

CHAPTER 2.10 EXTRADITION ACT

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• Act • Subsidiary Legislation •

ACT

(Act 12 of 1986 and 3 of 2010)

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CHAPTER 2.10 EXTRADITION Act

AN ACT relating to fugitives in Saint Lucia from the criminal law of other States and to fugitives from the criminal law of Saint Lucia in other States.

Commencement [6 January 1993]

1. Short title

This Act may be cited as the Extradition Act

2. Interpretation

(1) For the purposes of this Act—

“**Commonwealth country**” means a Commonwealth country (other than Saint Lucia) and includes any part or political subdivision thereof or any dependency thereof;

“**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;

“**extradition crime**” has the meaning given to that expression in Part 1;

“**foreign State**” means any State (other than Saint Lucia) that is not a Commonwealth country;

“**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.

(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 1 APPLICATION

3. Extradition crime

In this Part, “**extradition crime**” means, in relation to a Commonwealth country or foreign State to which this Part applies, an offence however described that, if committed in Saint Lucia,

- (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 country or state is death or imprisonment for a term of 12 months or more.

4. Application of Part

This Part applies to—

- (a) a Commonwealth country that is designated under Part 2 as a Commonwealth country to which this Part applies; and
- (b) a foreign State described in Part 3 as a foreign State to which this Part applies.

POWER TO SURRENDER

5. Power to apprehend and surrender fugitive

(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 the commencement of this Act in the case of a Commonwealth country;
- (b) before or after the commencement of this Act 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 the commencement of this Act; or
- (c) before or after the entering into of an extradition treaty within the meaning of section 38 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 or her surrender is sought.

(3) A fugitive shall not be lawfully surrendered to a Commonwealth country or to a foreign State by the Attorney General or any other person in Saint Lucia unless the fugitive has first been committed for surrender under section 12.

6. General restrictions on return

(1) A fugitive shall not be surrendered under this Act—

- (a) if the crime of which he or she is accused or alleged to have been convicted is an offence of a political character;
- (b) if the request for his or her surrender is in fact made for the purpose of prosecuting or punishing him or her on account of his or her 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 or she would be prejudiced at his or her trial or punished, detained or restricted in his or her personal liberty by reason of his or her 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 or she would, if charged with that offence in Saint Lucia, be entitled to be discharged under any rule of law relating to previous acquittal or conviction.

(2) A fugitive from a Commonwealth country shall not be surrendered under this Act unless provision has been made by the law of that country, or by agreement between Saint Lucia 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 or her 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 or her surrender under this Act other than—
 - (i) the extradition crime for which his or her surrender was requested,
 - (ii) any lesser offence proved before the magistrate before whom the fugitive was brought under section 12, 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 or her surrender,

without being first returned to Saint Lucia or given a reasonable opportunity of returning himself or herself to Saint Lucia.

7. Agreement with Commonwealth country

(1) For the purposes of section 6(1), an agreement between Saint Lucia and a Commonwealth country may be one made for a particular fugitive or one of a general nature between Saint Lucia and that Commonwealth country.

(2) A certificate issued by the Minister responsible for foreign affairs or on his or her behalf by a person authorised by him or her, that confirms the existence of an agreement with a Commonwealth country, as required by section 6(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.

8. When death penalty likely

(1) Where it appears to the Attorney General that a fugitive would likely incur the death penalty for the extradition crime for which his or her 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 Saint Lucia 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 be discharged.

APPREHENSION OF FUGITIVE

9. Arrest on foreign warrant

(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 or her warrant if the extradition crime for which a fugitive is sought had been committed in Saint Lucia, the magistrate may, on a foreign warrant of arrest or on an information or complaint laid before him or her issue a warrant for the apprehension of the fugitive.

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

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

(4) 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.

10. Effect of magistrate's warrant

Any warrant issued under section 9 may be executed in any district of Saint Lucia by any person to whom it is directed or by any police officer.

11. Jurisdiction of magistrate

A magistrate may exercise jurisdiction under this Act within any district in Saint Lucia, notwithstanding the District Courts Act; but nothing in this Act confers on any magistrate any jurisdiction in *habeas corpus* matters.

12. Proceedings for Committal

(1) A fugitive who is apprehended on a warrant issued under section 9 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 or she 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 or her and charged with an offence committed in Saint Lucia that is triable on indictment.

13. Detention of fugitive

(1) Subject to subsection (2) but notwithstanding any other Act, a fugitive who is apprehended on a warrant issued under section 9 shall be detained in custody pending the determination of his or her case under section 12.

(2) The fugitive need not be detained in custody if he or she 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 Saint Lucia—

- (a) his or her detention is not necessary to ensure his or her personal attendance whenever it is required for the purposes of this Act; and
- (b) his or her 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 or she might, if released from custody, commit a criminal offence or an interference with the administration of justice.

14. Evidence of extradition crime

(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 Saint Lucia, 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 by the law of Saint Lucia.

(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; or
- (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 a 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 subsection (4)(a) and (4)(b).

15. Evidence for fugitive

A magistrate shall receive any evidence that is tendered, in the manner provided by section 14, 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 or she is accused or alleged to have been convicted.

16. Committal for surrender

(1) Where a fugitive is brought before him or her under section 12, the magistrate shall, despite that section 6 appears to apply to the fugitive, issue a 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 Saint Lucia, as modified by this Act, satisfy him or her 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 Saint Lucia as modified by this Act, justify the committal of the fugitive for trial had the extradition crime occurred in Saint Lucia.

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

17. Discharge order

Where a magistrate is not required by section 16 to issue a warrant for the committal to prison of a fugitive brought before him or her, the magistrate shall order the fugitive discharged.

18. Duty of magistrate on committal

Where a magistrate commits a fugitive to prison under section 16, the magistrate shall—

- (a) inform the fugitive on so committing him or her that he or she will not be surrendered until after the expiration of 15 days and that, within that time, he or she may under law apply for leave to appeal or apply for a writ of habeas corpus; and
- (b) transmit within 7 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 append thereto such report on the case as the magistrate thinks fit.

19. Appeal to High Court

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

- (a) the committal to prison of a fugitive under section 16; or
- (b) the discharge of a fugitive under section 17.

(2) Leave to appeal to the High 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 section 18(a); or
- (b) in the case of the discharge of a fugitive, application for leave to appeal is made within 15 days from the making of the order of discharge.

20. Prescribed delay for surrender

(1) A fugitive may not be surrendered under this Act in any case until after the expiration of the time limited therefor by section 18(a).

(2) When a fugitive applies for leave to appeal within the time limited therefor or applies for a writ of *habeas corpus*, he or she 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

21. Requisition from Commonwealth country

A requisition for the surrender of a fugitive to a Commonwealth country who is or is suspected to be in or to be arriving in Saint Lucia may be made to the Attorney General—

- (a) by any person resident in Saint Lucia 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 Saint Lucia in or for that Commonwealth country; or
- (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.

22. Requisition from foreign State

A requisition for the surrender of a fugitive to a foreign State who is or is suspected to be in Saint Lucia may be made to the Attorney General—

- (a) by any person resident in Saint Lucia 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 representative of Saint Lucia 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.

23. Duty of Attorney General to refuse surrender

(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 6; or
- (b) the Commonwealth country or foreign State for which his or her surrender is sought does not intend to make a requisition under this Act for his or her 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 or she shall, by order under his or her hand, vacate that order.

(2) Where a determination is made under subsection (1), the Attorney General shall vacate, by order under his or her 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 or her to be discharged out of custody and the fugitive shall be discharged accordingly.

24. Concurrent requisitions

(1) Where, in respect of any fugitive, the Attorney General receives requisitions for his or her 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 or her place of ordinary residence.

25. Local offence by fugitive from Commonwealth country

(1) When a fugitive from a Commonwealth country—

- (a) is serving a sentence of imprisonment or detention in Saint Lucia; or
- (b) is charged with an offence committed within the jurisdiction of Saint Lucia that is not the offence for which his or her 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 Saint Lucia, as soon as the sentence has been served; or
- (b) if the fugitive has been charged with an offence in Saint Lucia,
 - (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.

26. Local offence by fugitive from foreign State

Where a fugitive from a foreign State—

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

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

27. Delivering up fugitive for surrender

(1) The Attorney General may, by order under his or her 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 or she is delivered as ordered by the Attorney General into the custody of the persons named in the order.

28. Powers of custodian of surrendered fugitive

(1) The persons to whom a fugitive is surrendered under an order under section 27 may—

- (a) receive and hold the fugitive within the jurisdiction of Saint Lucia; and
- (b) convey the fugitive to a place within the Commonwealth country or foreign State to which he or she has been surrendered under this Act.

(2) If a fugitive described in subsection (1) escapes from any custody to which he or she is delivered under an order under section 27, he or she may be retaken in the same manner as any person accused or convicted of a crime against the laws of Saint Lucia may be retaken on an escape.

29. Evidence in possession of fugitive

Anything found in the possession of a fugitive at the time of his or her 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 or her surrender but subject to the rights of third parties with regard to that thing.

30. Expenses

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 or her 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

31. Judicial discharge for delayed surrender

(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 2 months after the first day on which, having regard to section 20, he or she 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 2 COMMONWEALTH COUNTRIES

32. Designation of Commonwealth countries

The Minister responsible for foreign affairs may, by order, subject to negative resolution of Parliament, designate any Commonwealth country as a Commonwealth country to which Part 1 applies.

33. Special modification order

The Minister responsible for foreign affairs may, by order, subject to affirmative resolution of Parliament, 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.

34. Part of a Commonwealth country

For the purposes of an order under section 32, 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 1 applies.

PART 3
EXTRADITION TREATY STATES

35. Applying Part 1 under U.K. Orders

Part 1 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 the commencement of this Act, under an Order-in-Council in force thereunder and that Act as so applied extended to Saint Lucia.

36. Applying Part 1 subject to conditions etc

Where, in relation to any foreign State, the operation of any Order-in-Council referred to in section 35 was made subject to any limitations, conditions, exceptions or qualifications, Part 1 applies to that foreign State subject to those limitations, conditions, exceptions or qualifications.

37. Revoking application of Part 1

The Minister responsible for foreign affairs may, subject to negative resolution of Parliament, make regulations to provide that Part 1 cease to apply to a foreign State to which this Part applies by virtue of section 35; and upon the making of such regulations Part 1 shall cease to apply to that foreign State.

38. Applying Part 1 under extradition treaty

(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 Saint Lucia and a foreign State comes into effect after the commencement of this Act, Part 1 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 provisions thereof relating to the surrender of fugitives.

(3) If Part 1 applied to a foreign State described in subsection (2) before the making of an extradition treaty by Saint Lucia with that state and the extradition treaty affected or amended an earlier extradition treaty with that State that extended to Saint Lucia, Part 1 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

39. Surrender when no treaty exists

(1) Subject to section 40, where no extradition treaty within the meaning of section 38 exists between Her Majesty and a foreign State that extends to Saint Lucia or that was made in right of Saint Lucia, the Attorney General may, upon the application of that foreign State, issue his or her warrant for the surrender to the foreign State of any fugitive in Saint Lucia from the foreign State who is charged with or convicted of any offence however described that, if committed in Saint Lucia—

- (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 state is death or imprisonment for a term of 12 months or more.

(2) The arrest, committal, detention, surrender and conveyance out of Saint Lucia of a fugitive described in subsection (1) shall be undertaken in accordance with Part 1 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 1 apply to all matters and proceedings taken in relation to the arrest, committal, detention, surrender and conveyance out of Saint Lucia of a fugitive described in subsection (1) in the same manner and to the same extent as if Part 1 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 Saint Lucia of a fugitive under this section must be borne by the foreign State applying for the surrender of the fugitive.

40. Application of section 39

(1) Section 39 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 39 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 fugitive therefrom from a day to be stated in the order.

(3) Section 39 is not to be applied for the surrender of a fugitive to a foreign State in any case where the offence for which his or her surrender is sought was committed before that section was declared under subsection (1) to be in force in respect of that foreign State.

PART 4 EXTRADITION FROM OTHER COUNTRIES OR STATES

41. Meaning of “extradition crime”

In this Part, “**extradition crime**” means an offence, wherever committed, against a law in force in Saint Lucia—

- (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 circumstance of aggravation, necessary to constitute the offence,

and the maximum penalty for which is death or imprisonment for a term of 12 months or more.

42. Requisition to return offender to Saint Lucia

Where a person who is accused or convicted of an extradition 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, in this Part referred to as an “offender”.

43. Returning offender to Saint Lucia

When an offender is surrendered by a Commonwealth country or foreign State, the offender may be brought into Saint Lucia and delivered to the proper authorities to be dealt with according to law.

44. Power over offender circumscribed

Where an offender is surrendered by a Commonwealth country or a foreign State, the offender may not, unless he or she has left, or has had a reasonable opportunity of leaving Saint Lucia—

- (a) be detained or tried in Saint Lucia for an offence that is alleged to have been committed or was committed, before his or her surrender except—
 - (i) the extraditable crime to which the requisition of his or her surrender relates, or any other offence of which he or she 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 or her being so detained or tried, as the case may be; or
- (b) be detained in Saint Lucia for the purpose of his or her being surrendered to another country or State for trial or punishment for an offence that is alleged to have been committed, or was committed, before his or her surrender to Saint Lucia except—
 - (i) a lesser offence of which he or she 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 or she was surrendered to Saint Lucia consents to his or her being so detained.

PART 5 GENERAL AND MISCELLANEOUS

45. Offences of a political character

(1) For the purposes of Part 1, 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 paragraphs 2, 28, 29 or 30 of the Schedule; and
- (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 person**” means—
- (i) a head of State whenever he or she is in a State other than the one in which he or she holds that position or office,
 - (ii) a member of the family of a person described in clause (i) who accompanies him or her in a State other than the one in which he or she 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 or her person or upon his or her official premises, private accommodation or means of transport, is entitled under international law to special protection from any attack on his or her person, freedom or dignity, or
 - (iv) a member of the family of a representative, official or agent described in paragraph (iii) who forms part of his or her household if, at the time when and at the place where an offence mentioned in that clause is committed against the member of his or her family or any property referred to in that clause that is used by the member of his or her family, the representative, official or agent is entitled under international law to special protection from any attack on his or her person, freedom or dignity.

(3) For the purposes of Part 1, 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.

46. Conviction in *absentia*

Where a person has been convicted in his or her 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 1, that person is deemed not to have been convicted of that offence but to be only accused of that offence.

47. Jurisdiction in civil aviation cases

(1) Whenever a civil aviation convention has effect in Saint Lucia, a convention offence under the relevant civil aviation convention shall, for the purposes of Part 1, be deemed to have been committed within the jurisdiction of a Commonwealth country or a 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, 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;
- (b) “**convention offence**” means—
 - (i) an offence of the kind described in paragraphs 28 or 29 of the Schedule in respect of the Convention referred to in paragraph (a), or
 - (ii) an offence of the kind described in paragraph 30 of the Schedule in respect of the Convention referred to in paragraph (a)(ii),

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.

48. Jurisdiction re offences in aircraft

(1) For the purposes of the application of Part 1 to a crime committed on board an aircraft in flight, any aircraft registered in a Commonwealth country or a 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 14 September 1963 and referred to in the Civil Aviation (Tokyo Convention) Act.

49. Regulations

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 or she 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.

SCHEDULE

(Section 3)

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 grievous bodily harm.
4. Assault occasioning actual 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. Arson.
15. An offence concerning counterfeit currency.

16. An offence against the law relating to forgery.
17. 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.
18. Burglary, housebreaking or any similar offence.
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. Malicious or wilful damage to property.
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.
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 1 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.
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.
 - 32A. Money laundering. (*Inserted by Act 3 of 2010*)
 - 32B. Terrorism. (*Inserted by Act 3 of 2010*)
 - 32C. Terrorist financing. (*Inserted by Act 3 of 2010*)
33. 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.

CHAPTER 2.10 EXTRADITION ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Designation Orders – Section 32
-

Designation Orders – Section 32

(Statutory Instrument 146/2006)

United Kingdom Order S.I.146/2006 .. in force 14 August 2006

ARRANGEMENT OF ORDERS

1. Citation
 2. Declaration of approved premises
-

DESIGNATION ORDERS – SECTION 32

Commencement [14 August 2006]

1. Citation

This Order may be cited as the Designation Orders.

2. Declaration of approved premises

The following countries are hereby designated as Commonwealth countries to which Part 1 of the Extradition Act applies:

Premises	Commencement	Order
The United Kingdom	14 August 2006	S.I. 146/2006