

EXTRADITION (COMMONWEALTH AND FOREIGN
TERRITORIES) ACT

Arrangement of Sections

Section

1. Short title and commencement.

PART I

INTERPRETATION

2. Interpretation.

PART II

TERRITORIES TO WHICH ACT APPLIES

3. Declared Commonwealth territories.
4. Declared foreign territories.

PART III

EXTRADITION FROM TRINIDAD AND TOBAGO

5. Persons liable to be returned.
6. Extraditable offences in declared Commonwealth territories.
7. Extraditable offences in declared foreign territories.
8. General restrictions on return.
9. Request for return.
10. Arrest for purposes of committal.
11. Consent order for return.
12. Proceedings for committal or discharge.
13. Application for *habeas corpus*
14. Review by High Court.
15. Appeal to Court of Appeal.
16. Order for return.
17. Discharge in case of delay in returning.
18. Custody.
19. Evidence.
20. Regulations.

PART IV

EXTRADITION TO TRINIDAD AND TOBAGO

21. Restriction upon proceedings for other offences.
22. Restoration of persons not tried or acquitted.

PART V

GENERAL PROVISIONS

23. Repeal and amendments.
24. Savings.
25. Transitional provisions.

FIRST SCHEDULE

SECOND SCHEDULE

Fourth Session Second Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 36 of 1985

[L.S.]

AN ACT to repeal and replace the Extradition Act, the French Guiana Extradition Act, the Venezuela Extradition Act and the applied United Kingdom Acts entitled the Fugitive Offenders Act, 1881 and the Extradition Acts, 1870 to 1906.

Chap. 12:04
Chap. 12:05
Chap. 12:06
44 and 45 Vict.
c. 69
33 and 34 Vict.
c. 52

[Assented to 19th December, 1985]

ENACTED by the Parliament of Trinidad and Tobago as follows:

1. This Act may be cited as the Extradition (Commonwealth and Foreign Territories) Act, 1985 and shall come into operation on such date as the President may appoint by Proclamation.

Short title
and
commencement

- “imprisonment” includes detention of any description;
- “provisional warrant” has the meaning assigned to it by section 10(1);
- “race” includes tribe;
- “treaty” means any convention, treaty, agreement or arrangement for the time being in force between Trinidad and Tobago and any foreign territory for the return or surrender of offenders;
- “warrant”, in the case of any foreign territory, includes any judicial document authorising the arrest of a person accused or convicted of crime.

PART II

TERRITORIES TO WHICH ACT APPLIES

Commonwealth Territories

3. (1) The Attorney General may, by Order subject to negative resolution of Parliament, declare a Commonwealth territory other than Trinidad and Tobago to be a Commonwealth territory (hereafter referred to as a declared Commonwealth territory) in relation to which this Act applies, and where any such Order so declares, this Act applies in relation to that territory; and any such Order may provide that this Act applies in relation to that territory subject to such exceptions, adaptations, modifications or other provisions as may be specified in the Order and, where any such Order so provides, this Act applies in relation to that territory subject to such exceptions, adaptations, modifications or other provisions.

Declared
Commonwealth
territories

(2) For the purposes of any Order made under subsection (1), any territory for the external relations of which a Commonwealth country is responsible may be treated as part of that country or, if the Government of that country so requests, as a separate country.

Foreign Territories

4. (1) Where a treaty has been concluded, whether before or after the commencement of this Act, between Trinidad and Tobago and any foreign territory in relation to the return of fugitive offenders, the Attorney General may, by Order subject to negative resolution of Parliament,

Declared
foreign
territories

declare that territory to be a foreign territory (hereafter referred to as a declared foreign territory) in relation to which this Act applies, and where any such Order so declares, this Act applies in relation to that territory; and any such Order may provide that this Act applies in relation to that territory subject to such exceptions, adaptations, modifications or other provisions as may be specified in the Order and, where any such Order so provides, this Act applies in relation to that territory subject to such exceptions, adaptations, modifications or other provisions.

(2) An Order shall not be made under subsection (1) unless the treaty—

- (a) is in conformity with the provisions of this Act, and in particular with the restrictions on the return of fugitive offenders contained in this Act; and
- (b) provides for the determination of the treaty by either party to it after the expiration of a notice not exceeding one year.

(3) Any Order made under subsection (1) shall recite or embody the terms of the treaty and shall not remain in force for any longer period than the treaty; and the Order shall be conclusive evidence that the treaty complies with the requisitions of this Act and that this Act applies in relation to the foreign territory mentioned in the Order, and the validity of the Order shall not be questioned in any legal proceedings whatever.

PART III

EXTRADITION FROM TRINIDAD AND TOBAGO

Persons liable
to be returned

5. A person found in Trinidad and Tobago—

- (a) who is accused of an extraditable offence; or
- (b) who is alleged to be unlawfully at large after conviction of an extraditable offence,

in a declared Commonwealth territory, or in a declared foreign territory, may, subject to and in accordance with the provisions of this Act, be arrested and returned to the declared Commonwealth territory or the declared foreign territory, as the case may be.

6. (1) For the purposes of this Act, an offence in respect of which a person is accused or has been convicted in a declared Commonwealth territory is an extraditable offence if—

Extraditable offences in declared Commonwealth territories

- (a) it is an offence against the law of a declared Commonwealth territory which, however described in that law, falls within any of the descriptions set out in the First Schedule and is punishable under that law with death or imprisonment for a term of not less than twelve months and
- (b) the facts constituting the offence would constitute an offence against the law of Trinidad and Tobago if it took place within Trinidad and Tobago or, in the case of an extra-territorial offence, in corresponding circumstances outside Trinidad and Tobago.

First Schedule

(2) In determining for the purposes of this section whether an offence against the law of a declared Commonwealth territory is an offence described in the First Schedule, any special intent or state of mind or special circumstances of aggravation which may be necessary to constitute that offence under the law shall be disregarded.

First Schedule

(3) The descriptions set out in the First Schedule include in each case offences of attempting or conspiring to commit, of assisting, counselling or procuring the commission of or being accessory before or after the fact to the offences therein described, and of impeding the apprehension or prosecution of persons guilty of those offences.

First Schedule

(4) References in this section to the law of any territory include references to the law of any part of that territory.

(5) The Attorney General may by Order subject to affirmative resolution of Parliament amend the First Schedule.

First Schedule

7. (1) For the purposes of this Act, an offence in respect of which a person is accused or has been convicted in a declared foreign territory is an extraditable offence if it is an offence which is punishable under the law of that territory with death or imprisonment for a term of not less than twelve months and which, if committed in Trinidad and Tobago or within the jurisdiction of Trinidad and Tobago, would be one of the offences described in the First Schedule.

Extraditable offences in declared foreign territories

First Schedule

First Schedule

(2) In determining for the purposes of this section whether an offence is one of the offences described in the First Schedule, any special intent or state of mind or special circumstances of aggravation which may be necessary to constitute that offence shall be disregarded.

(3) The descriptions of offences set out in a treaty with a declared foreign territory include in each case offences of attempting to commit, of assisting, counselling or procuring the commission of or being accessory before or after the fact to the offences therein described, and of impeding the apprehension or prosecution of persons guilty of those offences.

General
restrictions on
return

8. (1) A person shall not be returned under this Act, other than under section 11, to a declared Commonwealth territory or a declared foreign territory, or committed to or kept in custody for the purposes of the return, if it appears to the Attorney General, to the Magistrate on proceedings under section 12, to the High Court on an application for habeas corpus or under section 14 for review of an order, or to the Court of Appeal on the hearing of an appeal under section 15—

- (a) that the offence in respect of which that person is accused or was convicted is an offence of a political character;
- (b) that the request for his return (though purporting to be made on account of an extraditable offence) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions: or
- (c) that he might, if returned, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.

(2) A person accused of an offence shall not be returned under this Act, other than under section 11, to a declared Commonwealth or foreign territory, or committed to or kept in custody for the purposes of the return, if it appears as aforesaid that if charged with that offence in Trinidad and Tobago he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.

(3) A person shall not be returned under this Act to a declared Commonwealth or foreign territory, or committed to or kept in custody for the purposes of the return, unless provision is made by the law of that territory, or by an arrangement made with that territory, that he will not, until he has left or has been free to leave that territory, be dealt with in that territory for or in respect of any offence committed before his return under this Act other than—

- (a) the offence in respect of which he is returned;
- (b) any lesser offence proved by the facts proved before the Magistrate on proceedings under section 12; or
- (c) any other offence being an extraditable offence in respect of which the Attorney General may consent to his being so dealt with.

(4) The Attorney General shall not give his consent under subsection (3)(c) if he has reasonable grounds for believing that the offence to which the request for consent relates could have been charged prior to return if due diligence had been exercised.

(5) Any such arrangement as is mentioned in subsection (3) may be an arrangement made for the particular case or an arrangement of a more general nature; and for the purposes of that subsection a certificate issued by or under the authority of the Attorney General confirming the existence of an arrangement with any territory and stating its terms is conclusive evidence of the matters contained in the certificate.

(6) A person shall not be returned under this Act to a declared Commonwealth or foreign territory, or committed to or kept in custody for the purposes of the return, unless provision is made by the law of that territory, or by the treaty with that territory, for securing that he will not be sent from that territory to another territory for or in respect of any offence committed before his return under this Act unless the Attorney General consents to his being so sent.

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

- (a) an offence against the life or person of a Head of State, or of his spouse, or of any dependant relative of his;
- (b) an act declared, under any multilateral international convention having the force of law

in Trinidad and Tobago, to constitute an offence for which a person may be returned under this Act to a declared Commonwealth or foreign territory, notwithstanding the political character or motivation of such act.

(8) For the purposes of this Act, an offence against a declared Commonwealth or foreign territory may be regarded as being an offence of a political character notwithstanding that there are not competing political parties in that territory.

Request for
return

9. (1) Subject to the provisions of this Act relating to provisional warrants, a person shall not be dealt with thereunder except in pursuance of an order of the Attorney General (hereafter referred to as an authority to proceed), issued in pursuance of a request made to the Attorney General by or on behalf of the Government of the declared Commonwealth territory, or the declared foreign territory, in which the person to be returned is accused or was convicted.

(2) There shall be furnished with any request made for the purposes of this section on behalf of any territory—

(a) in the case of a person accused of an extraditable offence, a warrant for his arrest issued in that territory;

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

together in each case with particulars of the person whose return is requested and of the facts upon which and the law under which he is accused or was convicted, and evidence sufficient to justify the issue of a warrant for his arrest under section 10.

(3) On receipt of a request made for the purposes of this section on behalf of any territory, the Attorney General may, in the form set out in Form 1 in the Second Schedule, issue an authority to proceed signifying to a Magistrate that a request has been made and requiring him to proceed with the case in accordance with the provisions of this Act.

Form 1
Second Schedule

(4) The Attorney General shall not issue an authority to proceed if it appears to him that an order for the return of the person concerned could not lawfully be made, or

would not in fact be made, in accordance with the provisions of this Act.

10. (1) A warrant for the arrest of a person accused of an extraditable offence, or alleged to be unlawfully at large after conviction of an extraditable offence, may be issued by a Magistrate—

- (a) in the form set out in Form 2 in the Second Schedule, on the receipt of an authority to proceed; or
- (b) in the form set out in Form 3 in the Second Schedule, without an authority to proceed, upon information that the said person is or is believed to be in or on his way to Trinidad and Tobago;

and any warrant issued by virtue of paragraph (b) is in this Act referred to as a provisional warrant.

(2) A warrant of arrest under this section may be issued upon such evidence as would, in the opinion of the Magistrate, justify the issue of a warrant for the arrest of a person accused of committing a corresponding offence or, as the case may be, of a person alleged to be unlawfully at large after conviction of an offence, if the offence had been committed or the offender convicted in Trinidad and Tobago; and for the purposes of the issue of a provisional warrant, there may be received in evidence any document which purports to bear the seal of the International Criminal Police Organisation (generally referred to as Interpol) and was issued to the Commissioner of Police for the purpose of requesting the assistance of the Commissioner in the ascertainment of the location of a person accused of an extraditable offence, or alleged to be unlawfully at large after conviction of an extraditable offence, in a declared Commonwealth or foreign territory.

(3) Where a provisional warrant is issued, the Magistrate by whom it is issued shall forthwith give notice to the Attorney General, and transmit to him the information and evidence, or certified copies of the information and evidence, upon which it was issued; and the Attorney General shall, if he decides not to issue an authority to proceed in respect of the person to whom the warrant relates, or may in any other case, by order cancel the warrant and, if that person has been arrested thereunder, discharge him from custody.

(4) A warrant of arrest issued under this section may be executed in any part of Trinidad and Tobago and may be so executed by any person to whom it is directed or by any constable.

(5) 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 in any part of Trinidad and Tobago shall have the like power to issue a warrant to search for the property as if the offence had been committed within the jurisdiction of the Magistrate.

Consent order
for return

11. (1) Where the return of any person is requested under this Part by a declared Commonwealth territory or a declared foreign territory and such person is arrested in pursuance of a warrant under section 10, such person may request the Attorney General to order his return without any proceedings before a Magistrate under section 12.

Form 4
Second Schedule

(2) Where the Attorney General consents to the request made by such person under subsection (1) and is satisfied that such person understands the consequences of the request, the Attorney General shall, without any proceedings before a Magistrate under section 12, in the form set out in Form 4 in the Second Schedule order such person to be committed to custody, there to be kept for the purposes of the return unless admitted to bail; and at any time thereafter the Attorney General shall, with the consent of such person, by warrant in the form set out in Form 5 in the Second Schedule order him to be returned to the territory by which the request for his return was made.

Form 5
Second Schedule

(3) Where a person whose return has been ordered under subsection (2) withdraws his consent to the order before his departure from Trinidad and Tobago, he shall be brought as soon as practicable before a Magistrate for the purposes of proceedings under section 12, and thereupon shall be dealt with as if the Attorney General had not made the order.

(4) The provisions of section 8(3), (4), (5) and (6) apply to the return of any person under this section unless the contrary is expressly requested by that person.

12. (1) A person arrested in pursuance of a warrant issued under section 10 and in respect of whom no order under section 11(2) has been made shall (unless previously discharged under section 10(3)) be brought as soon as practicable before a Magistrate.

Proceedings for
committal or
discharge

(2) For the purposes of proceedings under this section a Magistrate shall have the like jurisdiction and powers, as nearly as may be, including power to adjourn the case and meanwhile to remand the person arrested under the warrant either in custody or on bail, as when the Magistrate is acting at a preliminary enquiry.

(3) Where any person is arrested and in custody by virtue of a provisional warrant but no authority to proceed has been received in respect of him, the Magistrate may fix a reasonable period (of which the Magistrate shall give notice to the Attorney General) after which the person will be discharged from custody unless the authority to proceed has been received.

(4) Where an authority to proceed has been issued in respect of the person arrested and the Magistrate is satisfied, after hearing any evidence tendered in support of the request for the return of that person or on behalf of that person, that the offence to which the authority to proceed relates is an extraditable offence and is further satisfied—

- (a) where that person is accused of the offence, that the evidence would be sufficient to warrant the committal for trial of that person for that offence if it had been committed in Trinidad and Tobago;
- (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 so at large,

the Magistrate shall, unless his committal is prohibited by any other provision of this Act, commit him to custody by warrant in the form set out in Form 6 in the Second Schedule to await the warrant of the Attorney General for his return; but if the Magistrate is not so satisfied or if the committal of that person is so prohibited, the Magistrate shall discharge him from custody.

Form 6
Second Schedule

13. (1) The Magistrate shall, on committing any person to custody under section 12, inform that person in ordinary language of his right to make an application to the High

Application
for habeas
corpus

Court for habeas corpus and shall forthwith give notice of the committal to the Attorney General.

(2) A person committed to custody under section 12 shall not be returned under this Act—

- (a) 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;
- (b) if an application for habeas corpus is made in his case, so long as proceedings on that application are pending.

(3) On any such application made under this section the High Court may, without prejudice to any other jurisdiction of the High Court, order the person committed to be discharged from custody if it appears to the High Court that by reason of—

- (a) in the case of a declared Commonwealth territory, the trivial nature of the extraditable offence of which he is accused or was convicted; and
- (b) in the case of a declared Commonwealth or foreign territory—
 - (i) the passage of time since he is alleged to have committed the extraditable offence or to have become unlawfully at large, as the case may be;
 - (ii) the accusation against him not having been made in good faith in the interests of justice; or
 - (iii) any other sufficient cause,

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

(4) On any such application the High Court may receive additional evidence relevant to the exercise of its jurisdiction under section 8 or under subsection (3).

(5) For the purposes of this section, proceedings on an application for habeas corpus shall be treated as pending until any appeal in those proceedings is disposed of; and an appeal shall be treated as disposed of at the expiration of the time within which the appeal may be brought or, where leave to appeal is required, within which the application for leave may be made, if the appeal is not brought or the application made within that time.

14. (1) Where a person whose return is requested by a declared Commonwealth territory or a declared foreign territory is ordered by the Magistrate to be discharged from custody under section 12, the Government which requested the return of that person may, within four days of the making of the order by the Magistrate, apply to the High Court for review of the order of discharge on any question of law and on such application the High Court may so review the order.

Review by
High Court

(2) Where such Government desires to make such application, the Government shall, at the time of the making of the order of discharge by the Magistrate, give to the Magistrate notice of its intention to apply to the High Court for review of the order, and such notice shall operate as a stay of the order of the Magistrate—

- (a) until the expiration of the period of four days, beginning with the day on which the order of discharge was made;
- (b) if an application for review of the order of discharge has been made, until the determination of the application by the High Court.

(3) Where such Government gives notice of its intention to apply for review of the order of the Magistrate, the Magistrate shall immediately grant to the person in respect of whom the order of discharge was made, bail pending the determination by the High Court of the application; and the recognisance of bail shall be taken before the Magistrate in accordance with subsections (5) and (6).

(4) Upon application for review of the order of the Magistrate being made by such Government, the Registrar of the Supreme Court shall immediately apply to the Magistrate for a statement of the evidence tendered before the Magistrate on which the Magistrate came to his decision and of his reasons for his decision and his finding on any question of law under review; and the Magistrate shall with all convenient dispatch transmit the same to the Registrar.

(5) Where an application for review of the order of the Magistrate has been made by such Government, the person to whom bail has been granted under subsection (3) shall immediately enter into a recognisance with one surety in such sum as the Magistrate thinks sufficient acknowledged before the Magistrate and conditioned that such person appear before the High Court and do not depart therefrom without leave and abide by the order of the High Court.

Form 7
Second Schedule

(6) A recognisance referred to in subsection (5) shall be in the form set out in Form 7 in the Second Schedule, but the Magistrate may consent to a deposit of money into court from or on account of any person in lieu of such surety and in such case, upon the deposit of the sum required by the Magistrate, such person shall enter into a recognisance in the form set out in Form 8 in the Second Schedule.

Form 8
Second Schedule

Appeal to
Court of
Appeal

15. (1) Where the order of the Magistrate has been reviewed by the High Court in accordance with section 14, the Government which applied for the review or the person in respect of whom the order of discharge was made, may, if dissatisfied with the decision of the High Court on review, within four days of the pronouncing of the decision, appeal to the Court of Appeal on any question of law; and on such appeal, the Court of Appeal has the power to confirm or reverse the decision of the High Court and there shall be no appeal from the decision of the Court of Appeal.

(2) Where such Government or such person desires to appeal under subsection (1), the Government or the person, as the case may be, shall, at the time of the pronouncing of the decision by the High Court, give to the High Court notice of its, or his, intention to appeal to the Court of Appeal, and such notice shall operate as a stay of the decision of the High Court—

(a) until the expiration of the period of four days, beginning with the day on which the decision was pronounced;

(b) if an appeal has been filed in the Supreme Court, until the determination of the appeal by the Court of Appeal.

(3) Where such Government which applied for review of the order of discharge made by the Magistrate, or such person in respect of whom the order of discharge was made, gives notice of its, or his, intention to appeal to the Court of Appeal, the High Court shall immediately grant to such person, bail pending the determination of the appeal; and the recognisance of bail shall be taken before any Magistrate in accordance with subsections (5) and (6).

(4) Upon an appeal to the Court of Appeal being filed in the Supreme Court, the High Court shall with all convenient dispatch transmit to the Court of Appeal—

(a) all documents transmitted by the Magistrate in accordance with section 14(4); and

(b) a statement of the reasons for the decision of the High Court and the finding of the High Court on any question of law under appeal.

(5) Upon an appeal to the Court of Appeal being filed in the Supreme Court, the person to whom bail has been granted under subsection (3) shall immediately enter into a recognisance with one surety in such sum as the Magistrate thinks sufficient acknowledged before the Magistrate and conditioned that such person appear before the Court of Appeal and do not depart therefrom without leave and abide by the order of the Court of Appeal.

(6) A recognisance referred to in subsection (5) shall be in the form set out in Form 9 in the Second Schedule, but the Magistrate may consent to a deposit of money into court from or on account of any person in lieu of such surety and in such case, upon the deposit of the sum required by the Magistrate, such person shall enter into a recognisance in the form set out in Form 10 in the Second Schedule.

Form 9
Second Schedule

Form 10
Second Schedule

16. (1) Where a person is committed to await his return and is not discharged by order of the High Court or of the Court of Appeal, the Attorney General may by warrant in the form set out in Form 11 in the Second Schedule order him to be returned to the territory by which the request for his return was made unless the return of that person is prohibited, or prohibited for the time being, by section 8 or by this section, or the Attorney General decides under this section to make no such order in his case.

Order for
return

Form 11
Second Schedule

(2) The Attorney General shall not make an order under this section in the case of a person who is serving a sentence of imprisonment or detention, or is charged with an offence, in Trinidad and Tobago—

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

(b) in the case of a person charged with an offence, until the charge is disposed of or withdrawn and, if it results in a sentence of imprisonment, until the sentence has been served.

(3) The Attorney General shall not make an order under this section in the case of a person if it appears to the Attorney General, on the grounds mentioned in section 13(3), that it would be unjust or oppressive to return that person.

(4) The Attorney General may decide to make no order under this section in the case of a person accused or convicted of an extraditable offence not punishable with death in Trinidad and Tobago if that person could be or has been sentenced to death for that offence in the territory by which the request for his return is made unless that territory gives to the Attorney General an undertaking that the sentence of death will not be carried into effect.

(5) The Attorney General may decide to make no order under this section for the return of a person committed in consequence of a request made on behalf of any territory if another request for his return under this Act has been made on behalf of another territory and it appears to the Attorney General, having regard to all the circumstances of the case and in particular—

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

(b) the date on which each such request was made; and

(c) the nationality or citizenship of the person concerned and his ordinary residence, that preference should be given to the other request.

(6) Notice of the issue of a warrant under this section shall forthwith be given to the person to be returned thereunder.

Discharge
in case of
delay in
returning

17. (1) If any person committed to await his return is in custody in Trinidad and Tobago under this Act after the expiration of the following period, that is to say—

(a) in any case, the period of two months beginning with the first day on which, having regard to section 13(2), he could have been returned;

(b) where a warrant for his return has been issued under section 16, the period of one month beginning with the day on which that warrant was issued,

he may apply to the High Court for his discharge.

(2) If upon an application under subsection (1) the High Court is satisfied that reasonable notice of the proposed application has been given to the Attorney General, the Court may, unless sufficient cause is shown to the contrary by order direct the applicant to be discharged from custody and, if a warrant for his return has been issued under section 16, quash that warrant.

18. (1) Any person remanded or committed to custody ^{Custody} under section 12 shall be committed to the like institution as a person charged with an offence before a Magistrate.

(2) If any person who is in custody by virtue of a warrant under this Act escapes out of custody, he may be retaken in any part of Trinidad and Tobago in like manner as a person escaping from custody under a warrant for his arrest issued in that part in respect of an offence committed therein.

(3) Where a person, being in custody in any part of Trinidad and Tobago whether under this Act or otherwise, is required to be removed in custody under this Act to another part of Trinidad and Tobago and is so removed by sea or by air, he shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed.

(4) A warrant under section 16 for the return of any person to any territory shall be sufficient authority for all persons to whom it is directed and all constables to receive that person, keep him in custody and convey him into the jurisdiction of that territory.

19. (1) In any proceedings under this Act, including ^{Evidence} proceedings on an application for habeas corpus in respect of a person in custody thereunder or proceedings under section 14 or 15—

- (a) a document, duly authenticated, which purports to set out evidence given on oath in a declared Commonwealth or foreign territory is admissible as evidence of the matters stated therein;
- (b) a document, duly authenticated, which purports to have been received in evidence, or to be a copy of a document so received, in any proceeding in a declared Commonwealth or foreign territory is admissible in evidence;
- (c) a document, duly authenticated, which certifies that a person was convicted on a date specified in the document of an offence against the law of, or of a part of, a declared Commonwealth or foreign territory is admissible as evidence of the fact and date of the conviction.

(2) A document shall be deemed to be duly authenticated for the purposes of this section—

- (a) in the case of a document purporting to set out evidence as mentioned in subsection (1)(a), if the document purports to be certified by a judge, or magistrate or officer in or of the territory in question to be the original document containing or recording that evidence or a true copy of such a document;
- (b) in the case of a document which purports to have been received in evidence as mentioned in subsection (1)(b) or to be a copy of a document so received, if the document purports to be certified by a judge, or magistrate or officer in or of the territory in question to have been, or to be a true copy of a document which has been, so received;
- (c) in the case of a document which certifies that a person was convicted as mentioned in subsection (1)(c), if the document purports to be certified by a judge, or magistrate or officer in or of the territory in question;

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

(3) In this section “oath” includes affirmation or declaration; and nothing in this section shall prejudice the admission in evidence of any document which is admissible in evidence apart from this section.

Regulations

20. The Attorney General may by regulations amend the form of any warrant, order or recognisance specified in the Second Schedule.

Second Schedule

PART IV

EXTRADITION TO TRINIDAD AND TOBAGO

Restriction upon proceedings for other offences

21. (1) This section applies to any person accused or convicted of an offence under the law of Trinidad and Tobago who is returned to Trinidad and Tobago—

- (a) from any declared Commonwealth territory, under any law of that territory corresponding with this Act;

(b) from any declared foreign territory, pursuant to any treaty with that territory.

(2) A person to whom this section applies shall not, during the period described in subsection (3), be dealt with in Trinidad and Tobago for or in respect of any offence committed before he was returned to Trinidad and Tobago other than—

- (a) the offence in respect of which he was returned;
- (b) any lesser offence proved by the facts proved for the purposes of securing his return; or
- (c) any other offence in respect of which the Government or Governor of the territory from which he was returned may consent to his being dealt with.

(3) The period referred to in subsection (2) in relation to a person to whom this section applies is the period beginning with the day of his arrival in Trinidad and Tobago on his return as mentioned in subsection (1) and ending forty-five days after the first subsequent day on which he has the opportunity to leave Trinidad and Tobago.

(4) A person to whom this section applies shall not be sent from Trinidad and Tobago to another territory for the purposes of being dealt with in that other territory for or in respect of any offence committed before he was returned to Trinidad and Tobago unless the Government or Governor of the territory from which he was returned consents to his being so sent.

22. (1) This section applies to any person accused of an offence under the law of Trinidad and Tobago who is returned to Trinidad and Tobago as mentioned in section 21(1). Restoration of persons not tried or acquitted

(2) If in the case of a person to whom this section applies, either—

- (a) proceedings against him for the offence for which he was returned are not begun within the period of six months beginning with the day of his arrival in Trinidad and Tobago on being returned; or

(b) on his trial for that offence, he is acquitted, the Attorney General may, if he thinks fit, on the request of that person, arrange for him to be sent back free of charge and with as little delay as possible to the territory from which he was returned.

PART V

GENERAL PROVISIONS

Repeal and
amendments
Chap. 12:04
Chap. 12:05
Chap. 12:06
44 and 45 Vict.
c. 69
33 and 34 Vict.
c. 52

23. (1) Subject to section 24, the Extradition Act, the French Guiana Extradition Act and the Venezuela Extradition Act are repealed and the applied United Kingdom Acts entitled the Fugitive Offenders Act, 1881 and the Extradition Acts, 1870 to 1906, shall cease to have effect as part of the law of Trinidad and Tobago.

Chap. 10:04

(2) Section 5(6) of the Criminal Law Act is repealed and replaced as follows:

No. 36 of 1985

“(6) For purposes of the Extradition (Commonwealth and Foreign Territories) Act, offences in relation to an extraditable offence which in Trinidad and Tobago would be offences under subsection (1) shall be extraditable offences and be deemed to be included in the First Schedule to that Act.”

Chap. 11:22

(3) Section 5 of the Hijacking Act is amended as follows:

(a) in subsection (1) by substituting for the words “extradition crimes” the words “extraditable offences” and for the words “Act, 1870, of the United Kingdom Parliament” the words “(Commonwealth and Foreign Territories) Act”;

(b) by repealing and replacing subsection (2) as follows:

No. 36 of 1985

“(2) Where no such treaty as is mentioned in section 4 of the said Extradition (Commonwealth and Foreign Territories) Act has been made with a State which is a party to the Convention an Order of the Attorney General applying that Act may be made under that section as if the Convention were such a treaty with that State; but where that Act is so applied it shall have effect as if the only extraditable

offences within the meaning of that Act were offences under this Act and attempts to commit such offences.”; and

(c) in subsection (3) by substituting for the words “Act, 1870” the words “(Commonwealth and Foreign Territories) Act” and for the words “section 2” the words “section 4”.

(4) Section 4 of the Civil Aviation (Tokyo Convention) Chap. 11:21 Act is amended as follows:

(a) by substituting for the words “Act, 1870 of the United Kingdom Parliament” the words “(Commonwealth and Foreign Territories) Act”; and

(b) by substituting for the words appearing after the words “any other country;” the words “and that Act applies also where a person’s surrender is sought in respect of a crime committed on board an aircraft in flight that lands in Trinidad and Tobago.”

(5) Section 28 of the Airports Authority Act is Chap. 49:02 amended as follows:

(a) in subsection (1) by substituting for the words “extradition crimes” the words “extraditable offences” and for the words “Act, 1870, of the United Kingdom Parliament” the words “(Commonwealth and Foreign Territories) Act”;

(b) by repealing subsection (2) and replacing it as follows:

“(2) Where no such treaty as is mentioned in section 4 of the said Extradition (Commonwealth and Foreign Territories) Act has been made with a State which is a party to the Convention, such treaty shall be deemed to exist with that State; but where that Act is so applied it shall have effect as if the only extraditable offences within the meaning of that Act were offences under this Part.”

Savings
44 and 45 Vict.
c. 69

24. (1) The applied United Kingdom Act entitled the Fugitive Offenders Act, 1881 and any Orders in Council made under it having effect as part of the law of Trinidad and Tobago immediately before the commencement of this Act shall continue to have such effect in relation to any Commonwealth territory until an Order is made under section 3 applying this Act to that Commonwealth territory.

33 and 34 Vict.
c. 52

(2) Every Order in Council made under the applied United Kingdom Acts entitled the Extradition Acts, 1870 to 1906, with respect to any foreign territory and having effect as part of the law of Trinidad and Tobago immediately before the commencement of this Act shall continue to have such effect in relation to that foreign territory, and the Extradition Act and the said applied United Kingdom Acts shall continue in force in so far as is necessary to give effect to any such Order in Council, until an Order is made under section 4 applying this Act to that foreign territory.

Chap. 12:04
33 and 34 Vict.
c. 52

(3) The French Guiana Extradition Act and the Venezuela Extradition Act shall respectively continue in force until an Order is made under section 4 applying this Act to French Guiana or, as the case may be, to Venezuela.

Chap. 12:05
Chap. 12:06

Transitional
provisions

25. (1) Notwithstanding section 23, where before the application of this Act in relation to a territory any proceedings have been commenced or any requisition has been made for the return of a fugitive or the surrender of a fugitive criminal to such territory under any of the Acts mentioned in that section, then upon the application of this Act any detention of the fugitive or fugitive criminal lawfully arising out of those proceedings shall be deemed to have been lawfully procured under and for the purposes of this Act, and such further proceedings as may be necessary for the return of the fugitive or fugitive criminal may be taken under and in accordance with the provisions of this Act.

(2) Without prejudice to subsection (1), this Act applies to offences committed before as well as after the commencement of this Act.

FIRST SCHEDULE

Sections 6(1), (2), (3), (5) and 7.

DESCRIPTION OF EXTRADITABLE OFFENCES

1. Murder.
2. Manslaughter.
3. Rape.
4. Abduction, kidnapping, false imprisonment or dealing in slaves.
5. Assault occasioning actual bodily harm.
6. Child stealing.
7. Abortion.
8. Unlawful sexual intercourse with a female.
9. Indecent assault.
10. Bigamy.
11. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company made criminal by any Act for the time being in force.
12. Any indictable offence against bankruptcy law or company law.
13. Arson.
14. Bribery.
15. Perjury.
16. Piracy.
17. Sinking or destroying a vessel at sea.
18. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
19. Revolt by two or more persons on board a ship on the high seas against the authority of the master.
20. Cruelty to children or young persons under sixteen years of age by persons having their charge or care.
21. Any indictable offence under the Offences against the Person Act, Chap. 11:08, not included in items 1 to 20.
22. Any indictable offence under the Larceny Act, Chap. 11:12.
23. Any indictable offence under the Coinage Offences Act, Chap. 11:15.
24. Any indictable offence under the Forgery Act, Chap. 11:13.
25. Any indictable offence under the Malicious Damage Act, Chap. 11:06.
26. Any offence against the law relating to dangerous drugs or narcotics.
27. Contravention of export prohibitions relating to gold.

28. Genocide and any direct and public incitement to commit genocide.
 29. Offences under the Hijacking Act, Chap. 11:22 .
 30. Offences under Part IV of the Airports Authority Act, Chap. 49:02.

SECOND SCHEDULE

FORMS FOR USE IN PROCEEDINGS RELATING TO EXTRADITABLE
 OFFENCES

FORM 1

Section 9(3).

Authority to Proceed

TRINIDAD AND TOBAGO

To His Worship Mr.

A request having been made to the Attorney General by or on behalf of.....for the return to that territory of A.B. who is accused [or alleged to be unlawfully at large after conviction] of the offence of.....:

The Attorney General hereby requires you to proceed with the case in accordance with the provisions of the Extradition (Commonwealth and Foreign Territories) Act, 1984.

Dated the day of , 19 .

(Signed)

Attorney General

FORM 2

Section 10(1)(a).

Warrant of Arrest

TRINIDAD AND TOBAGO

County of

To

The Attorney General having required me, the undersigned Magistrate for the.....District, to proceed in accordance with the provisions of the Extradition (Commonwealth and Foreign Territories) Act, 1984 in respect of A.B. (hereafter referred to as the defendant) who is accused [or who is alleged to be unlawfully at large after conviction] of the offence ofagainst the law of.....:

FORM 4

Section 11(2).

Warrant of Committal (by Consent)

TRINIDAD AND TOBAGO

To all Constables and to the Keeper of [Jail] Prison

A.B. having been arrested pursuant to a warrant issued under section 10 of the Extradition (Commonwealth and Foreign Territories) Act, 1984 and having requested the Attorney General to order his return without any proceedings before a Magistrate under section 12 of that Act:

And the Attorney General having consented to that request of A.B.:

This is to command you, the said constables, to convey A.B. to the said [Jail] Prison and there deliver him to the Keeper thereof, together with this warrant; and I do hereby command you, the Keeper of the said [Jail] Prison, to receive him into your custody and keep him until he is thence delivered in accordance with the provisions of that Act.

Dated the day of , 19 .

(Signed)

Attorney General

FORM 5

Section 11(2).

Warrant for Return (by Consent) to Requesting Territory

TRINIDAD AND TOBAGO

To the Keeper of [Jail] Prison and to all Constables.

Whereas a request has been made to the Attorney General by or on behalf of.....for the return to that territory of A.B. who is accused [or alleged to be unlawfully at large after conviction] of the offence of.....:

And whereas A.B. has requested the Attorney General to order his return without any proceedings before a Magistrate under section 12 of the Extradition (Commonwealth and Foreign Territories) Act, 1984:

And whereas the Attorney General consented to that request of A.B and ordered A.B. to be committed to the said [Jail] Prison on the day of , 19 , to await his return to.....:

Now, therefore, the Attorney General hereby orders with the consent of A.B. that A.B. be returned to.....in respect of the offence for which he was committed to custody by the Attorney General.

Dated the day of , 19 .

(Signed)

Attorney General

FORM 6

Section 12(4).

Warrant of Committal

TRINIDAD AND TOBAGO

County of

To all Constables and to the Keeper of [Jail] Prison.

A.B. (hereafter referred to as the defendant) having been brought this day before me, the undersigned Magistrate for the..... District, pursuant to a warrant for his arrest issued under section 10 of the Extradition (Commonwealth and Foreign Territories) Act, 1984:

And an authority to proceed having been issued by the Attorney General under section 9 of that Act in respect of the defendant:

And I being satisfied that the following offence [of which the defendant is accused in.....], namely.....being an offence to which the authority to proceed relates, is an extraditable offence as defined in section 2 of that Act, namely, (here describe the appropriate extraditable offence as set out in the First Schedule to the Extradition (Commonwealth and Foreign Territories) Act, 1984) [and that the evidence given before me would be sufficient to warrant the defendant's committal for trial for that offence if it had been committed in Trinidad and Tobago] [or that the defendant has been convicted of the offence and appears to be unlawfully at large]:

This is to command you, the said constables, to convey the defendant to the said [Jail] Prison and there deliver him to the Keeper thereof, together with this warrant; and I do hereby command you, the Keeper of the said [Jail] Prison, to receive him into your custody and keep him until he is thence delivered in accordance with the provisions of that Act.

Dated the day of , 19 .

(Signed)

Magistrate

FORM 7

Section 14(6).

Recognisance on Review (with Surety)

TRINIDAD AND TOBAGO

Be it remembered that on the day of , 19 A.B. (the person ordered to be discharged from custody) of..... and C.D. (surety) of.....came before me the undersigned Magistrate for the.....District and feverally acknowledged themselves to owe to the State the several sums following, that is to say, the said A.B. the sum of.....and the said C.D. the sum of.....

Whereas on the day of , 19 the said A.B. whose return was requested by.....was ordered by the Magistrate for the.....District to be discharged from custody:

And whereas the Government of.....has applied to the High Court for review of the order of discharge:

Now the condition of this recognisance is such that if the said A.B. shall personally appear at the sittings of the High Court when the applica. tion for review of the said order comes on to be heard (and at every sitting of such Court to which the application for review of the said order may be from time to time adjourned) and shall not depart the Court without leave, and shall abide by the order of the said High Court, then this recognisance shall be void but otherwise shall be in full force and effect.

(Person ordered to be discharged) (Signed) A.B.

(Surety) (Signed) C.D.

Taken and acknowledged before me.

(Signed)

Magistrate

FORM 8

Section 14(6).

Recognisance on Review (without Surety)

TRINIDAD AND TOBAGO

Be it remembered that on the day of , 19 A.B. (the person ordered to be discharged from custody) of..... came before me the undersigned Magistrate for the.....District and acknowledged himself to owe to the State the sum of..... which said sum has been paid into Court.

Whereas on the day of , 19 the said A.B. whose return was requested by.....was ordered by the Magistrate for the.....District to be discharged from custody:

And whereas the Government of.....has applied to the High Court for review of the order of discharge:

Now the condition of this recognisance is such that if the said A.B. shall personally appear at the sittings of the High Court when the applica- tion for review of the said order comes on to be heard (and at every sitting of such Court to which the application for review of the said order may be from time to time adjourned) and shall not depart the Court without leave, and shall abide by the order of the said High Court, then this recognisance shall be void but otherwise shall be in full force and effect.

(Person ordered to be discharged) (Signed) A.B.

Taken and acknowledged before me.

(Signed)

Magistrate

FORM 9

Section 15(6).

Recognisance on Appeal (with Surety)

TRINIDAD AND TOBAGO

Be it remembered that on the _____ day of _____, 19 A.B. (the person ordered to be discharged from custody) of..... and C.D. (surety) of.....came before me the undersigned Magistrate for the.....District and severally acknowledged themselves to owe to the State the several sums following, that is to say, the said A.B. the sum of.....and the said C.D. the sum of.....

Whereas on the _____ day of _____, 19 the said A.B. whose return was requested by.....was ordered by the Magistrate for the.....District to be discharged from custody:

And whereas on the _____ day of _____, 19 the said order of the Magistrate was reviewed by the High Court:

And whereas the Government of.....[or the said A.B.] has appealed against the decision of the High Court on the said review:

Now the condition of this recognisance is such that if the said A.B. shall personally appear at the sittings of the Court of Appeal when the appeal comes on to be heard (and at every sitting of such Court to which the appeal may be from time to time adjourned) [and shall then and there duly prosecute his appeal] and shall not depart the Court without leave, and shall abide by the order of the said Court of Appeal, then this recognisance shall be void but otherwise shall be in full force and effect.

(Person ordered to be discharged)	(Signed)	A.B.
(Surety)	(Signed)	C.D.

Taken and acknowledged before me.

(Signed)

Magistrate

FORM 10

Section 15(6).

Recognisance on Appeal (without Surety)

TRINIDAD AND TOBAGO

Be it remembered that on the _____ day of _____, 19 A.B. (the person ordered to be discharged from custody) of..... came before me the undersigned Magistrate for the..... District and acknowledged himself to owe to the State the sum of..... which said sum has been paid into Court.

Whereas on the _____ day of _____, 19 the said A.B. whose return was requested by.....was ordered by the Magistrate for the.....District to be discharged from custody:

And whereas on the _____ day of _____, 19 the said order of the Magistrate was reviewed by the High Court:

And whereas the Government of.....[or the said A.B.] has appealed against the decision of the High Court on the said review:

Now the condition of this recognisance is such that if the said A.B. shall personally appear at the sittings of the Court of Appeal when the appeal comes on to be heard (and at every sitting of such Court to which the appeal may be from time to time adjourned) [and shall then and there duly prosecute his appeal] and shall not depart the Court without leave, and shall abide by the order of the said Court of Appeal, then this recognisance shall be void but otherwise shall be in full force and effect.

(Person ordered to be discharged) (Signed)

A.B.

Taken and acknowledged before me.

(Signed)

Magistrate

FORM 11

Section 16(1).

Warrant for Return to Requesting Territory

TRINIDAD AND TOBAGO

To the Keeper of [Jail] Prison and to all Constables.

Whereas a request has been made to the Attorney General by or on behalf of.....for the return to that territory of A.B. (hereafter referred to as the prisoner) who is accused [or alleged to be unlawfully at large after conviction] of the offence of.....:

And whereas a Magistrate, being satisfied that the evidence given before him would be sufficient to warrant the prisoner's trial for that offence [or the offence of.....] if it had been committed in Trinidad and Tobago [or that the prisoner had been convicted of that offence] [or the offence of.....] [and appeared to be unlawfully at large], committed the prisoner to the [Jail] Prison on the day of , 19 , to await his return to.....:

And whereas the prisoner has not been discharged from custody by order of the High Court or of the Court of Appeal:

Now, therefore, the Attorney General hereby orders that the prisoner be returned to.....in respect of the offence for which he was committed to custody by the Magistrate.

Dated the day of , 19 .

(Signed)

Attorney General

Passed in the Senate this 13th day of March, 1985.

R. L. GRIFFITH
Clerk of the Senate

Passed in the House of Representatives this 15th day
of November, 1985.

J. E. CARTER
Clerk of the House