
STATUTORY INSTRUMENTS

1997 No. 1763

EXTRADITION

The Extradition (Hijacking) Order 1997

Made - - - - - *22nd July 1997*
Laid before Parliament *1st August 1997*
Coming into force - - - *1st September 1997*

Whereas the Convention for the Suppression of Unlawful Seizure of Aircraft **(1)** (referred to in this Order as “the Convention” and set out in Schedule 1 to this Order) signed at The Hague on 16th December 1970 entered into force for the United Kingdom on 21st January 1972:

And whereas the States mentioned in Schedule 2 to this Order are foreign States in respect of which the Convention is for the time being in force and in relation to which Orders in Council under section 2 of the Extradition Act 1870 **(2)** are in force:

And whereas the States mentioned in Part I of Schedule 3 to this Order are foreign States in respect of which the Convention is for the time being in force but with which no general extradition arrangements have been made:

And whereas section 22(3) of the Extradition Act 1989 **(3)** provides that where general extradition arrangements have not been made with a State which is a party to the Convention, and no Order in Council under section 2 of the Extradition Act 1870 **(4)** is in force in relation to that State, an Order in Council applying the Extradition Act 1989 may be made under section 4 of that Act as if the Convention constituted general extradition arrangements between the United Kingdom and the foreign State, or any foreign State, party to the Convention:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 4(1), 22(3) and 37(3) of the Extradition Act 1989, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Extradition (Hijacking) Order 1997, and shall come into force on 1st September 1997.

2.—(1) Schedule 2 to this Order specifies in the first column foreign States which are Parties to the Convention and with which extradition treaties (and Orders in Council under section 2 of the Extradition Act 1870) are for the time being in force, in the second column the dates of those treaties, and in the third column those Orders in Council; and

(1) Cmnd. 4956.

(2) 1870 c. 52; the Act was repealed by the Extradition Act 1989 with the savings set out in section 37 of that Act. For the purpose of those savings the Act has to be read with section 22(1) of the Criminal Justice (International Co-operation) Act 1990 (c. 5).

(3) 1989 c. 33.

(4) 1870 c. 52.

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(2) Schedule 1 to the Extradition Act 1989 (5) shall apply in the case of a State specified in the first column in accordance with the extradition treaty whose date is specified in the corresponding entry in the second column, as supplemented by paragraphs 1 and 4 of Article 8 of the Convention; and the Order in Council which gives effect to that extradition treaty shall be construed accordingly.

3. The Extradition Act 1989, so far as it relates to extradition procedures under Part III of that Act, shall apply in the case of a State specified in Part I of Schedule 3 to this Order (being States in respect of which the Convention is in force) subject to the limitations, restrictions, exceptions and qualifications contained in Part II of that Schedule.

4. The Extradition (Hijacking) Order 1992 (6) and The Extradition (Hijacking) (Amendment) Order 1993 (7) are hereby revoked.

5. This Order extends only to the United Kingdom, the Channel Islands and the Isle of Man, and to those territories which are specified in Schedule 4 to this Order.

N. H. Nicholls
Clerk of the Privy Council

(5) Paragraph 15 of Schedule 1 was amended by section 22 of the Criminal Justice (International Co-operation) Act 1990.
(6) S.I.1992/3200.
(7) S.I. 1993/1574.

SCHEDULE 1

The Convention

CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT

PREAMBLE

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders.

HAVE AGREED AS FOLLOWS:

Article 1

Any person who on board an aircraft in flight:

- (a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or
- (b) is an accomplice of a person who performs or attempts to perform any such act commits an offence (hereinafter referred to as "the offence").

Article 2

Each Contracting State undertakes to make the offence punishable by severe penalties.

Article 3

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a force landing, the flight shall be deemed to continue until the competent authorities take over responsibility for the aircraft and for persons and property on board.

2. This Convention shall not apply to aircraft used in military, customs or police services.

3. This Convention shall apply only if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft: it shall be immaterial whether the aircraft is engaged in an international or domestic flight.

4. In the cases mentioned in Article 5, this Convention shall not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where the State is one of those referred to in that article.

5. Notwithstanding paragraphs 3 and 4 of this article, Articles 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

Article 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, in the following cases:

- (a) when the offence is committed on board an aircraft registered in that State;

- (b) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (c) when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 5

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to the Convention.

Article 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft, the State mentioned in Article 4, paragraph 1(c), the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

Article 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.

4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 4, paragraph 1.

Article 9

1. When any of the acts mentioned in Article 1(a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

Article 10

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence and other acts mentioned in Article 4. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 11

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 9;
- (c) the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

Article 12

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States Parties shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

Article 13

1. This Convention shall be open for signature at the Hague on 16 December 1970 by States participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (hereinafter referred to as The Hague Conference). After 31 December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does

not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

Article 14

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE at the Hague, this sixteenth day of December, one thousand nine hundred and seventy, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

SCHEDULE 2

Article 2

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION AND IN RELATION TO WHICH ORDERS IN COUNCIL UNDER THE EXTRADITION ACT 1870 ARE IN FORCE

<i>State</i>	<i>Date of Extradition Treaty</i>	<i>Order in Council</i>
Argentina	22 May 1889	1894/76
Belgium	29 October 1901	1902/208
Bolivia	22 February 1892	1898/1065
Chile	26 January 1897	1898/597
Colombia	27 October 1888	28 November 1889
Cuba	3 October 1904	1905/558
Ecuador	20 September 1880	26 June 1886
El Salvador	23 June 1881	16 December 1882

<i>State</i>	<i>Date of Extradition Treaty</i>	<i>Order in Council</i>
Guatemala	4 July 1885	26 November 1886
Haiti	7 December 1874	5 February 1876
Iraq	2 May 1932	1933/357
Liberia	16 December 1892	1894/114
Mexico	7 September 1886	6 April 1889
Monaco	17 December 1891	9 May 1892
Nicaragua	19 April 1905	1906/382
Panama	25 August 1906	1907/648
Paraguay	12 September 1908	1911/662
Peru	26 January 1904	1907/383
Romania	21 March 1893	1894/119
Russian Federation	24 November 1886	7 March 1887
Thailand	4 March 1911	1911/1151
United States of America	8 June 1972	1976/2144
Uruguay	26 March 1884	5 March 1885
Yugoslavia	6 December 1900	1901/586

SCHEDULE 3

Article 3

PART I

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION
AND WITH WHICH NO EXTRADITION TREATIES ARE IN FORCE

<i>State</i>
Afghanistan
Bahrain
Belarus
Benin
Bhutan
Bosnia and Herzegovina
Burkina Faso
Cape Verde
Central African Republic
Chad

State

China, People's Republic of
Comoros
Congo
Congo (Democratic Republic)
Costa Rica
Côte d'Ivoire
Dominican Republic
Egypt
Equatorial Guinea
Estonia
Ethiopia
Gabon
Guinea
Guinea Bissau
Honduras
Indonesia
Iran
Japan
Jordan
Korea, Democratic People's Republic of
Korea, Republic of
Kuwait
Laos
Lebanon
Libya
Madagascar
Mali
Marshall Islands
Mauritania
Mongolia
Morocco
Myanmar
Nepal
Niger

State

Oman
Philippines
Qatar
Rwanda
Saudi Arabia
Senegal
Sudan
Surinam
Syria
Togo
Tunisia
Ukraine
United Arab Emirates
Uzbekistan
Venezuela
Vietnam
Yeman

PART II

APPLICATION OF THE EXTRADITION ACT 1989 IN THE CASE OF A STATE MENTIONED IN PART I

1. The Extradition Act 1989(8) shall have effect in relation to a State specified in Part I of this Schedule only in respect of—

- (a) an offence mentioned in section 22(4)(b) of that Act;
- (b) an attempt to commit such an offence;
- (c) counselling, procuring, commanding, aiding or abetting such an offence;
- (d) being an accessory before or after the fact to such an offence.

2. No proceeding shall be taken on an application for a provisional warrant to be issued under section 8(1)(b) of the 1989 Act, and no such warrant shall be issued, unless the application is made with the consent of the Secretary of State signified by an Order in the form set out in Part III of this Schedule or in a form to the like effect; but except as aforesaid the signification of consent shall not affect the provisions of the said section 8.

(8) 1989 c. 33.

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PART III

FORM OF CONSENT OF SECRETARY OF STATE TO APPLICATION FOR A PROVISIONAL WARRANT

Whereas AB, a person recognised by the Secretary of State as a diplomatic or consular representative of _____, has requested consent to application being made for the issue of a provisional warrant for the arrest of CD, late of _____, who [is accused] [has been convicted] of the commission of an offence or attempt to commit an offence or counselling, procuring, commanding, aiding or abetting an offence or of being accessory before or after the fact to an offence, within the jurisdiction of the said State, being an offence which if committed in the United Kingdom would be an offence under section 1 of the Aviation Security Act 1982;

By this Order the Secretary of state signifies to you his consent to the said application being made.

Given under the hand of the undersigned, [one of Her Majesty's Principal Secretaries of State] [Minister of State at _____] [Under-Secretary of State at _____] this _____ day of _____.

SCHEDULE 4

Article 5

TERRITORIES TO WHICH THIS ORDER EXTENDS

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
British Virgin Islands
Cayman Islands
Falkland Islands and Dependencies
Gibraltar
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St. Helena and Dependencies
Sovereign Base Areas of Akrotiri and Dhekelia
Turks and Caicos Islands

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies the Extradition Act 1989 (c. 33) so as to make extraditable offences under section 1 of the Aviation Security Act 1982 (c. 36) (hijacking), attempts to commit such offences and participation in the commission of such offences. It applies to certain States, Parties to the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16th December 1970.

