged, as well in the United Kingdom as in Belgium, if within fourteen days a requisition shall not have been made for his surrender by the diplomatic agent of the requiring State in the manner directed by Articles II and III of this Treaty.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

Article V

If within two months, counting from the date of arrest, sufficient evidence for the extradition shall not have been presented, the person arrested shall be set at liberty. He shall likewise be set at liberty if, within two months of the day on which he was placed at the disposal of the diplomatic agent, he shall not have been sent off to the reclaiming country.

The periods fixed by Articles IV, paragraph 1, and V above shall be extended as follows—

1. A fugitive criminal arrested under the terms of Article IV shall be discharged in the dominions of His Britannic Majesty if, within the period of two months from the date of his arrest, a request for his extradition shall not have been made by the Government of the requisitioning State. The fugitive criminal may be discharged in the dominions of His Majesty the King of the Belgians if within the same period a request for his extradition has not been made by the Government of the requisitioning State; he shall be released if within seven days following the expiration of this period the warrant issued by the competent authority shall not have been communicated to the fugitive criminal.

2. The person arrested shall be set at liberty if, within the three months, counting from the date of arrest, sufficient evidence in support of the demand for extradition shall not have been produced.

Article VI

When a person shall have been extradited by one of the High Contracting Parties, that person until he has been returned to the country from which he had been extradited, or he has had an opportunity of returning to it, shall not be detained or brought to justice in the State to which he has been handed over for any crime or on any other charge whatever prior to the extraction, except those in respect of which extradition has been accorded.

Neither shall that person, until he has had an opportunity of returning to the country from which he has been extradited, be handed over to a third state.

Article VII

No accused or convicted person shall be surrendered if the offence in respect of which his

surrender is demanded shall be deemed by the party upon which it is made to be a political offence, or to be an act connected with (connexe à) such an offence, or if he prove to the satisfaction of the Magistrate, or of the court before which he is brought on habeas corpus, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or to punish him for an offence of a political character.

Article VIII

Warrants, depositions or statements on oath issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the fact of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken:

Provided such warrants depositions, statements, copies, certificates and judicial documents are authenticated by the oath or solemn affirmation of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

Article IX

The surrender shall not take place if, since the commission of the acts charged, the accusation, or the conviction, exemption from prosecution or punishment, has been acquired by lapse of time, according to the laws of the country where the accused shall have taken refuge.

Article X

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes committed upon their respective territories, his surrender shall be granted to that State whose demand is earliest in date; unless any other arrangement should be made between the Governments which have claimed him, either on account of the gravity of the crimes committed, or for any other reasons.

Article XI

If the individual claimed should be under process, or condemned by the Courts of the country where he has taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall, nevertheless, take place, the injured party retaining his right to prosecute his claims before the competent authority.

Article XII

Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as

proof of the crime. It shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

The rights of third parties with regard to the said property or articles are, nevertheless, reserved.

Article XIII

Each of the High Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention and the conveyance to its frontier, of the persons whom it may consent to surrender in pursuance of the present Treaty.

Article XIV

The stipulations of the present Treaty shall be applicable to the colonies and foreign possessions of the two High Contracting Parties.

The requisition for the surrender of a fugitive criminal who has taken refuge in a colony or foreign possession of either Party shall be made to the Governor or chief authority of such colony or possession by the chief consular officer of the other in such colony or possession; or, if the fugitive has escaped from a colony or foreign possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such colony or possession.

Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the surrender or to refer the matter to their Government.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British colonies and foreign possessions for the surrender of Belgian criminals who may there take refuge, on the basis, as nearly as may be, of the provisions of the present Treaty.

Article XV

The present Treaty shall come into operation ten days after its publication, in conformity with the laws of the respective countries.

From the day when the present treaty shall come into force, the Treaty of Extradition between the two countries of 20 May 1876; the Declaration between the British and Belgian Governments, dated 23 July 1877, extending the Treaty of 20 May 1876 to certain additional crimes; the further Declaration of 21 April 1887 amending Article I of the Treaty of 20 May 1876; and the Convention of 27 August 1896 further amending the Treaty of 20 May 1876, shall all cease to have effect; but the present Treaty shall apply to all crimes within the Treaty, whether committed before or after the day when it comes into force.

Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention.

Article XVI

The present Treaty shall be ratified, and the ratifications shall be exchanged at Brussels as soon as

may be within six weeks from the date of signature.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the same , and have affixed thereto the seals of their arms.

DONE at Brussels, the twenty-ninth day of October, in the year of our Lord one thousand none hundred and one.
