

EXTRADITION ACT

CHAPTER 12:04

Act  
6 of 1981

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## CHAPTER 12:04

## EXTRADITION ACT

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## CHAPTER 12:04

## EXTRADITION ACT

**AN ACT relating to fugitives in Dominica from the criminal law of other states and to fugitives from the criminal law of Dominica in other states.** 6 of 1981.

[19th February 1981]

Commencement.

1. This Act may be cited as the –

Short title.

**EXTRADITION ACT.**

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.

Interpretation.

## STATEMENT OF PURPOSE

3. (1) The purposes of this Act are –

Purposes and construction of Act.

- (a) to repeal and replace the existing laws of Dominica governing the return of criminals to or from other states;
- (b) to make the proceedings for the return of fugitives from foreign 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. 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 Dominica –

Schedule.

(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 twelve months or more.

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 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 39 in the case of a foreign state which has entered into such a treaty.

(2) In respect of surrender sought on behalf of a foreign state, sub-section (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 Dominica unless the fugitive has first been committed for surrender pursuant to section 13.

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

Power circum-  
scribed.

- (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 opinion, 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 Dominica, 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 Dominica 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 unless that

- (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 Dominica or given a reasonable opportunity of returning himself to Dominica.

Agreement with Commonwealth country.

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

(2) A certificate issued by a Minister responsible for External 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 Dominica 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

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 Dominica, 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.

Arrest on foreign  
warrant.

(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.

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

Effect of  
Magistrate's  
warrant.

12. A Magistrate may exercise jurisdiction under this Act within any part of Dominica notwithstanding the Magistrates Code of Procedure Act, but nothing in this Act confers on any Magistrate, any jurisdiction in *habeas corpus* matters.

Jurisdiction of  
Magistrate.  
Ch. 4:20.

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.

Appearance of  
fugitive.

(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 Dominica that is triable on indictment.

Detention of  
fugitive.

**14.** (1) Subject to subsection (2) 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 Dominica –

- (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 Dominica, 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 Dominica.

(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;
- (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;

(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 of 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 (b).

16. A Magistrate shall receive any evidence that is tendered, in the manner provided by section 15, to show – Evidence for  
fugitive.

(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.

17. (1) Where a fugitive is brought before a Magistrate 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 – Committal for  
surrender.

(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 Extradition in

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 Dominica as modified by this Act, justify the committal of the fugitive for trial had the extradition crime occurred in Dominica.

(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 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 High Court.

**20.** (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 17; or
- (b) the discharge of a fugitive under section 18.

(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 10(2); 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.

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

(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 appeal arising out of the application have been finally disposed of.

#### SURRENDER OF FUGITIVE

**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 Dominica may be made to the Attorney General – Requisition from Commonwealth country.

- (a) by any person resident in Dominica who is recognised by the Minister responsible for External 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 Dominica 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.

**23.** A requisition for the surrender of a fugitive to a foreign state who is or is suspected to be in Dominica may be made to the Attorney General – Requisition from foreign state.

- (a) by any person resident in Dominica who is recognised by the Minister responsible for External 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 Dominica in or for that foreign state;

- (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 determine 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 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

- (a) the relative seriousness of the extradition crime in question;
- (b) the dates on which the requisitions for surrender were

- (c) the nationality or citizenship of the fugitive and his place of ordinary residence.

26. Where a fugitive from a foreign state –

Local offence by alien fugitive.

- (a) has been accused of committing within the jurisdiction of Dominica 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 Dominica,

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.

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

Local offence by Commonwealth fugitive.

- (a) is serving a sentence of imprisonment or detention in Dominica; or

- (b) is charged with an offence committed within the jurisdiction of Dominica 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 Dominica, as soon as the sentence has been served; or

- (b) if the fugitive has been charged with an offence in Dominica –

- (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.

28. (1) The Attorney General may, by order, designate in writing 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 territory from which the fugitive is to be surrendered.

Designation of person to receive fugitive for surrender.

(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 Dominica; 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 Dominica may be retaken on an escape.

Evidence in  
possession of  
fugitive.

30. Anything 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 is satisfied



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

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

Designation of Commonwealth countries.

34. The Minister responsible for External 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.

Special modification Order.

35. For the purpose 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 of a Commonwealth country.

## PART III

### EXTRADITION TREATY STATES

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 the commencement of this Act, pursuant to an Order in Council in force thereunder, and that Act as so applied extended to Dominica.

Applying Part I under U.K. Orders.

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

Applying Part I subject to conditions, etc.

Revoking an application of Part I.

~~38.~~ The Minister responsible for External Affairs may, subject to negative resolution, make Regulations to provide that Part I ceases to apply to a foreign state to which that Part applies by virtue of section 36; and upon the making of such Regulations 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 Dominica and a foreign state comes into effect after the commencement of this Act, 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 provisions 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 Dominica with that state and the extradition treaty affected or amended an earlier extradition treaty with that state that extended to Dominica, Part I applied 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 Dominica or that was made in right of Dominica 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 Dominica from the foreign state who is charged with or convicted of any offence however described that, if committed in Dominica –

(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 Dominica 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 Dominica 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 Dominica of a fugitive pursuant to this section must be borne by the foreign state applying for the surrender of the fugitive.

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 External Affairs to be in force in respect of the foreign state from a day to be stated in the Order. Application of section 40.

(2) The Minister responsible for External 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

42. In this Part, "extraditable crime" means an offence, whenever Meaning of "extraditable crime".

(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 Dominica.

**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 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 Dominica.

**44.** When an offender is surrendered by a Commonwealth country or a foreign state, the offender may be brought into Dominica 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 Dominica–

- (a) be detained or tried in Dominica 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 Dominica for the purpose of his 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 surrender to another country or state.

- (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 Dominica consents to his being so detained.

## PART V

### GENERAL AND MISCELLANEOUS INTERPRETATION

46. For the purposes of this Act –

Definition for  
Act.

- (a) “Commonwealth country” means a Commonwealth country (other than Dominica) 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, or 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 Dominica) 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.

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

Offences not 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 or 28 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 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 subparagraph (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 subparagraph (iii) who forms part of his household if, at the time when and at the place where an offence mentioned in that subparagraph is committed against the member of his family or any property referred to in that subpara-

graph 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 personal 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.

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.

Conviction in  
absentia.

49. (1) Whenever a civil aviation convention has effect in Dominica, 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.

Jurisdiction in  
civil aviation  
cases.

(2) In this section,

(a) "civil aviation convention" means the Convention for the Suppression of Unlawful Seizure of Aircraft set out in the Hijacking Act.

Ch. 10:06

## REGULATION

50. 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

Act.

Regulations.

**SCHEDULE**

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. Piracy involving ships or aircraft according to international law.
  28. Unlawful seizure of an aircraft.
-



**SUBSIDIARY LEGISLATION**

**EXTRADITION (FORMS) REGULATIONS**

36/1981.

*made under section 50*

[6th August 1981]

Commencement.

1. These Regulations may be cited as the --

Short title.

**EXTRADITION (FORMS) REGULATIONS.**

2. The forms contained in the Schedule shall be used for the purposes for which they are applicable.

Forms.

**SCHEDULE**

Regulation 2.

**FORM I**

*The Extradition Act Ch. 12:04*

**FORM OF WARRANT OF APPREHENSION**

To all members of the Police Service.

**WHEREAS** it has been shown to me, Magistrate for District ..... under the Extradition Act, that .....who is accused (or has been convicted) of the offence of..... alleged to have been committed (or committed) within the jurisdiction of ..... and is, or suspected to be in, or arriving in, Dominica.

**THIS IS THEREFORE**, to authorise and command you forthwith to apprehend the said ..... and bring him before the Magistrate for District ..... to be dealt with according to law; and this shall be your warrant.

.....  
....., 19 .....

.....  
*Magistrate for District*

FORM 2

The Extradition Act (Ch. 12:04)

FORM OF WARRANT OF COMMITTAL

To all members of the Police Service and to the Superintendent of Prisons.

WHEREAS on this ..... day of ....., 19 ....., ..... has been brought before me, Magistrate for District ..... to be dealt with in accordance with the Extradition Act, and for as much as, I have determined that he should be surrendered in pursuance of the said Act, on the grounds of his being accused (or convicted) of the offence of .....a .....alleged to have been committed (or committed) within the jurisdiction of ..... AND WHEREAS no sufficient cause has been shown to me why the said ..... should not be surrendered in pursuance of the Extradition Act.

THIS IS THEREFORE to authorise and command –

- (a) you, members of the Police Service to convey the said..... to the prison at .....and deliver him there to the Superintendent of Prisons together with this warrant; and (b) you, the said Superintendent, to receive the said ..... into your custody in the said prison and there safely to keep him until he is delivered therefrom in accordance with the said Act;

and this shall be your warrant.

Given under my hand at ..... this ..... day of ....., 19 .....

..... Magistrate for District

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FORM 3

The Extradition Act (Ch. 12:04)

ORDER FOR THE SURRENDER OF OFFENDER

To the Superintendent of Prisons

To .....

WHEREAS.....who is accused (or has been convicted) of the offence of..... alleged to have been committed (or committed) within the jurisdiction of ..... was delivered into the custody of you the Superintendent of Prisons by warrant dated the ..... day of ....., 19 ..... in pursuance of the Extradition Act.

NOW, THEREFORE, I..... Attorney General, in pursuance of the Extradition Act, hereby order –

- (a) you, the Superintendent of Prisons, to deliver the said ..... into the custody of .....;
(b) you, the said .....to receive the said ..... into your custody and to convey him to a place in or within the jurisdiction of ..... and there surrender him to some person appointed to receive him;

and this shall be your warrant.

Given under my hand at ..... this ..... day of ....., 19.....

..... Attorney General.

\_\_\_\_\_

FORM 4

The Extradition Act (Ch. 12:04)

ORDER VACATING ORDER FOR THE SURRENDER OF OFFENDER

To the Superintendent of Prisons .....

WHEREAS.....who is accused (or has been convicted) of the offence of ..... alleged to have been committed (or committed) within the jurisdiction of ..... was delivered into the custody of you, the Superintendent of Prisons, by warrant dated the ..... day of .....,19....., in pursuance of the Extradition Act.

NOW, THEREFORE, I ..... Attorney General, in pursuance of the Extradition Act, hereby vacate that order and do hereby order-

- (a) you, the Superintendent of Prisons, if you have not delivered the said ..... into the custody of .....to discharge the said ..... from your custody;
- (b) you, the said ..... if the said ..... has been delivered into your custody to discharge him from your custody;

and this shall be your warrant.

Given under my hand at ..... this ..... day of ....., 19 .....

.....  
Attorney General.

\_\_\_\_\_

FORM 5

*The Extradition Act (Ch. 12:04)*

ORDER VACATING WARRANT OF COMMITTAL

To the Superintendent of Prisons .....

**WHEREAS** by warrant of committal given under the hand of .....  
Magistrate for District ..... on the ..... day of .....,  
19 ....., you were ordered to receive, .....  
who is accused (or has been convicted) of the offence of  
..... alleged to have been committed (or committed)  
within the jurisdiction of ..... into your  
custody.

**NOW, THEREFORE, I,** ..... Attorney General, in pursuance  
of the Extradition Act, hereby vacate that order and do hereby order you, the  
Superintendent of Prisons, to discharge the said  
..... from your custody; and this shall  
be your warrant.

Given under my hand at ..... this ..... day of  
....., 19 .....

.....  
*Attorney General.*

\_\_\_\_\_

[Subsidiary]

*Designated Commonwealth Countries**Extradition Order***SUBSIDIARY LEGISLATION**

39/1982.

**DESIGNATED COMMONWEALTH COUNTRIES  
EXTRADITION ORDER***made under section 33*

Commencement.

[2nd December 1982]

Short title.

1. This Order may be cited as the –  
DESIGNATED COMMONWEALTH COUNTRIES  
EXTRADITION ORDER.

Schedule.

2. The Commonwealth countries specified in the Schedule hereto are designated for the purposes of section 33 of the Act.

**SCHEDULE****COMMONWEALTH COUNTRIES**

Anguilla

Antigua

Australia, and the following territories, namely the territory of Norfolk Island, Australian Antarctic territory, the territory of Cocos (Keeling) Islands, the territory of Heard and McDonald Islands, the Coral Sea Islands Territory and the territory of Ashmore and Cartier Island which are treated as part of Australia

The Commonwealth of Bahamas

The People's Republic of Bangladesh

Barbados

Belize

Bermuda

Botswana

British Antarctic Territory

British Indian Ocean Territory

British Virgin Islands

Canada

Cayman Islands

The Cook Islands (which are treated as a separate country at the request of the  
New Zealand Government)

The Republic of Cyprus

Falkland Islands and Dependencies

Fiji

The Gambia

Gibraltar  
Grenada  
Guernsey  
Guyana  
Hong Kong  
India  
Isle of Man  
Jamaica  
Jersey  
Kenya  
Lesotho  
Malawi  
Malaysia  
Malta  
Mauritius  
Montserrat  
Nauru  
New Herbrides  
New Zealand, and the territory of Tokelau Islands which are treated as part of  
New Zealand  
Nigeria  
Niue  
Papau New Guinea  
Pitcairn, Henderson, Duice and Oeno  
St. Christopher and Nevis  
St. Helena and Dependencies  
St. Vincent and the Grenadines  
Seychelles  
Sierra Leone  
Singapore  
Solomon Islands  
Sovereign base areas of Akrotiri and in the islands of Cyprus  
Sri Lanka  
Swaziland  
Tanzania  
Tonga  
Trinidad and Tobago  
Turks and Caicos Islands  
  
Uganda  
The United Kingdom  
Western Samoa  
Zambia  
Zimbabwe

