

PART I PRELIMINARY

Short title

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

Interpretation

2. —(1) In this Act, unless the context otherwise requires —

"declared Commonwealth country" means a country declared to be a Commonwealth country in relation to which Part IV applies;

"extradition crime" , in relation to a declared Commonwealth country, means an offence against the law of, or of a part of, a declared Commonwealth country —

(a) the maximum penalty for which is death or imprisonment for not less than 12 months; and

(b) the act or omission constituting the offence or the equivalent act or omission would, if it took place in or within the jurisdiction of Singapore, constitute an offence against the law in force in Singapore that —

(i) is described in the First Schedule; or

(ii) would be so described if the description concerned contained 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;

"extradition crime" , in relation to a foreign State, means an offence against the law of, or of a part of, a foreign State and the act or omission constituting the offence or the equivalent act or omission would, if it took place in or within the jurisdiction of Singapore, constitute an offence against the law in force in Singapore that —

(a) is described in the First Schedule; or

(b) would be so described if the description concerned contained 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;

"extradition treaty" means a treaty or agreement made by Singapore with a foreign State relating to the extradition of fugitives, and includes any treaty or agreement relating to the extradition of fugitives made before 9th August 1965 which extends to, and is binding on, Singapore;

"foreign State" means —

(a) any foreign State; or

(b) any of the territories specified in the Third Schedule, between which and Singapore an extradition treaty is in force;

"foreign warrant" means a judicial or other document issued under the law of, or of a part of, a foreign State and authorising the apprehension of a person;

"fugitive" means a person who is accused of an extradition crime that is alleged to have been committed, or convicted of an extradition crime that was committed at a place within the jurisdiction of a foreign State or a declared Commonwealth country or of a part of such State or country and is, or is suspected to be, in Singapore;

"overseas warrant" means a judicial or other document issued under the law of, or of a part of, a declared Commonwealth country and authorising the apprehension of a person;

"prison" includes a jail, lock-up or other place of detention.

[6/98]

(2) A reference in this Act to a fugitive from a foreign State or declared Commonwealth country shall be read as a reference to a fugitive 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 that State or country or within the jurisdiction of, or of a part of, that State or country.

(3) For the purposes of this Act, a person shall be deemed not to have been convicted of an offence against the law of, or of a part of, a foreign State or declared Commonwealth country where the conviction is, under that law, a conviction for contumacy, but a person so convicted for contumacy shall be deemed to be accused of an offence against that law.

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

(5) For the purposes of this Act —

(a) a colony, territory or protectorate of a foreign State or of a country other than Singapore;

(b) a territory for the international relations of which a foreign State or a country other than Singapore is responsible; and

(c) a ship or aircraft of, or registered in, a foreign State or a country other than Singapore, shall, unless the contrary intention appears, each be deemed to be within the jurisdiction, and to be part, of that foreign State or of that country.

(6) For the purposes of this Act, a person convicted of an offence in his absence shall be treated as a person accused of that offence.

(7) Without prejudice to any powers or jurisdiction conferred upon a District Judge by the Criminal Procedure Code (Cap. 68), a District Judge shall in the exercise of his jurisdiction have all the powers that are conferred upon and exercised by a Magistrate under this Act; and accordingly every reference to a Magistrate in this Act shall be read as including a reference to a District Judge.

PART II

EXTRADITION TO FOREIGN STATES

Application of this Part in relation to foreign States to which Extradition Acts 1870 to 1935 applied

3. —(1) Where, immediately before 1st August 1968 —

(a) under an Order in Council in force under the Imperial Acts known as the Extradition Acts 1870 to 1935, those Acts applied in the case of a foreign State specified in the Order; and

(b) those Acts, as they so applied, extended to Singapore, this Part applies in relation to that State.

(2) If the operation of the Order was subject to any limitations, conditions, exceptions or qualifications, then, subject to this section and sections 4 and 5, this Part applies in relation to that State subject to those limitations, conditions, exceptions or qualifications.

(3) The Minister may by notification in the *Gazette* direct that this Part ceases to apply in relation to a foreign State specified in the notification, being a foreign State in relation to which this Act applied by virtue of subsection (1), and, upon the coming into operation of a notification that so provides, this Part ceases to apply in relation to that State.

(4) The coming into operation of a notification made for the purposes of subsection (3) in relation to a foreign State does not prevent this Part from again applying in relation to that State by virtue of a notification made for the purposes of section 4.

Part may be applied in relation to foreign State by Gazette notification

4. —(1) Where, after 1st August 1968, an extradition treaty (including an extradition treaty that affects or amends an earlier extradition treaty) comes into force between Singapore and a foreign State —

(a) if this Part applies in relation to the foreign State at the time of the coming into force of that treaty — the Minister may by notification in the *Gazette* direct that this Part applies in relation to that State after that time subject to such limitations, conditions, exceptions or qualifications as are necessary or desirable to give effect to that treaty and are specified in the notification; or

(b) if this Part does not apply in relation to the foreign State at the time of the coming into force of that treaty — the Minister may by notification in the *Gazette* direct that this Part applies in relation to that State after that time and may also provide that it so applies subject to such limitations, conditions, exceptions or qualifications as are necessary or desirable to give effect to that treaty and are specified in the notification.

(2) The limitations, conditions, exceptions or qualifications referred to in subsection (1) may, in relation to a foreign State, be expressed in the form that this Part applies in relation to that State subject to the extradition treaty referred to in that subsection.

Effect of applying this Part in relation to foreign State by Gazette notification

5. —(1) Subject to subsection (2) where the notification for the time being in force provides that this Part applies in relation to a foreign State, this Part applies in relation to that State.

(2) Where the notification for the time being in force provides that this Part applies in relation to a foreign State subject to any limitations, conditions, exceptions or qualifications, this Part applies in relation to that State subject to those limitations, conditions, exceptions or qualifications.

Liability of fugitive to be surrendered

6. —(1) Where this Part applies in relation to a foreign State, every fugitive from that State shall be liable, subject to this Part and to any limitations, conditions, exceptions or qualifications to which the application of this Part in relation to that State is subject, to be apprehended and surrendered to that State as provided by this Part.

(2) Every such fugitive shall be liable under subsection (1) whether the offence to which the requisition for the surrender of the fugitive relates is alleged to have been committed, or was committed, before or after the date of the coming into operation of this Part or before or after the date when this Part commenced to apply in relation to that State.

Restrictions on surrender of persons to foreign States

7. —(1) A person shall not be liable to be surrendered to a foreign State if the offence to which the requisition for his surrender relates is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character.

(2) A person shall not be liable to be surrendered to a foreign State unless provision is made by a law of that State, or by an extradition treaty in force between Singapore and that State, by virtue of which the person shall not, unless he has been returned, or has had an opportunity of returning, to Singapore —

(a) be detained or tried in that foreign State for any offence that is alleged to have been committed, or was committed, before his surrender other than the offence 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

(b) be detained in that foreign State for the purpose of his being surrendered to another country for trial or punishment for any offence that is alleged to have been committed, or was committed, before his surrender to that foreign State other than an offence of which he could be convicted upon proof of the facts on which the requisition referred to in paragraph (a) was based.

(3) A person who is held in custody, or has been admitted to bail, in Singapore in respect of an offence that is alleged to have been committed in Singapore, or is undergoing a sentence for a conviction in Singapore, shall not be liable to be surrendered to a foreign State until he has been discharged from custody, or the recognizances upon which he was admitted to bail have been discharged, as the case may be, whether as a result of his acquittal, on the expiration of his sentence or otherwise.

(4) A person shall not be liable to be surrendered to a foreign State in respect of an offence if he has been acquitted or pardoned by a competent tribunal or authority in any country, or has undergone the punishment provided by the law of, or of a part of, any country, in respect of that offence or of another offence constituted by the same act or omission as that offence.

Restriction on power of Minister to authorise apprehension, or order surrender, of a fugitive

8. The Minister shall not give a notice under section 9 (1), or issue a warrant under section 12 (2), in respect of a fugitive from a foreign State, if the Minister has substantial grounds for believing that —

(a) the requisition for the surrender of the fugitive, although purporting to have been made in respect of an offence for which, but for this section, he would be liable to be surrendered to that State, was made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions; or

(b) if the fugitive is surrendered to that State, he may be prejudiced at his trial, or punished, detained or restricted in his personal liberty, by reason of his race, religion, nationality or political opinions.

Notice by Minister

9. —(1) Subject to subsection (2), where a requisition for the surrender of a fugitive who is, or is suspected of being, in Singapore is made to the Minister by a foreign State, the Minister may, in his discretion —

(a) if a warrant for the apprehension of the fugitive has not been issued under section 10, by notice in writing in accordance with Form 1 in the Second Schedule and directed to a Magistrate, inform the Magistrate that the requisition has been made and authorise him to issue a warrant for the apprehension of the fugitive; or

(b) if a warrant for the apprehension of the fugitive has been issued under section 10 and a person has been apprehended under the warrant, by notice in writing in accordance with Form 2 in the Second Schedule and directed to a Magistrate before whom the person may be brought, inform the Magistrate that the requisition has been made.

(2) If the Minister is of the opinion that the fugitive is not liable to be surrendered to the foreign State, he shall not give a notice under subsection (1) in respect of the fugitive.

Issue of warrants

10. —(1) Where —

(a) a Magistrate is authorised by the Minister by a notice under section 9 (1) (a) to issue a warrant for the apprehension of a fugitive; or

(b) an application is made as prescribed to a Magistrate for the issue of a warrant for the apprehension of a fugitive who is, or is suspected of being, in Singapore, and there is produced to the Magistrate such evidence as would, in his opinion, according to the law in force in Singapore, justify —

(i) the apprehension of the fugitive by a member of the Singapore Police Force without the issue of a warrant; or

(ii) the issue of a warrant for the apprehension of the fugitive, if the act or omission constituting the extradition crime had taken place in, or within the jurisdiction of Singapore, the Magistrate shall issue a warrant for the apprehension of the fugitive in accordance with Form 3 or 4, as the case may be, in the Second Schedule.

(2) Where a Magistrate issues a warrant under this section without having been authorised by the Minister by a notice under section 9 (1) (a) to issue the warrant, the Magistrate shall forthwith send to the Minister a report stating that he has issued the warrant and the evidence produced to him on the application for the warrant.

(3) It shall be a sufficient compliance with subsection (2) in relation to any evidence consisting of testimony given on oath, or declared or affirmed to be true, by a person if —

(a) where the testimony was given in writing — the Magistrate sends to the Minister a copy of that writing certified by him to be a true copy; or

(b) where the testimony was given orally —

(i) if the testimony has been reduced to writing, the Magistrate sends to the Minister that writing certified by him to be a true record of the testimony; or

(ii) if the testimony has not been reduced to writing, the Magistrate sends to the Minister the notes made by the Magistrate in respect of the testimony and certified by him to be a true summary of the testimony.

(4) Where the Minister —

(a) receives a report of the issue of a warrant and the evidence as provided by subsections (2) and (3); or

(b) otherwise becomes aware of the issue of such a warrant, he may, if he thinks fit, by order in writing, direct that the warrant be cancelled.

(5) Where a person has been apprehended under a warrant that is so directed to be cancelled —

(a) if the person is held in custody, the person holding him in custody shall, upon receipt of the order, cause him to be released; or

(b) if he has been admitted to bail, the recognizances upon which he was admitted to bail shall, under this subsection, be discharged.

Proceedings after apprehension of person

11. —(1) A person who is apprehended under a warrant issued under section 10 shall, unless he is sooner released, be brought as soon as practicable before a Magistrate.

(2) The Magistrate may remand a person brought before him under this section, either in custody or on bail, for a period or periods not exceeding 7 days at any one time.

(3) Where a Magistrate remands a person for such a period, the person may, at the expiration of the period, be brought before the Magistrate or before any other Magistrate.

(4) In the application of subsections (5) to (10) in relation to a person who has been apprehended under a warrant issued under section 10, "Magistrate" means the Magistrate before whom the person is

brought after he was apprehended or at the expiration of a period for which he has been remanded under this section, as the case may be.

(5) If the person was apprehended under a warrant issued otherwise than in pursuance of an authority by the Minister in a notice under section 9 (1) (a), the Magistrate shall remand the person in accordance with subsections (2) and (3) until the Magistrate receives a notice under section 9 (1) (b) from the Minister informing the Magistrate that a requisition for the surrender of the person has been made to the Minister by a foreign State.

(6) Where the Magistrate does not receive such a notice within such time as is reasonable having regard to all the circumstances, the Magistrate shall —

(a) if the person apprehended is held in custody, order that he be released; or

(b) if he has been admitted to bail, make an order discharging the recognizances upon which he was admitted to bail.

(7) If the person was apprehended under a warrant issued in pursuance of an authority by the Minister in a notice under section 9 (1) (a) or the Magistrate receives a notice from the Minister under section 9 (1) (b) and —

(a) there is produced to the Magistrate a duly authenticated foreign warrant in respect of the person issued in the foreign State that made the requisition for the surrender of the person;

(b) there is produced to the Magistrate —

(i) in the case of a person who is accused of an extradition crime — such evidence as would, in the opinion of the Magistrate, according to the law in force in Singapore, justify the trial of the person if the act or omission constituting that crime had taken place in, or within the jurisdiction of Singapore; or

(ii) in the case of a person who is alleged to have been convicted of an extradition crime — sufficient evidence to satisfy the Magistrate that the person has been convicted of that crime; and

(c) the Magistrate is satisfied, after hearing any evidence tendered by the person, that the person is liable to be surrendered to the foreign State that made the requisition for the surrender, the Magistrate shall, by warrant in accordance with Form 5 in the Second Schedule, commit the person to prison to await the warrant of the Minister for his surrender but otherwise shall order that the person be released.

(8) Where the Magistrate is of the opinion that it would be dangerous to the life or prejudicial to the health of the person to commit him to prison, he may, in lieu of committing him to prison, by warrant, order that he be held in custody at the place where he is for the time being, or at any other place to which the Magistrate considers that he can be removed without danger to his life or prejudice to his health, until such time as he can without such danger or prejudice be committed to prison or he is surrendered.

(9) In the case referred to in subsection (8), the warrant shall be in accordance with Form 5 in the Second Schedule with such variations as are necessary to meet the circumstances of the case.

(10) Where, under this section, a Magistrate commits a person to prison or otherwise orders that he be held in custody, he shall forthwith send to the Minister a certificate to that effect and such report (if any) relating to the proceedings as he thinks fit.

Surrender of fugitive to foreign State

12. —(1) When, under this Part, a Magistrate commits a person (referred to in this section as the prisoner) to prison, or otherwise orders that he be held in custody, to await the warrant of the Minister for his surrender to a foreign State, the Magistrate shall inform the prisoner that he will not be surrendered until after the expiration of the period of 15 days from the date of the committal or order and that, if he asserts that his detention is unlawful, he may apply to a court of competent jurisdiction for a writ of habeas corpus.

(2) After —

(a) the expiration of the period referred to in subsection (1); or

(b) if, within that period, an application for a writ of habeas corpus is made by the prisoner and the court to which the application is made or, where an appeal is brought from the decision of that court to another court, the other court does not order that the prisoner be released — the expiration of the period of 15 days from the date of the decision of the first-mentioned court or the appellate court, as the case may be,

whichever is the later, the Minister may, in his discretion, if he is satisfied that the prisoner is liable to be surrendered to the foreign State, by warrant in accordance with Form 6 in the Second Schedule or, where the prisoner is held in custody otherwise than at a prison, in accordance with that Form with such variations as are necessary to meet the circumstances of the case, order that the prisoner be delivered into the custody of a person specified in the warrant and be conveyed by that person to a place in the foreign State or within the jurisdiction of, or of a part of, the foreign State and there surrendered to some person appointed by the foreign State to receive him.

(3) A warrant issued under subsection (2) may be executed according to its tenor.

(4) If the prisoner escapes from the custody of the person executing the warrant, he may be retaken in the same manner as a person accused of an offence against the law in force in Singapore may be taken upon an escape from lawful custody.

(5) Any property in the possession of the prisoner at the time of his apprehension that may be material as evidence in proving the offence to which the requisition for his surrender relates shall, if the Minister so directs, be delivered up with the prisoner on his surrender.

Discharge of fugitive who is not conveyed out of Singapore within 2 months

13. Where a person who, under this Part, has been committed to prison, or otherwise ordered to be held in custody, is in custody in Singapore at the expiration of 2 months after —

(a) the date of the committal or order; or

(b) if an application for a writ of habeas corpus has been made by the person — the date of the decision of the court to which the application was made or, where an appeal has been brought from that decision to another court, the date of the decision of the other court,

whichever is the later, the High Court, upon application made to it by the person and upon proof that reasonable notice of the intention to make the application has been given to the Minister, shall, unless reasonable cause is shown for the delay, order that the person be released.

PART III EXTRADITION FROM FOREIGN STATES

Interpretation of this Part

14. In this Part, "extraditable crime" means an offence (wherever committed) against the law in force in Singapore, being an offence that —

(a) is described in the First Schedule; or

(b) would be so described if the description concerned contained 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.

Requisition to foreign State for surrender of person to be made by Minister

15. Where a person accused or convicted of an extraditable crime is, or is suspected of being, in a foreign State or within the jurisdiction of, or of a part of, a foreign State, the Minister may make a requisition to that State for the surrender of the person.

Person surrendered may be brought into Singapore

16. Where a person accused or convicted of an extraditable crime is surrendered by a foreign State, the person may be brought to Singapore and delivered to the proper authorities to be dealt with according to law.

Person surrendered by foreign State in respect of an offence not to be prosecuted or detained for other offences

17. Where a person accused or convicted of an extraditable crime is surrendered by a foreign State, the person shall not, unless he has been returned, or has had an opportunity of returning, to that foreign State —

(a) be detained or tried in Singapore for any offence that is alleged to have been committed, or was committed, before his surrender other than the offence 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

(b) be detained in Singapore for the purpose of his being surrendered to another country for trial or punishment for any offence that is alleged to have been committed, or was committed, before his

surrender to Singapore other than an offence of which he could be convicted upon proof of the facts on which the requisition referred to in paragraph (a) was based.

PART IV EXTRADITION TO AND FROM DECLARED COMMONWEALTH COUNTRIES

Interpretation of this Part

18. In this Part, "extraditable crime" means an offence (wherever committed) against the law in force in Singapore the maximum penalty for which is death or imprisonment for a period of not less than 12 months, being an offence that —

(a) is described in the First Schedule; or

(b) would be so described if the description concerned contained 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.

[8

Application of this Part in relation to Commonwealth countries

19. —(1) The Minister may declare a country to be a Commonwealth country in relation to which this Part applies and, subject to subsection (2), where there is such a declaration for the time being in force, this Part shall apply in relation to that country.

(2) The Minister may provide that this Part shall apply in relation to a declared Commonwealth country subject to such limitations, conditions, exceptions or qualifications as are prescribed and, where the declaration for the time being in force so provides, this Part shall apply in relation to that country subject to those limitations, conditions, exceptions or qualifications.

[8

Liability of fugitive to be surrendered

20. —(1) Every fugitive from a declared Commonwealth country shall be liable, subject to this Part and to any limitations, conditions, exceptions or qualifications to which the application of this Part in relation to that country is subject, to be apprehended and surrendered to that country as provided by this Part.

(2) Every such fugitive shall be liable under subsection (1) whether the offence to which the requisition for the surrender of the fugitive relates is alleged to have been committed, or was committed, before or after 1st August 1968 or before or after the time when that country became a declared Commonwealth country.

[9

Restrictions on surrender of persons to Commonwealth countries

21. —(1) A person shall not be liable to be surrendered to a declared Commonwealth country if the offence to which the requisition for his surrender relates is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character.

(2) A person who is held in custody, or has been admitted to bail, in Singapore in respect of an offence that is alleged to have been committed in Singapore, or is undergoing a sentence of imprisonment for a conviction in Singapore, shall not be liable to be surrendered to a declared Commonwealth country until he has been discharged from custody, or the recognizances upon which he was admitted to bail have been discharged, as the case may be, whether as a result of his acquittal, on the expiration of his sentence or otherwise.

(3) A person shall not be liable to be surrendered to a declared Commonwealth country in respect of an offence if he has been acquitted or pardoned by a competent tribunal or authority in any country, or has undergone the punishment provided by the law of, or of a part of, any country, in respect of that offence or of another offence constituted by the same act or omission as that offence.

[0

Restrictions on power of Minister to authorise apprehension, or order surrender, of a fugitive

22. —(1) The Minister shall not give a notice under section 23 (1), or issue a warrant under section 27 (2), in respect of a fugitive from a declared Commonwealth country if the Minister has substantial grounds for believing that —

(a) the requisition for the surrender of the fugitive, although purporting to have been made in respect of an offence for which, but for this section, he would be liable to be surrendered to that country, was

made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions; or

(b) if the fugitive is surrendered to that country, he may 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) If the Minister is satisfied that, by reason of —

(a) the trivial nature of the offence that a fugitive is alleged to have committed or has committed;

(b) the accusation against a fugitive not having been made in good faith or in the interests of justice; or

(c) the passage of time since the offence is alleged to have been committed or was committed,

and having regard to the circumstances under which the offence is alleged to have been committed or was committed, it would be unjust, oppressive or too severe a punishment to surrender the fugitive, or to surrender him before the expiration of a particular period, the Minister shall not issue a warrant under section 27 (2) in respect of the fugitive, or shall not issue such a warrant before the expiration of that period, as the case may be.

(3) The Minister shall not issue a warrant under section 27 (2) in respect of a fugitive from a declared Commonwealth country unless provision is made by the law of that country, or that country has entered into an agreement with, or given an undertaking to, Singapore, by virtue of which the fugitive will not, unless he has been returned, or has had an opportunity of returning, to Singapore —

(a) be detained or tried in that country for any offence that is alleged to have been committed, or was committed, before his surrender other than —

(i) the offence to which the requisition for his surrender relates or any lesser offence of which he could be convicted upon proof of the facts on which that requisition was based; or

(ii) any other extradition crime in respect of which the Minister consents to his being so detained or tried, as the case may be; or

(b) be detained in that country for the purpose of his being surrendered to another country for trial or punishment for any offence that is alleged to have been committed, or was committed, before his surrender to the first-mentioned country other than —

(i) a lesser offence of which he could be convicted upon proof of the facts on which the requisition referred to in paragraph (a) was based; or

(ii) any other offence in respect of which the Minister could issue a warrant under this Part for his surrender to that other country and in respect of which the Minister consents to his being so detained.

[1

Notice by Minister

23. —(1) Subject to subsection (2), where a requisition for the surrender of a fugitive who is, or is suspected of being, in or on his way to Singapore is made to the Minister by a declared Commonwealth country, the Minister shall —

(a) if a warrant for the apprehension of the fugitive has not been issued under section 24 — by notice in writing in accordance with Form 1 in the Second Schedule and directed to a Magistrate, inform the Magistrate that the requisition has been made and authorise him to issue a warrant for the apprehension of the fugitive; or

(b) if a warrant for the apprehension of the fugitive has been issued under section 24 and a person has been apprehended under the warrant — by notice in writing in accordance with Form 2 in the Second Schedule and directed to a Magistrate before whom the person may be brought, inform the Magistrate that the requisition has been made.

(2) If the Minister is of the opinion that the fugitive is not liable to be surrendered to the country, he shall not give a notice under subsection (1) in respect of the fugitive.

[2

Issue of warrants

24. —(1) Where —

(a) a Magistrate is authorised by the Minister by a notice under section 23 (1) (a) to issue a warrant for the apprehension of a fugitive; or

(b) an application is made as prescribed to a Magistrate for the issue of a warrant for the apprehension of a fugitive who is, or is suspected of being, in or on his way to Singapore,

and there is produced to the Magistrate such evidence as would, in his opinion, according to the law in force in Singapore, justify —

(i) the apprehension of the fugitive by a member of the Singapore Police Force without the issue of a warrant; or

(ii) the issue of a warrant for the apprehension of the fugitive, if the act or omission constituting the extradition crime had taken place in, or within the jurisdiction of Singapore, the Magistrate shall issue a warrant for the apprehension of the fugitive in accordance with Form 3 or 4, as the case may be, in the Second Schedule.

(2) Where a Magistrate issues a warrant under this section without having been authorised by the Minister by a notice under section 23 (1) (a) to issue the warrant, the Magistrate shall forthwith send to the Minister a report stating that he has issued the warrant and the evidence produced to him on the application for the warrant.

(3) It shall be a sufficient compliance with subsection (2) in relation to any evidence consisting of testimony given on oath, or declared or affirmed to be true, by a person if —

(a) where the testimony was given in writing — the Magistrate sends to the Minister a copy of that writing certified by him to be a true copy; or

(b) where the testimony was given orally —

(i) if the testimony has been reduced to writing, the Magistrate sends to the Minister that writing certified by him to be a true record of the testimony; or

(ii) if the testimony has not been reduced to writing, the Magistrate sends to the Minister the notes made by the Magistrate in respect of the testimony and certified by him to be a true summary of the testimony.

(4) Where the Minister —

(a) receives a report of the issue of a warrant and the evidence as provided by subsections (2) and (3); or

(b) otherwise becomes aware of the issue of such a warrant, he may, if he thinks fit, by order in writing, direct that the warrant be cancelled.

(5) Where a person has been apprehended under a warrant that is so directed to be cancelled —

(a) if the person is held in custody, the person holding him in custody shall, upon receipt of the order, cause him to be released; or

(b) if he has been admitted to bail, the recognizances upon which he was admitted to bail shall, under this subsection, be discharged.

[3

Proceedings after apprehension of person

25. —(1) A person who is apprehended under a warrant issued under section 24 shall, unless he is sooner released, be brought as soon as practicable before a Magistrate.

(2) A Magistrate may remand a person brought before him under this section, either in custody or on bail, for a period or periods not exceeding 7 days at any one time.

(3) Where a Magistrate remands a person for such a period, the person may, at the expiration of the period, be brought before the Magistrate or before any other Magistrate.

(4) In the application of subsections (5) to (10) in relation to a person who has been apprehended under a warrant issued under section 24, "Magistrate" means the Magistrate before whom the person is brought after he was apprehended or at the expiration of a period for which he has been remanded under this section, as the case may be.

(5) If the person was apprehended under a warrant issued otherwise than in pursuance of an authority by the Minister in a notice under section 23 (1) (a), the Magistrate shall remand the person in accordance with subsections (2) and (3) until the Magistrate receives a notice under section 23 (1) (b) from the Minister informing the Magistrate that a requisition for the surrender of the person has been made to the Minister by a declared Commonwealth country.

(6) Where the Magistrate does not receive such a notice within such time as is reasonable having regard to all the circumstances, the Magistrate shall —

(a) if the person apprehended is held in custody, order that he be released; or

(b) if he has been admitted to bail, make an order discharging the recognizances upon which he was admitted to bail.

(7) If the person was apprehended under a warrant issued in pursuance of an authority by the Minister in a notice under section 23 (1) (a) or the Magistrate receives a notice by the Minister under section 23 (1) (b) and —

(a) there is produced to the Magistrate a duly authenticated overseas warrant in respect of the person issued in the declared Commonwealth country that made the requisition for the surrender of the person;

(b) there is produced to the Magistrate —

(i) in the case of a person who is accused of an extradition crime — such evidence as would, in the opinion of the Magistrate, according to the law in force in Singapore, justify the trial of the person if the act or omission constituting that crime had taken place in, or within, his jurisdiction; or

(ii) in the case of a person who is alleged to have been convicted of an extradition crime — sufficient evidence to satisfy the Magistrate that the person has been convicted of that crime; and

(c) the Magistrate is satisfied, after hearing any evidence tendered by the person, that the person is liable to be surrendered to the declared Commonwealth country that made the requisition for the surrender,

the Magistrate shall, by warrant in accordance with Form 5 in the Second Schedule, commit the person to prison to await the warrant of the Minister for his surrender but otherwise shall order that the person be released.

(8) Where the Magistrate is of the opinion that it would be dangerous to the life or prejudicial to the health of the person to commit him to prison, he may, in lieu of committing him to prison, by warrant, order that he be held in custody at the place where he is for the time being, or at any other place to which the Magistrate considers that he can be removed without danger to his life or prejudice to his health, until such time as he can without such danger or prejudice be committed to prison or he is surrendered.

(9) In the case referred to in subsection (8), the warrant shall be in accordance with Form 5 in the Second Schedule with such variations as are necessary to meet the circumstances of the case.

(10) Where, under this section, a Magistrate commits a person to prison or otherwise orders that he be held in custody, he shall forthwith send to the Minister a certificate to that effect and such report (if any) relating to the proceedings as he thinks fit.

[4

Power of Magistrate or court to release, or postpone surrender of, person

26. If a Magistrate before whom a person is brought in pursuance of section 25, or a court to which the person has applied for a writ of habeas corpus, is satisfied that, by reason of —

(a) the trivial nature of the offence that the person is alleged to have committed or has committed;

(b) the accusation against the person not having been made in good faith or in the interests of justice; or

(c) the passage of time since the offence is alleged to have been committed or was committed, and having regard to the circumstances under which the offence is alleged to have been committed or was committed, it would be unjust, oppressive or too severe a punishment to surrender the person to a declared Commonwealth country, or to surrender him before the expiration of a particular period, the Magistrate or court may —

(i) order that the person be released;

(ii) order that the person be surrendered after the expiration of a period specified in the order and order his release on bail until the expiration of that period; or

(iii) make such other order as he or it thinks just.

[5

Surrender of fugitive to Commonwealth country

27. —(1) When, under this Part, a Magistrate commits a person (referred to in this section as the prisoner) to prison, or otherwise orders that he be held in custody, to await the warrant of the Minister for his surrender to a declared Commonwealth country, the Magistrate shall inform the prisoner that he will not be surrendered until after the expiration of the period of 15 days from the date of the committal

or order and that, if he asserts that his detention is unlawful, he may apply to a court of competent jurisdiction for a writ of habeas corpus.

(2) After —

(a) the expiration of the period referred to in subsection (1); or

(b) if, within that period, an application for a writ of habeas corpus is made by the prisoner and the court to which the application is made or, where an appeal is brought from the decision of that court to another court, the other court does not order that the prisoner be released — the expiration of the period of 15 days from the date of the decision of the first-mentioned court or the appellate court, as the case may be,

whichever is the later, the Minister shall, if he is satisfied that the prisoner is liable to be surrendered to the declared Commonwealth country, by warrant in accordance with Form 6 in the Second Schedule or, where the prisoner is held in custody otherwise than at a prison, in accordance with that Form with such variations as are necessary to meet the circumstances of the case, order that the prisoner be delivered into the custody of a person specified in the warrant and be conveyed by that person to a place in that country or within the jurisdiction of, or of a part of, that country and there surrendered to some person appointed by that country to receive him.

(3) A warrant issued under subsection (2) may be executed according to its tenor.

(4) Any property in the possession of the prisoner at the time of his apprehension that may be material as evidence in proving the offence to which the requisition for his surrender relates shall, if the Minister so directs in writing, be delivered up with the prisoner on his surrender.

[6

Discharge of fugitive who is not conveyed out of Singapore within 2 months

28. Where a person who, under this Part, has been committed to prison, or otherwise ordered to be held in custody, is in custody in Singapore at the expiration of 2 months after —

(a) the date of the committal or order; or

(b) if an application for a writ of habeas corpus has been made by the person — the date of the decision of the court to which the application was made or, where an appeal has been brought from that decision to another court, the date of the decision of the other court,

whichever is the later, the High Court, upon application made to it by the person and upon proof that reasonable notice of the intention to make the application has been given to the Minister, shall, unless reasonable cause is shown for the delay, order that the person be released.

[7

Requisition to Commonwealth country for surrender of person to be made by Minister

29. Where a person accused or convicted of an extraditable crime is, or is suspected of being, in or on his way to a declared Commonwealth country or within the jurisdiction of, or of a part of, such a country, the Minister may make a requisition to that country for the surrender of the person.

Person surrendered may be brought to Singapore

30. Where a person accused or convicted of an extraditable crime is surrendered by a declared Commonwealth country, the person may be brought to Singapore and delivered to the proper authorities to be dealt with according to law.

Person surrendered by Commonwealth country in respect of an offence not to be prosecuted or detained for other offences

31. Where a person accused or convicted of an extraditable crime is surrendered by a declared Commonwealth country, the person shall not, unless he has been returned, or has had an opportunity of returning, to that country —

(a) be detained or tried in Singapore for any offence that is alleged to have been committed, or was committed, before his surrender other than —

(i) the offence to which the requisition for his surrender relates or any lesser 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 consents to his being so detained or tried, as the case may be; or

(b) be detained in Singapore for the purpose of his being surrendered to another country for trial or punishment for any offence that is alleged to have been committed, or was committed, before his surrender to Singapore other than —

- (i) a lesser offence of which he could be convicted upon proof of the facts on which the requisition referred to in paragraph (a) was based; or
- (ii) any other offence in respect of which the country by which he was surrendered to Singapore consents to his being so detained.

PART V EXTRADITION TO AND FROM MALAYSIA

Application to Malaysia and definition

32. —(1) This Part applies in relation to Malaysia.

(2) In this Part, "offence" means a seizable offence or an offence punishable on conviction with imprisonment for 6 months or more under the law of Malaysia.

Endorsement of warrants

33. —(1) Where a court, a Judge, a Magistrate or an officer of a court in Malaysia has issued a warrant for the apprehension of a person accused or convicted of an offence against the law of Malaysia and the person is, or is suspected of being, in or on his way to Singapore, a Magistrate may, if the warrant is duly authenticated, make an endorsement on the warrant in accordance with Form 7 in the Second Schedule authorising the execution of the warrant in Singapore.

(2) A warrant so endorsed shall be sufficient authority to the person bringing the warrant, to all other persons to whom the warrant is directed and to all police officers in Singapore to execute the warrant in Singapore in accordance with this Part.

Issue of warrants

34. A Magistrate may, if a warrant referred to in section 33 authorising the apprehension of a person is not produced to him or he requires further information or proof before endorsing such a warrant, issue a warrant in accordance with Form 8 in the Second Schedule for the apprehension of the person upon such information and under such circumstances as, in his opinion, justify the issue of the warrant.

Proceedings after apprehension of person

35. —(1) A person who is apprehended under a warrant referred to in section 33 or under a warrant issued under section 34 shall be brought as soon as practicable before a Magistrate.

(2) A Magistrate may remand a person brought before him under this section, either in custody or on bail, for a period or periods not exceeding 7 days at any one time.

(3) Where a Magistrate remands a person for such a period, the person may, at the expiration of the period, be brought before the Magistrate or before any other Magistrate.

(4) In the application of subsections (5) to (11) in relation to a person who has been apprehended under a warrant referred to in section 33 or under a warrant issued under section 34, "Magistrate" means the Magistrate before whom the person is brought after he was apprehended or at the expiration of a period for which he has been remanded under this section, as the case may be.

(5) Where the person was apprehended under a warrant issued under section 34 and the warrant referred to in section 33 authorising the apprehension of the person has not been endorsed, the Magistrate may, and shall if a reasonable time has elapsed for the endorsement of the warrant —

- (a) if the person apprehended is held in custody, order that he be released; or
- (b) if he has been admitted to bail, make an order discharging the recognizances upon which he was admitted to bail.

(6) Where —

(a) the person was apprehended under a warrant referred to in section 33; or

(b) the person was apprehended under a warrant issued under section 34 and the warrant referred to in section 33 authorising the apprehension of the person has been endorsed,

the Magistrate shall, subject to section 36, by warrant in accordance with Form 9 in the Second Schedule, order the person to be surrendered to Malaysia and, for that purpose, to be delivered into the custody of the person bringing that warrant or of any other person to whom that warrant was directed.

(7) Where the Magistrate is of the opinion that it would be dangerous to the life or prejudicial to the health of the person to surrender him to the country referred to in subsection (6), he may, in lieu of

ordering that he be surrendered to Malaysia, by warrant, order that he be held in custody at the place where he is for the time being, or at any other place to which the Magistrate considers that he can be removed without danger to his life or prejudice to his health, until such time as he can without such danger or prejudice be surrendered to Malaysia.

(8) In the case referred to in subsection (7), the warrant shall be in accordance with Form 9 in the Second Schedule with such variations as are necessary to meet the circumstances of the case.

(9) A warrant issued under subsection (6) or (7) may be executed according to its tenor.

(10) If the person so ordered to be surrendered escapes from the custody of the person executing the warrant, he may be retaken in the same manner as a person accused of an offence against the law in force in Singapore may be retaken upon an escape from lawful custody.

(11) Any property in the possession of the person so ordered to be surrendered at the time of his apprehension that may be material as evidence in proving the offence for which he is being surrendered shall, if the Magistrate so directs, be delivered up with the person on his surrender.

Restriction on power of Magistrate to order surrender of person

36. If a Magistrate before whom a person is brought under this Part, is satisfied that, by reason of —

(a) the trivial nature of the offence that the person is alleged to have committed or has committed;
(b) the accusation against the person not having been made in good faith or in the interests of justice;
or

(c) the passage of time since the offence is alleged to have been committed or was committed, and having regard to the circumstances under which the offence is alleged to have been committed or was committed, it would be unjust, oppressive or too severe a punishment to surrender the person to Malaysia, or to surrender him before the expiration of a particular period, the Magistrate may —

(i) order that the person be released;

(ii) order that the person be surrendered after the expiration of a period specified in the order and order his release on bail until the expiration of that period; or

(iii) make such other order as he thinks just.

Review of order of Magistrate

37. —(1) Where —

(a) a person apprehended is dissatisfied with an order made under section 35 (6) or (7) or under section 36; or

(b) a Magistrate has made, under section 35 (7) or under section 36, an order for the release of an apprehended person, or an order for the surrender or admittance to bail of such a person under the terms of which the person is not, or may not be, required to be surrendered to Malaysia within 3 months after the date of the order,

the apprehended person or the person bringing the warrant, as the case requires, may apply to the High Court for a review of the order, and the Court may review the order.

(2) The High Court to which an application is made for the review of an order may —

(a) order the release on bail of the apprehended person on such terms and conditions as the Court thinks fit; or

(b) direct that the apprehended person be kept in such custody as the Court directs until the order has been reviewed.

(3) The review of the order shall be by way of rehearing, and evidence in addition to, or in substitution for, the evidence given on the making of the order may be given on or in connection with the review.

(4) For the purposes of a review under this section, a copy of a public document or of a document filed in a department or office of the Government, certified to be a true copy of the document by the person purporting by the certificate to have charge of the document, is admissible as evidence of the facts stated in the copy.

(5) Upon the review of an order, the High Court may confirm or vary the order, or quash the order and substitute a new order in its stead.

(6) The order as confirmed or varied, or the substituted order, shall be executed according to its tenor as if it had been made by the Magistrate.

Discharge of person who is not conveyed out of Singapore within one month

38. Where a person who, under this Part, has been ordered to be surrendered to Malaysia is in custody in Singapore at the expiration of one month after —

- (a) the date of the order; or
- (b) if the order was made by a Magistrate and an application for a review of the order has been made — the date of the decision of the High Court on the review or, where an appeal has been brought from that decision to another court, the date of the decision of the other court, whichever is the later, the High Court, upon application made to it by the person and upon proof that reasonable notice of the intention to make the application has been given to the person holding him in custody, shall, unless reasonable cause is shown for the delay, order that the person so held in custody be released.

Person surrendered from Malaysia

39. Where a person accused or convicted of an offence (wherever committed) against the law in force in Singapore is surrendered by Malaysia the person may be delivered to the proper authorities to be dealt with according to law.

PART VI MISCELLANEOUS

Jurisdiction as to offences committed at sea or in air

40. Where the offence in respect of which the surrender or return of a fugitive is sought was committed on board any vessel on the high seas or any aircraft while in the air outside Singapore or the territorial waters of Singapore which comes into any port or aerodrome of Singapore, the Minister or any Magistrate may exercise the powers conferred by this Act.

Simultaneous requisitions

41. —(1) If the requisitions for the surrender of a fugitive are received from more than one foreign State or declared Commonwealth country or from any foreign State and any declared Commonwealth country, the Minister may, having regard to the circumstances of the case, surrender the fugitive to such State or country as he thinks fit.

(2) The Minister in determining to which State or country the fugitive should be returned shall consider all the circumstances of the case and in particular —

- (a) the relative seriousness of the offences;
- (b) the relative dates on which the requests were made; and
- (c) the citizenship or other national status of the fugitive and his ordinary residence.

Overseas documents may be admitted in evidence if duly authenticated

42. —(1) In any proceedings under this Act —

- (a) a document, duly authenticated, that purports to set out testimony given on oath, or declared or affirmed to be true, by a person in a proceeding in a foreign State or declared Commonwealth country shall be admissible as evidence of the matters stated in the testimony;
- (b) a document, duly authenticated, that purports to have been received in evidence, or to be a copy of a document that has been received in evidence, in a proceeding in a foreign State or declared Commonwealth country shall be admissible in evidence;
- (c) a document, duly authenticated, that 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 foreign State or declared Commonwealth country shall be admissible as evidence of the fact and date of the conviction; and
- (d) a document, duly authenticated, that purports to be an overseas warrant or a foreign warrant shall be admissible in evidence.

(2) A document shall be deemed to be duly authenticated for the purpose of being admitted in evidence in a proceeding under this Act if —

- (a) in the case of a document that purports to set out testimony given, declared or affirmed by a person in a proceeding in a foreign State or declared Commonwealth country — the document purports to be certified by a Judge, Magistrate or officer in or of that State or country to be the original document containing or recording that testimony or a true copy of that original document;
- (b) in the case of a document that purports to have been received in evidence, or to be a copy of a document that has been received in evidence, in a proceeding in a foreign State or declared

Commonwealth country — the document purports to be certified by a Judge, Magistrate or officer in or of that State or country to have been, or to be a true copy of a document that has been, so received in evidence;

(c) in the case of a document that certifies that a person has been convicted in a foreign State or declared Commonwealth country of an offence — the document purports to be certified by a Judge, Magistrate or officer in or of that State or country; or

(d) in the case of a document that purports to be an overseas warrant or a foreign warrant — the documents purports to be signed by a Judge, Magistrate or officer in or of the State or country in which the document was issued,

and the document purports to be authenticated by the oath of a witness or to be sealed with the official seal of a Minister in or of that country.

(3) Nothing in this section shall prevent the proof of any matter, or the admission in evidence of any document, in accordance with any other law of Singapore.

Power to amend and vary Schedules

43. The Minister may —

(a) from time to time, by notification published in the *Gazette*, vary the First and Second Schedules; and

(b) by order published in the *Gazette* amend, add to or vary the Third Schedule when an extradition treaty between any territory and Singapore has come into force or has ceased to be in force, as the case may be.

[5

[6/98]

Power to make rules

44. —(1) The Minister may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of subsection (1), such rules may provide for all or any of the following matters:

(a) the removal of fugitives accused or in custody under this Act and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them;

(b) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies;

(c) the form and manner in which or the channel through which a Magistrate may be required to make his report to the Minister under this Act; and

(d) any other matter which has to be, or may be, prescribed.

(3) All rules made under this section shall be published in the *Gazette* and shall be presented to Parliament as soon as possible after publication

TERRORISM (SUPPRESSION OF FINANCING) ACT

(CHAPTER 325), 2003 revised

PART V

MUTUAL ASSISTANCE AND EXTRADITION

Interpretation of this Part

31. In this Part —

"Convention" means the International Convention for the Suppression of the Financing of Terrorism adopted by the General Assembly of the United Nations on 9th December 1999;

"country" includes a State or territory, as the case may be.

Convention as basis for assistance under Mutual Assistance in Criminal Matters Act

32. —(1) Where there is no treaty, memorandum of understanding or other agreement in force between Singapore and a country which is a party to the Convention relating to the provision of assistance concerning any terrorism financing offence, an order under section 17 of the Mutual Assistance in Criminal Matters Act (Cap. 190A) may be made —

(a) declaring that country as a prescribed foreign country; and

(b) applying that Act as if there were a treaty, memorandum of understanding or other agreement under which that country has agreed to provide assistance in criminal matters to Singapore.

(2) Where the Mutual Assistance in Criminal Matters Act is applied under subsection (1), the Mutual Assistance in Criminal Matters Act shall, subject to subsection (3), have effect as if the only foreign serious offences within the meaning of that Act were terrorism financing offences.

(3) Subsection (2) is without prejudice to any other order made under section 17 of the Mutual Assistance in Criminal Matters Act (Cap. 190A).

(4) For the purposes of the Mutual Assistance in Criminal Matters Act, a terrorism financing offence —

(a) wherever committed, shall be deemed to be a foreign serious offence; and

(b) shall not be deemed to be an offence of a political character.

Extradition

33. —(1) There shall be deemed to be included in the list of extradition crimes described in the First Schedule to the Extradition Act (Cap. 103) any terrorism financing offence.

(2) Subject to subsection (3), where no extradition treaty is in force between Singapore and a country which is a party to the Convention, a notification in the *Gazette* under section 4 of the Extradition Act may be made applying that Act as if there were an extradition treaty between Singapore and that country.

(3) Where the Extradition Act is applied under subsection (2), the Extradition Act shall, subject to subsection (4), have effect as if the only extradition crimes within the meaning of that Act were terrorism financing offences.

(4) Subsection (2) is without prejudice to any other notification made under section 4 of the Extradition Act.

(5) For the purposes of the Extradition Act —

(a) any act, wherever committed, which —

(i) is a terrorism financing offence; and

(ii) is an offence against the law of any country in the case of which the Extradition Act has been applied by a notification in the *Gazette* made under section 4 of that Act,

shall be deemed to be an offence within the jurisdiction of that country; and

(b) any terrorism financing offence shall not constitute an offence of a political character.