

EXTRADITION SYSTEM OF GRENADA

- 1.1 The Extradition Act (1998) of Grenada was enacted to make new provisions with respect to extradition.
- 1.2 Section 4 of the Act refers to an "*extradition offence*" as:
 - (i) Conduct in the territory of a foreign State or a Commonwealth country which if it occurred in Grenada would constitute an offence which on indictment, is punishable with imprisonment for a term of five years, or any greater punishment.
 - (ii) Any extra-territorial offence against the laws of a foreign state or Commonwealth country which, on indictment, is punishable under those laws with imprisonment for a term of 5 years or any greater punishment.

EXTRADITION ARRANGEMENTS

- 1.3 Section 5 of the Act provides that extradition arrangements means arrangements of a general nature made with one or more States and relating to the operation of extradition procedures. These arrangements may relate to the operation of those procedures in a particular case in this Act referred to as "special extradition arrangements."
- 1.4 Section 6 provides that where general extradition arrangements have been made the Minister may by order reciting and embodying the terms of arrangements direct that the Act so far as it relates to extradition procedures shall apply to Grenada and any foreign State mentioned in the order with which they have been made.
- 1.5 An order for extradition can only be made where the general extradition arrangements to which it relates:
 - (i) provide for their determination after the expiration of a period of notice given by a party to them and not exceeding one year or for their denunciation by means of such notice;
 - (ii) are in the conformity with the provisions of the Act;
 - (iii) such an order is conclusive evidence that the arrangements referred to comply with the provisions of the Act and that the Act so far as it relates to extradition procedures under Part IV applies in the case of foreign State mentioned in the order;
 - (iv) An order under this section shall be subject to negative resolution of the House of Representatives;
 - (v) The order must provide that a person can only be surrendered to the foreign state requesting his surrender if the court of committal is satisfied that the evidence would be sufficient to warrant his trial if the extradition offence had taken place within

the jurisdiction of the court. Where it does not so provide it is null and void and of no effect.

RESTRICTIONS ON SURRENDER

- 1.6 Part III of the Act provides restrictions on surrender. Section 8(1) states that a person will not be surrendered if:
- (i) the offense committed by the person is of a political character;
 - (ii) the offense is one under military law and not under general criminal law;
 - (iii) the request for his surrender, is in fact made for the purpose of prosecuting or punishing him on account of race, religion, nationality, political opinions, sex or status;
 - (iv) he might if surrendered be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, political opinions, sex or status;
 - (v) final judgment has been given against the person in Grenada or a third country for that offence;
 - (vi) under the laws of the requesting country or the laws of Grenada the person has become immune from prosecution or punishment;
 - (vii) the person has already been acquitted or pardoned in the country making the extradition request or in Grenada, or punished under the laws of that country or the laws of Grenada for the offence or another offence constituted by the same conduct as constitutes an extradition offence;
 - (viii) the person has been or would be subjected to torture, cruel, inhuman or degrading treatment or punishment;
- 1.7 If the country making the extradition request is a party to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment or the International Covenant on Civil and Political Rights then Grenada cannot refuse to surrender a person on the basis that the person may be subjected to torture or cruel, inhuman or degrading treatment or punishment.

PROCEDURE FOR EXTRADITION

- 1.8 Part IV section 9 of the Act deals with the procedure for extradition. It provides that an Act referred to as an "extradition request" for the surrender of a person under this Act should be made by one of the following persons:
- (i) by a person recognized by the Minister as a diplomatic or consular representative of a foreign State or a dependency of that foreign State; or

- (ii) by or on behalf of the Government of a Commonwealth country, or a dependency of that Commonwealth country.

1.9 The requesting country should provide:

- (i) as accurate a description as possible of the person whose extradition is sought, together with any other information that may help to establish the identity and nationality of the person;
- (ii) the text of the law creating the offence, or where the offence is a common law offence, a statement of the offence and a statement of the penalty which can be imposed for the offence;
- (iii) a statement of the conduct constituting the offence for which extradition is sought, together with details of the time and place of commission of the offence;
- (iv) in the case of a person accused of an offence, an original or authenticated copy of a warrant issued in the country making the extradition request for his arrest;
- (v) where the person has already been convicted of offence for which his surrender is sought, the original or authenticated copy of the judgment or other document setting out the conviction and the sentence imposed;
- (vi) where a person has been convicted of the offence for which extradition is sought and no sentence has been imposed, the original or authenticated copy of the judgment or other document setting out the conviction and a statement of intention to impose a sentence;
- (vii) copies of the documents should be served on the person who is sought to be surrendered before he is brought before the court of committal.

2.0 Section 9(5) states that on receipt of an extradition request, the Minister may issue an authority to proceed unless it appears to him that an order for the surrender of the person concerned could not lawfully be made, or could not in fact be made in accordance with the provisions of this Act.

2.1 Section 9(6) states that an authority to proceed shall specify the offence under the Laws of Grenada which it appears to the Minister would be constituted by equivalent conduct in Grenada.

2.2 A warrant for an arrest of a person may be issued:

- (i) on receipt of an authority to proceed by a Magistrate
- (ii) without such an authority, by a Magistrate or Justice of the Peace upon information from Interpol, or any other credible source that the said person is or is believed to be in or on his way to Grenada.

- 2.3 A person arrested in pursuance of a warrant shall be brought as soon as practicable before a Magistrate, in this act referred to as "the court of committal" as may be directed by the warrant.
- 2.4 Section 11(7) provides that where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied after hearing representations made in support of the extradition request or on behalf of such person, that the offence to which the authority relates is an extradition offence, and is further satisfied –
- (a) where that person is accused of the offence
 - (b) where that person is alleged to be unlawfully at large after conviction of the offence, that he has been so convicted and appears to be at large.
- 2.5 Section 11(8) stipulates that if the court commits a person under Subsection (7) it shall issue a certificate of the offence against the Laws of Grenada which would be constituted by his conduct.
- 2.6 Where the court of committal refuses to make an order, then the foreign State or commonwealth country seeking the surrender of that person to it may question the proceedings on the ground that it is wrong in law. This can be done by applying to the court to state a case for the opinion of the High Court on the question of law involved.
- 2.7 The High Court may either then:
- (i) remit the case to the court of committal to decide it according to the opinion of the High Court on the question of law;
 - (ii) or dismiss the application
- 2.8 Section 13 provides that a person committed shall not be surrendered
- (i) in any case until the expiration of the period of fifteen days beginning with the day on which the order for his committal is made;
 - or
 - (ii) if an application for habeas corpus is made in his case, so long as proceedings on that application are pending.
- 2.9 Section 13(3) stipulates that the court shall order the applicant's discharge if it appears to the court in relation to the offence in respect of which the applicant's surrender is sought, that
- (i) by reason of the trivial nature of the offence;
 - (ii) by reason of the passage of time since the applicant is alleged to have committed the offence or to have become unlawfully at large, as the case may be; or

- (iii) because the accusation against him is not made in good faith in the interest of justice, it would, having regard to all the circumstances, be unjust or oppressive to surrender him.
- 3.0 If a person consents to being surrendered for the extradition offence and the country requesting his extradition requests that the person should also be surrendered for another offence that is not an extradition offence the Magistrate must ask the person whether he also consents to being surrendered for that other offence. Where consent is voluntarily given then the Magistrate must inform the person of the effect of such consent. Where a person who is committed is not discharged by order of the High Court, the Minister may by warrant order him to be surrendered unless his surrender is prohibited by the Act.
- 3.1 Under the Act the Minister should give to the person to whom an order for surrender to a foreign State would relate, notice in writing that he is contemplating making such an order.
- 3.2 Where special extradition arrangements are made in respect of a person, extradition procedures are available in the case of that person as between Grenada and the foreign State with which such arrangements have been made subject to the limitations, restrictions, exceptions and qualifications, if any contained in the arrangements.
- 3.3 The Act provides that persons who are surrendered to Grenada by a foreign State in pursuance of extradition arrangements shall not unless he has first been restored to that State or had an opportunity of leaving Grenada, be triable or be tried for any offence committed prior to his surrender other than-
- (i) an offence in respect of which he was surrendered;
 - (ii) any offence disclosed by the particulars furnished to the foreign State which formed the ground for his surrender;
 - (iii) any other offence in respect of which the foreign State may consent to his being tried.
- 3.4 The Act further provides that where a person is surrendered and proceedings do not begin against him for the offence which he was surrendered within 6 months or on his trial he is acquitted of the offence, the minister may arrange for the person to be sent back free of charge and with as little delay as possible to the jurisdiction of the foreign State or Commonwealth country.
- 3.5 Part V of the Act relates to the treatment of person surrendered to Grenada by a foreign State in pursuance of extradition arrangements, and Part VI refers to special cases of extradition.

- 3.6 Part VII of the Act deals with general search, seizure and transit provisions. In summary this section provides that where a police officer who arrests a person under a warrant issued under the Act has reasonable grounds for suspecting that property in the vicinity of the person or that is in apparent control of the person: -
- (i) may be material as evidence in proving an offence for which the warrant was issued; or
 - (ii) has been acquired by the person as the result of the offence for which the warrant was issued; the police officer may seize the property.
- 3.7 Similarly, if a police officer has reasonable grounds for suspecting that there is on the person, in the clothing that the person is wearing or in any property in the vicinity of the person this is under the apparent control of the person, anything including a sum of money, that
- (i) may be material as evidence in proving any offence in relation to which the warrant was issued or for which the surrender of the person is sought; or
 - (ii) has been acquired by the person as a result of that offence,
- the police officer may search the person, the person's clothing or the property and may seize anything found as a result of the search.
- 3.8 Section 27(1) of the Act provides that if a Magistrate is informed by affidavit that there are reasonable grounds for suspecting that there may be in a place -
- (i) a thing that may be material as evidence in proving an offence for which a provisional arrest warrant has been issued or surrender of a person is sought; or
 - (ii) a thing that has been acquired by a person as a result of such an offence;
- and the affidavit sets out those grounds, the Magistrate may issue a warrant authorizing a police officer named in the warrant -
- (i) to seize the thing
 - (ii) to enter the place and seize the thing; or
 - (iii) to enter the place, search the place for a thing of that kind and to seize anything of that kind found in that place.
- 3.9 On the other hand the magistrate shall not issue the warrant unless -
- (i) there has been furnished to the Magistrate by affidavit any further information that the Magistrate requires regarding the grounds on which the warrant is being sought; and
 - (ii) the Magistrate is satisfied that there was reasonable grounds for issuing the warrant.

- 4.0 The warrant shall state-
- (i) the purpose for which it is issued, including a reference to the nature of any offence referred in subsection (1) (a) of the Act.
 - (ii) whether it authorizes entry at any time of day or night or during specified hours of the day or night;
 - (iii) the kind of things that may be seized; and
 - (iv) that it ceases to have effect on a specified day, not being later than one month after the day it is issued.
- 4.1 Section 27(4) provides that where in the course of searching in accordance with the warrant-
- (i) a police officer finds a thing that the police believes on reasonable grounds to be connected with the offence, even though that thing is not of a kind stated in the warrant; and
 - (ii) the police officer believes on reasonable grounds that it is necessary to seize that thing in order to prevent its concealment, loss or destruction; the warrant is deemed to authorize the police officer to seize that thing;
 - (iii) the police officer must retain in safe keeping a thing seized under subsection 4 pending a direction from the court which issued the warrant regarding how it is to be dealt with.

Part VIII of the Act deals with miscellaneous provisions.

*For further information
Please contact
Ministry of Legal Affairs
Progress House
Carenage
St, George's
Grenada
435-2962/3
FAX: 435-2964*