

CHAPTER 189

EXTRADITION

1979-21

This Act came into operation on 2nd June, 1980 by Proclamation (S.I. 1980 No. 73).

Amended by:

1980-22

1994-7

2002-6

1992-16

1994-18

1992-29

2001-32

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1985

2002

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

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**BARBADOS**

EXTRADITION

1979-21

*An Act relating to fugitives in Barbados from the criminal law of other States,
and to fugitives from the criminal law of Barbados in other States.*

[Commencement: 2nd June, 1980]

CITATION

Short title

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

INTERPRETATION

Definitions generally

2. Words and expressions that are to be read or construed generally in this Act in a particular sense or in a particular manner are defined or construed for the purposes of this Act in Part V.

STATEMENT OF PURPOSE

Purposes and construction of Act

- 3.(1) The purposes of this Act are
- (a) to repeal and replace the existing laws of Barbados governing the return of criminals to or from other states;
 - (b) to make the proceedings for the return of fugitives from other states as uniform as circumstances permit irrespective of whether a fugitive is from a Commonwealth country or a foreign state; and
 - (c) to adopt the principles relating to the rendition of fugitive offenders within the Commonwealth as formulated by the Law Ministers of the Commonwealth in their London Conference of 1966 and generally to accord with current international practice regarding the return of fugitives.
- (2) This Act is remedial and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its purposes.

PART I

EXTRADITION TO OTHER STATES

*Application***Extradition crime**

- 4.(1) In this Part, “extradition crime” means, in relation to any Commonwealth country or foreign state to which this Part applies, an offence however described that, if committed in Barbados,
- (a) would be a crime described in the *Schedule*; or
 - (b) would be a crime that would be so described were the description to contain a reference to any intent or state of mind on the part of the

person committing the offence, or to any circumstance of aggravation, necessary to constitute the offence,

and for which the maximum penalty in that other country or state is death or imprisonment for a term of 12 months or more.

(2) The Minister may by order amend the *Schedule*.

[2001-32]

[2001-32]

Application of Part

5. This Part applies to
- (a) a Commonwealth country that is designated under Part II as a Commonwealth country to which this Part applies; and
 - (b) a foreign state described in Part III as a foreign state to which this Part applies.

Power to Surrender

Power to apprehend and surrender fugitive

6.(1) A fugitive may be apprehended, committed for surrender and surrendered in the manner provided by this Act, whether the crime or conviction in respect of which the surrender is sought was committed or took place

- (a) before or after 2nd June, 1980 in the case of a Commonwealth country;
- (b) before or after 2nd June, 1980 in the case of a foreign state to which this Part applies by virtue of an Order in Council made under a United Kingdom Act before that date; or
- (c) before or after the entering into of an extradition treaty within the meaning of section 39, in the case of a foreign state to which this Part applies by virtue of such a treaty.

(2) In respect of a surrender sought on behalf of a foreign state, subsection (1) applies irrespective of whether there is any criminal jurisdiction in any court within a Commonwealth country over the fugitive in respect of the extradition crime for which his surrender is sought.

(3) No fugitive may lawfully be surrendered to a Commonwealth country or to a foreign state by the Attorney-General or any other person in Barbados unless the fugitive has first been committed for surrender pursuant to section 13.

Power circumscribed

7.(1) No fugitive may be surrendered under this Act

- (a) if the crime of which he is accused or alleged to have been convicted is an offence of a political character;
- (b) if the request for his surrender is in fact made for the purpose of prosecuting or punishing him on account of his race, tribe, religion, sex, nationality or political opinions, notwithstanding that the request purports to be made on account of an extradition crime;
- (c) if upon being surrendered he would be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, tribe, religion, sex, nationality or political opinions; or
- (d) if, in the case of a fugitive who is accused of an extradition crime, he would, if charged with that offence in Barbados, be entitled to be discharged under any rule of law relating to previous acquittal or conviction.

(2) No fugitive from a Commonwealth country may be surrendered under this Act unless provision has been made by the law of that country, or by agreement between Barbados and that country, for ensuring that the fugitive will not be

- (a) detained in that Commonwealth country for the purpose of any proceeding for returning or surrendering him to any other Commonwealth country or to a foreign state or other jurisdiction for trial or punishment; or

- (b) dealt with in that Commonwealth country for or in respect of any offence committed before his surrender under this Act other than
- (i) the extradition crime for which his surrender was requested;
 - (ii) any lesser offence proved before the magistrate before whom the fugitive was brought under section 13; or
 - (iii) any other extradition crime in respect of which the Attorney-General consents to the fugitive being tried for or being dealt with after his surrender,

without being first returned to Barbados or given a reasonable opportunity of returning himself to Barbados.

(3) Paragraph (a) of subsection (1) shall not apply to a crime referred to under section 3 or 4 of the *Anti-Terrorism Act*, Cap. 158.

[2002-6]

Agreement with Commonwealth country

8.(1) For the purposes of section 7(2), an agreement between Barbados and a Commonwealth country may be one made for a particular fugitive or one of a general nature between Barbados and that Commonwealth country.

(2) A certificate issued by the Minister responsible for Foreign Affairs, or on his behalf by a person authorised by him, that confirms the existence of an agreement with a Commonwealth country, as required by section 7(2), and that states the terms thereof, is admissible in evidence as conclusive proof of the matters therein stated without proof of the signature of that Minister or other person, or of that other person's authorisation by the Minister.

When death penalty likely

9.(1) Where it appears to the Attorney General that a fugitive would likely incur the death penalty for the extradition crime for which his surrender under

this Act is sought, the Attorney General may refuse to order the surrender of that fugitive if

- (a) the returnable offence is not punishable in Barbados by death, and
- (b) assurance satisfactory to the Attorney General is not given by the Commonwealth country or foreign state that, if the fugitive is surrendered, the death penalty will not be imposed, or, if imposed, will not be carried out.

(2) When the Attorney General refuses under subsection(1) to order the surrender of a fugitive, the Attorney General shall at the same time order the discharge of the fugitive from custody; and the fugitive shall forthwith be discharged.

Apprehension of Fugitive

Arrest on foreign warrant

10.(1) On such evidence and on such proceedings as in the opinion of a magistrate would, subject to this Act, justify the issue of his warrant if the extradition crime for which a fugitive is sought had been committed in Barbados, the magistrate may, on a foreign warrant of arrest or on an information or complaint laid before him, issue his warrant for the apprehension of the fugitive.

(2) When a magistrate issues a warrant under subsection (1), he shall forthwith send a report of that fact to the Attorney General accompanied by certified copies of the evidence and his warrant, and, as the case requires, the foreign warrant, the information or the complaint laid before the magistrate.

(3) For the purposes of this Act, a “foreign warrant of arrest” refers, in relation to any Commonwealth country or foreign state, to any judicial document that authorises the arrest of a person accused or convicted of a crime in that country or state.

Effect of magistrate's warrant

11. A warrant issued under section 10 may be executed in any district of Barbados by any person to whom it is directed or by any member of the Police Force.

Jurisdiction of magistrate

12. A magistrate may exercise jurisdiction under this Act within any district of Barbados, notwithstanding the *Magistrates Jurisdiction and Procedure Act*, Cap. 116; but nothing in this Act confers on any magistrate any jurisdiction in *habeas corpus* matters.

Appearance of fugitive

13.(1) A fugitive who is apprehended on a warrant issued under section 10 shall be brought before a magistrate as soon as practicable after the fugitive is apprehended.

(2) The magistrate before whom the fugitive is brought shall determine, subject to this Act, whether he should be committed for surrender or be discharged.

(3) In making a determination under subsection (2), the magistrate shall deal with the fugitive and hear the case in the same manner, as nearly as may be, as if the fugitive had been brought before him and charged with an offence committed in Barbados that is triable on indictment.

Detention of fugitive

14.(1) Subject to subsection (2), but notwithstanding any other Act, a fugitive who is apprehended on a warrant issued under section 10 shall be detained in custody pending the determination of his case pursuant to section 13.

(2) The fugitive need not be detained in custody if he establishes to the satisfaction of a magistrate that, having regard (in addition to any other relevant factors) to the length of time the fugitive has resided in Barbados,

- (a) his detention is not necessary to ensure his attendance whenever it is required for the purposes of this Act, and
- (b) his detention is not necessary in the public interest or for the protection or safety of the public, having regard to all the circumstances, including any substantial likelihood that he might, if released from custody commit a criminal offence or an interference with the administration of justice.

Evidence of extradition crime

15.(1) In order to show the truth of a charge of an extradition crime or the fact of a conviction for an extradition crime, any or all of the following are admissible in evidence, if duly authenticated, namely,

- (a) evidence on oath or affirmation; and
- (b) warrants, depositions taken outside Barbados, certificates of conviction or judicial documents stating the fact of conviction in a Commonwealth country or foreign state, or copies thereof.

(2) A document or paper is duly authenticated for the purposes of subsection (1) if it is authenticated in the manner provided for the time being by the law of Barbados.

(3) Other documents or papers not within the purview of subsection (2) are duly authenticated for the purposes of subsection (1) if,

- (a) in the case of a warrant or a copy thereof, it purports to be the original warrant signed, or a true copy thereof certified, by an appropriate judicial officer in the prescribed manner,

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- (b) in the case of a deposition or copy thereof, it purports to be the original deposition signed, or a true copy thereof certified, by an appropriate judicial officer in the prescribed manner, or
- (c) in the case of a certificate of conviction, or a judicial document stating the fact of conviction or a copy thereof, it purports to be the original certificate or judicial document signed, or a true copy thereof certified, by an appropriate judicial officer in the prescribed manner.
- (4) For the purposes of subsection (3),
- (a) “an appropriate judicial officer” means a judge, magistrate or officer of the Commonwealth country or the foreign state, as the case may be, that is seeking the surrender of the fugitive concerned, and
- (b) “in the prescribed manner” means that the document or paper is authenticated by the oath or affirmation of some witness or by being sealed with the official seal of the Attorney General, Minister of Justice, or some other Minister of Government of the Commonwealth country or foreign state, as the case may be, that is seeking the surrender of the fugitive concerned.
- (5) For the purposes of this Act, judicial notice shall be taken of the official seal described in paragraphs (a) and (b) of subsection (4).

Evidence for fugitive

16. A magistrate shall receive any evidence that is tendered, in the manner provided by section 15, to show

- (a) that the offence of which the fugitive is accused or alleged to have been convicted is not an extradition crime, or,
- (b) that, for any other reason, the fugitive is not liable to be committed for surrender or to be surrendered under this Act in respect of the offence of which he is accused or alleged to have been convicted.

Committal for surrender

17.(1) Where a fugitive is brought before him pursuant to section 13, the magistrate shall, notwithstanding that section 7 appears to apply to the fugitive, issue his warrant for the committal of the fugitive to prison if,

- (a) when the fugitive is alleged to have been convicted of an extradition crime and to have been unlawfully at large, such evidence is produced before the magistrate as would, in accordance with the law of Barbados as modified by this Act, satisfy him that the fugitive has been so convicted and was unlawfully at large, or
- (b) when the fugitive is accused of an extradition crime, such evidence is produced before the magistrate as would, in accordance with the law of Barbados as modified by this Act, justify the committal of the fugitive for trial had the extradition crime occurred in Barbados.

(2) Upon committal of a fugitive to prison pursuant to subsection (1), he shall remain there until he is surrendered to the Commonwealth country or foreign state that is seeking his surrender, or until he is discharged according to law.

Discharge order

18. Where a magistrate is not required by section 17 to issue his warrant for the committal to prison of a fugitive brought before him, the magistrate shall order the fugitive discharged forthwith.

Duty of magistrate on committal

19. Where a magistrate commits a fugitive to prison under section 17, the magistrate shall

- (a) inform the fugitive on so committing him that he will not be surrendered until after the expiration of fifteen days and that, within that time, he may under law apply for leave to appeal or apply for a writ of *habeas corpus*, and

- (b) transmit within seven days to the Attorney General a certificate of the committal, together with a copy of all the evidence produced before the magistrate and not already sent to the Attorney General, and add thereto such report on the case as the magistrate thinks fit.

Appeal to divisional court

20.(1) With leave of the Divisional Court, an appeal lies to that court, on a question of law only, from

- (a) the committal to prison of a fugitive under section 17, or
 - (b) the discharge of a fugitive under section 18.
- (2) Leave to appeal to the Divisional Court may not be granted unless,
- (a) in the case of a committal, application for leave to appeal is made within the time limited therefor by paragraph (a) of section 19, or
 - (b) in the case of the discharge of a fugitive, application for leave to appeal is made within fifteen days from the making of the order of discharge.

Prescribed delay for surrender

21.(1) A fugitive may not be surrendered under this Act in any case until after the expiration of the time limited therefor by paragraph (a) of section 19.

(2) When a fugitive applies for leave to appeal within the time limited therefor or applies for a writ of *habeas corpus*, he may not be surrendered under this Act until all proceedings on the application and on any appeal arising out of the application have been finally disposed of.

*Surrender of Fugitive***Requisition from Commonwealth country**

22. A requisition for the surrender of a fugitive to a Commonwealth country who is or is suspected to be in or be arriving in Barbados may be made to the Attorney General

- (a) by any person resident in Barbados who is recognised by the Minister responsible for Foreign Affairs 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 Attorney General through the diplomatic representative of Barbados in or for that Commonwealth country,
- (c) by such other person or in such other manner as may be approved by the Attorney General when it is not convenient for any person described in paragraph (a) or (b) to make the requisition.

Requisition from foreign state

23. A requisition for the surrender of a fugitive to a foreign state who is or is suspected to be in Barbados may be made to the Attorney General

- (a) by any person resident in Barbados who is recognised by the Minister responsible for Foreign Affairs as a consular officer of that foreign state,
- (b) by any minister of the foreign state who communicates with the Attorney General through the diplomatic representatives of Barbados in or for that foreign state, or
- (c) by such other person or by such other means as may be settled by arrangement, when neither the person nor means described in paragraph (a) or (b) can be conveniently used.

Duty of Attorney-General to refuse surrender

24.(1) Where, in the case of a fugitive whose surrender is sought, the Attorney General at any time determines that

- (a) the fugitive may not be surrendered under this Act by reason of section 7, or
- (b) the Commonwealth country or foreign state for whom his surrender is sought does not intend to make a requisition under this Act for his surrender,

the Attorney General shall not make an order for the surrender of the fugitive; and if the Attorney General had, before such determination, made an order for the surrender of the fugitive, he shall forthwith, by order under his hand, vacate that order.

(2) Where a determination is made under subsection (1), the Attorney General shall vacate, by order under his hand, any warrant issued by a magistrate under this Act; and if the fugitive concerned is in custody pursuant to a warrant issued under this Act, the Attorney General shall order him to be discharged out of custody, and the fugitive shall be discharged accordingly.

Multinational fugitive

25.(1) Where, in respect of any fugitive, the Attorney General receives requisitions for his surrender

- (a) from more than one Commonwealth country,
- (b) from more than one foreign state, or
- (c) from one or more Commonwealth countries and one or more foreign states,

the Attorney General may, having regard to all the circumstances of the case, order the surrender of the fugitive in response to the requisition of that jurisdiction that seems to the Attorney General to have the preferred claim on the fugitive,

and the Attorney General may refuse to make an order for surrender in response to any of the other requisitions.

(2) In considering the circumstances under subsection (1), the Attorney General may have regard particularly to

- (a) the relative seriousness of the extradition crime in question,
- (b) the dates on which the requisitions for surrender were made, and
- (c) the nationality or citizenship of the fugitive and his place of ordinary residence.

Local offence by alien fugitive

26. Where a fugitive from a foreign state,

- (a) has been accused of committing within the jurisdiction of Barbados an offence that is not the offence for which his surrender is sought by the foreign state, or
- (b) is undergoing sentence for a conviction in Barbados,

the fugitive may not be surrendered under this Act until after he has been discharged, whether by acquittal or by expiration of his sentence or otherwise.

Local offence by Commonwealth fugitive

27.(1) Where a fugitive from a Commonwealth country,

- (a) is serving a sentence of imprisonment or detention in Barbados, or
- (b) is charged with an offence committed within the jurisdiction of Barbados that is not the offence for which his surrender is sought by the Commonwealth country,

the Attorney General may make an order, subject to subsection (2), for the surrender of the fugitive.

- (2) An order for the surrender of a fugitive described in subsection (1) takes effect, and shall state that it takes effect,
- (a) if the fugitive is serving a sentence in Barbados, as soon as the sentence has been served, or
 - (b) if the fugitive has been charged with an offence in Barbados,
 - (i) as soon as the charge is disposed of in favour of the fugitive or withdrawn, or
 - (ii) as soon as the sentence has been served, if the charge results in a sentence of imprisonment.

Delivering up fugitive for surrender

28.(1) The Attorney General may, by order under his hand, direct any person who has the custody of a fugitive committed for surrender in accordance with this Act to surrender the fugitive to such persons (to be named in the order) as are, in the opinion of the Attorney General, duly authorised to receive the fugitive in the name and on behalf of the Commonwealth country or foreign state, as the case may be.

(2) The fugitive is surrendered under this Act when he is delivered as ordered by the Attorney General into the custody of the persons named in the order.

Power of custodian of surrendered fugitive

29.(1) The persons to whom a fugitive is surrendered pursuant to an order under section 28 may

- (a) receive and hold the fugitive within the jurisdiction of Barbados, and
- (b) convey the fugitive to a place within the Commonwealth country or foreign state to whom he has been surrendered under this Act.

(2) If a fugitive described in subsection (1) escapes out of any custody to which he is delivered pursuant to an order under section 28, he may be retaken in the

same manner as any person accused or convicted of a crime against the laws of Barbados may be retaken on an escape.

Evidence in possession of fugitive

30. Any thing found in the possession of a fugitive at the time of his apprehension under this Act that may be material as evidence in making proof of the extradition crime may be delivered up with the fugitive on his surrender, but subject to the rights of third parties with regard to that thing.

Expenses

31. All expenses incurred in respect of any fugitive whose surrender is sought must be paid by the Commonwealth country or foreign state that requisitions his surrender under this Act, unless other provisions for the payment of expenses have been made by treaty, convention or arrangement applying to that Commonwealth country or foreign state.

Judicial Discharge after Committal

Judicial discharge for delayed surrender

32.(1) A fugitive who has been committed to prison under this Act to await surrender to another country or state, and who remains in custody awaiting surrender two months after the first day on which, having regard to section 21, he could have been surrendered, may apply to a judge for discharge from custody.

(2) Where, upon application by a fugitive under subsection (1), the judge is satisfied that reasonable notice of the intention to make the application was given to the Attorney General, the judge, if sufficient reason for the delay in surrendering the fugitive is not shown, may, by order, direct that the fugitive be discharged from custody.

(3) If an order for surrender had been made by the Attorney General in respect of a fugitive who has been ordered discharged from custody under subsection (2), the judge may quash the order for surrender.

PART II
COMMONWEALTH COUNTRIES

Designation of Commonwealth countries

33. The Minister responsible for Foreign Affairs may, by order, subject to negative resolution, designate any Commonwealth country as a Commonwealth country to which Part I applies.

Special modification order

34. The Minister responsible for Foreign Affairs may, by order, subject to affirmative resolution, direct that this Act have effect, in relation to the return of persons to, or in relation to the return of persons from, any designated Commonwealth country, subject to such exceptions, adaptations or modifications as may be specified in the order.

Part of a Commonwealth country

35. For the purposes of an order under section 33, any territory for the external relations of which a Commonwealth country is responsible may be treated as part of that Commonwealth country, or, if the government of that country so requests, as a separate Commonwealth country to which Part I applies.

PART III
EXTRADITION TREATY STATES

Applying Part I under U.K. Orders

36. Part I applies to any foreign state in respect of which any of the United Kingdom Acts known as the *Extradition Acts 1870 to 1935* applied immediately before 2nd June, 1980 pursuant to an Order in Council in force thereunder, and that Act as so applied extended to Barbados.

Applying Part I subject to conditions etc.

37. Where, in relation to any foreign state, the operation of any Order in Council referred to in section 36 was made subject to any limitations, conditions, exceptions or qualifications, Part I applies to that foreign state subject to those limitations, conditions, exceptions or qualifications.

Revoking application of Part I

38. The Minister responsible for Foreign Affairs may, subject to negative resolution, make regulations to provide that Part I cease to apply to a foreign state to which that Part applies by virtue of section 36; and upon the making of that regulation, Part I ceases to apply to that foreign state.

Applying Part I under extradition treaty

39.(1) In this section “extradition treaty” means a treaty, convention, agreement or arrangement between states relating to the surrender of fugitives or that contains a provision relating to the surrender of fugitives.

(2) Where an extradition treaty between Barbados and a foreign state comes into effect after 2nd June, 1980, Part I applies to that foreign state subject to such limitations, conditions, exceptions or qualifications as are necessary to give effect to that treaty or to the provision thereof relating to the surrender of fugitives.

(3) If Part I applied to the foreign state described in subsection (2) before the making of an extradition treaty by Barbados with that state and the extradition treaty affected or amended an earlier extradition treaty with that state that extended to Barbados, Part I applies to that foreign state thereafter subject to that earlier extradition treaty as affected or amended by the later extradition treaty.

NON-TREATY FOREIGN STATES

Surrender when no treaty exists

40.(1) Subject to section 41, where no extradition treaty within the meaning of section 39 exists between Her Majesty and a foreign state that extends to Barbados or that was made in right of Barbados, the Attorney General may, upon the application of that foreign state, issue his warrant for the surrender to the foreign state of any fugitive in Barbados from the foreign state who is charged with or convicted of any offence however described that, if committed in Barbados

- (a) would be a crime described in the Schedule, or
- (b) would be a crime that would be so described were the description to contain a reference to any intent or state of mind on the part of the person committing the offence, or to any circumstances of aggravation necessary to constitute the offence,

and for which the maximum penalty in that other state is death or imprisonment for a term of twelve months or more.

(2) The arrest, committal, detention, surrender and conveyance out of Barbados of a fugitive described in subsection (1) shall be undertaken in accordance with Part I as if that Part applied to the foreign state applying for the surrender of the fugitive, and the warrant of the Attorney General were a foreign warrant of arrest under that Part.

(3) The provisions of Part I apply to all matters and proceedings taken in relation to the arrest, committal, detention, surrender and conveyance out of Barbados of a fugitive described in subsection (1) in the same manner and to the same extent as if Part I applied to the foreign state applying for the surrender of the fugitive.

(4) All expenses connected with the arrest, committal, detention, surrender or conveyance out of Barbados of a fugitive pursuant to this section must be borne by the foreign state applying for the surrender of the fugitive.

Application of section 40

41.(1) Section 40 does not come into force in respect of a foreign state or any fugitive therefrom until that section has been declared by order of the Minister responsible for Foreign Affairs to be in force in respect of the foreign state from a day to be stated in the order.

(2) The Minister responsible for Foreign Affairs may by order declare that section 40 is no longer in force in respect of a foreign state, and thereupon that section ceases to be in force in respect of that foreign state and any fugitives therefrom from a day to be stated in the order.

(3) Section 40 is not to be applied for the surrender of a fugitive to a foreign state in any case where the offence for which his surrender is sought was committed before that section was declared pursuant to subsection (1) to be in force in respect of that foreign state.

PART IV**EXTRADITION FROM OTHER STATES****Meaning of “extraditable crime”**

42. In this Part, “extraditable crime” means an offence, whenever committed, against a law in force in Barbados

(a) that is described in the Schedule, or

(b) that would be so described were the description concerned to contain a reference to any intent or state of mind on the part of the person committing the offence, or to any circumstances of aggravation necessary to constitute the offence,

and the maximum penalty for which is death or imprisonment for a term of twelve months or more.

Requisition to return fugitive to Barbados

- 43.** Where a person who is accused or convicted of an extraditable crime
- (a) is, or is suspected to be in, or arriving in, or to be within or arriving within, the jurisdiction of, a Commonwealth country, or
 - (b) is, or is suspected to be in, or within the jurisdiction of, a foreign state,
- the Attorney General may make a requisition to that country or state for the surrender of that person, hereinafter in this Part referred to as an “offender”.

Returning offender to Barbados

- 44.** When an offender is surrendered by a Commonwealth country or a foreign state, the offender may be brought into Barbados and delivered to the proper authorities to be dealt with according to law.

Power over offender circumscribed

- 45.** Where an offender is surrendered by a Commonwealth country or a foreign state, the offender may not, unless he has left, or has had a reasonable opportunity of leaving, Barbados,
- (a) be detained or tried in Barbados for an offence that is alleged to have been committed, or was committed, before his surrender except
 - (i) the extraditable crime to which the requisition for his surrender relates, or any other offence of which he could be convicted upon proof of the facts on which that requisition was based, or
 - (ii) any other extraditable crime in respect of which that country or state consents to his being so detained or tried, as the case may be; or
 - (b) be detained in Barbados for the purpose of his being surrendered to another country or state for trial or punishment for any offence that is

alleged to have been committed, or was committed, before his surrender to Barbados, except

- (i) a lesser offence of which he could be convicted upon proof of the facts on which the requisition mentioned in paragraph (a) was based, or
- (ii) any other offence described in the Schedule in respect of which the Commonwealth country or foreign state by which he was surrendered to Barbados consents to his being so detained.

PART V

GENERAL AND MISCELLANEOUS

Interpretation

Definition for Act

46. For the purposes of this Act,

- (a) “Commonwealth country” means a Commonwealth country (other than Barbados) and includes any part or political subdivision thereof or any dependency thereof;
- (b) “dependency” in relation to a Commonwealth country or foreign state means a dependent territory, including a protectorate and a protected state, of a Commonwealth country or foreign state;
- (c) “extradition crime” has the meaning given that expression in Part I;
- (d) “foreign state” means any state (other than Barbados) that is not a Commonwealth country;
- (e) “fugitive” means a person accused of an extradition crime that is alleged to have been committed, or convicted of an extradition crime that was committed, at a place in a Commonwealth country or foreign

state or within the jurisdiction of a Commonwealth country or a foreign state.

Offences of a political character; construction of

47.(1) For the purposes of Part I, the following are not offences of a political character:

- (a) the murder, manslaughter, kidnapping, unlawful seizure, detention or confinement of an internationally protected person or wilfully causing bodily harm to, or other assault on, or the restriction of the liberty of, an internationally protected person;
- (b) the use of force or violence against or an attack on the official premises, private accommodation or means of transport of an internationally protected person;
- (c) any crime described in paragraph 2, 28, 29, 30 or 38 of the *Schedule*; and
[2002-6]
- (d) the aiding and abetting, or counselling or procuring the commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit, any offence described or referred to in paragraphs (a) to (c).

(2) In this section,

- (a) “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;
 - (ii) any head of a government of a state; and
 - (iii) a minister of foreign affairs of a government of a state;

(b) “internationally protected persons” means

- (i) a head of state whenever he is in a state other than the one in which he holds that position or office;
- (ii) a member of the family of a person described in sub-paragraph (i) who accompanies him in a state other than the one in which he is a head of state;
- (iii) a representative or official of a state or an official or agent of an international organisation who, at a time when and at the place where an offence described in subsection (1) is committed against his person or upon his official premises, private accommodation or means of transport, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity; or
- (iv) a member of the family of a representative, official or agent described in sub-paragraph (iii) who forms part of his household if, at the time when and at the place where an offence mentioned in that sub-paragraph is committed against the member of his family or any property referred to in that sub-paragraph that is used by the member of his family, the representative, official or agent is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity.

(3) For the purposes of Part I, an offence against the law of a Commonwealth country or a foreign state may be regarded as being an offence of a political character notwithstanding that there are not competing political parties in that country or state.

Conviction in absentia

48. Where a person has been convicted in his absence of an offence against the law of a Commonwealth country or a foreign state and the conviction is not a final conviction, then, for the purposes of Part I, that person shall be deemed not to have been convicted of that offence but to be only accused of that offence.

Jurisdiction in civil aviation cases

49.(1) Whenever a civil aviation convention has effect in Barbados, a convention offence under the relevant civil aviation convention shall, for the purposes of Part I, be deemed to have been committed within the jurisdiction of the Commonwealth country or foreign state against the law of which the convention offence was committed.

(2) In this section,

(a) “civil aviation convention” means

- (i) the Convention for the Suppression of Unlawful Seizure of Aircraft set out in the Schedule to the *Hijacking Act*, Cap. 135A; or
- (ii) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation set out in the Schedule to the *Civil Aviation (Montreal Convention) Act*, Cap. 123A,

(b) “convention offence” means

- (i) an offence of the kind described in paragraph 28 or 29 of the Schedule in respect of the Convention referred to in subparagraph (i) of paragraph (a); or
- (ii) an offence of the kind described in paragraph 30 of the Schedule in respect of the Convention referred to in sub-paragraph (ii) of paragraph (a);

committed against the law of a Commonwealth country or a foreign state that is bound by the civil aviation convention and required thereby to establish its jurisdiction in respect of that offence.

Jurisdiction re offences in aircraft

50.(1) For the purposes of the application of Part I to crimes committed on board an aircraft in flight, any aircraft registered in a Commonwealth country or

foreign state in which the Tokyo Convention is in force is, at any time while that aircraft is in flight, within the jurisdiction of that country or state whether or not it is also within the jurisdiction of any other Commonwealth country or foreign state.

(2) For the purposes of this section, the certificate of the Minister responsible for Foreign Affairs that a Commonwealth country or a foreign state is a country or state in which the Tokyo Convention is in force is admissible in evidence as conclusive proof of the fact certified without proof of signature or other proof.

(3) In this section, “Tokyo Convention” means the Convention on offences and certain other acts committed on board aircraft signed at Tokyo on September 14th, 1963 and referred to in the *Civil Aviation (Tokyo Convention) Act*, Cap. 123B.

Regulations

Regulations

51. The Attorney General may make such regulations as are necessary for the purpose of carrying out the provisions of this Act, and, without limiting the generality of the foregoing, he may, by such regulations, provide for the forms of warrants for the apprehension, detention, committal and detention of persons under this Act and for the forms of orders and other instruments required for the purposes of this Act.

Consequential Amendments

Effect of older law

52.(1) The *Fugitive Offenders Act, 1881* (United Kingdom) ceases to have effect in Barbados.

(2) The *Extradition Acts, 1870 to 1935* (United Kingdom) henceforth have no application in respect of Barbados otherwise than as provided by this Act.

SCHEDULE*Description of Offences*

1. Culpable homicide, including murder, manslaughter, infanticide and causing death by criminal negligence.
 2. An offence against the law relating to genocide.
 3. Maliciously or wilfully wounding or inflicting serious bodily harm.
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- [1994-18]
4. Assault occasioning actually bodily harm.
 5. Rape.
 6. Unlawful sexual intercourse with a female.
 7. Indecent assault.
 8. Procuring, or trafficking in, women or young persons for immoral purposes.
 9. Bigamy.
 10. Kidnapping, abduction or false imprisonment, or dealing in slaves.
 11. Stealing, abandoning, exposing or unlawfully detaining a child.
 12. Bribery.
 13. Perjury or subornation of perjury or conspiring to defeat the course of justice.

14. *[Repealed by 1992-16.]*
15. An offence concerning counterfeit currency.
16. An offence against the law relating to forgery.
17. Theft, obtaining property or credit by deception, false accounting, handling stolen property or any other offence in respect of property involving fraud.
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- [1992-29]*
18. Burglary or aggravated burglary or sacrilege.
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- [1992-29]*
19. Robbery.
20. Blackmail or extortion by means of threat or by abuse of authority.
21. An offence against bankruptcy law or company law.
22. An offence under the *Criminal Damage Act*, Cap. 113B, or under section 1 or Part VI, VIII or IX of the *Malicious Injury to Property Act*, Cap. 140.
23. Acts done with the intention of endangering vehicles, vessels or aircraft.
24. An offence against the law relating to dangerous drugs, narcotics or psychotropic substances.
25. Piracy.

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- 26.** Revolt against the authority of a master of a ship or the commander of an aircraft.
- 27.** Contravention of import or export prohibitions relating to precious stones, gold and other precious metals.
- 28.** Any act or omission with intent to or that is likely to
- (a) endanger the safety of an aircraft in flight or any person on board such aircraft; or
 - (b) destroy or render any aircraft incapable of flight.
- 29.** Any offence against the law relating to the hijacking of aircraft.
- 30.** Any unlawful act of any of the kinds specified in Article I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, being the Convention referred to in the *Civil Aviation (Montreal Convention) Act*, Cap. 123A.
- 31.** Offences against the laws relating to firearms and other weapons, ammunition, explosives, incendiary devices or nuclear materials.
- 32.** Offences against the laws relating to the sale or purchase of securities and commodities or against the laws relating to exchange control.
- 33.** Income tax evasion.
- 34.** Aiding and abetting, or counselling or procuring the commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit, any of the offences listed in any of the paragraphs preceding this paragraph.
- 35.** Any act or offence triable under the *International Protected Persons Act*, Cap. 19.

36. Any offence triable under the *Mercenaries (Convention) Act*, Cap. 174A.

[1994-7]

37. Money laundering.

[2001-32]

38. Any offence triable under the *Anti-Terrorism Act*, Cap. 158.