

## SCHEDULE 2

### PROVISIONS OF EXTRADITION ACT 1989 AS EXTENDED TO THE LISTED TERRITORIES

#### PART V

#### SPECIAL CASES

##### *Repatriation Cases*

21.—(1) This section applies where—

- (a) a request is made by or on behalf of the Government of the United Kingdom or the Government of Ireland or the Government of a designated Commonwealth country or the Governor of a British overseas territory, for the arrest and return of a person in a listed territory who is alleged to be unlawfully at large from a prison in which he was serving a sentence in pursuance of international arrangements for the repatriation of prisoners sentenced in one country (“the country of conviction”) to serve their sentences in another (“the country of imprisonment”); and
- (b) there are furnished with the request—
  - (i) particulars of the person whose return is requested;
  - (ii) particulars of the offence of which he was convicted (including evidence sufficient to justify the issue of a warrant for his arrest under the relevant legislation);
  - (iii) a certificate of the conviction and sentence; and
  - (iv) a certificate of the international arrangements for repatriation under which he was held.

(2) Where this section applies, the relevant legislation shall have effect—

- (a) if the request is from the country of conviction, as if the person to whom the request relates were alleged to be unlawfully at large from a prison in that country; and
- (b) if it is from the country of imprisonment, as if he were alleged to have been convicted of a corresponding offence under the law of that country committed there,

and the question whether the person to whom the request relates is to be returned shall be determined, subject to subsection (3) below, in accordance with that legislation.

(3) A person shall not be returned under subsection (2)(b) above unless—

- (a) the offence was committed in the country of conviction; or
- (b) the offence was not committed there but was committed in circumstances in which he might be returned on a request made by the country of conviction.

(4)

In this section “the relevant legislation” means the provisions of this Act that are relevant—

- (a) if the case falls within paragraph (a) of subsection (2) above, to extradition to the country of conviction; and
- (b) if it falls within paragraph (b), to extradition to the country of imprisonment.

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### *International Convention Cases*

**23.—**(1) For the purposes of this Act, no offence which, if committed in the relevant listed territory, would be punishable as an offence of genocide or as an attempt, conspiracy or incitement to commit such an offence shall be regarded as an offence of a political character, and no proceedings in respect of such an offence shall be regarded as a criminal matter of a political character.

(2) It shall not be an objection to any proceedings against a person under this Act in respect of an offence which, if committed in the relevant listed territory, would be punishable as an offence of genocide or as an attempt, conspiracy or incitement to commit such an offence that under the law in force at the time when and in the place where he is alleged to have committed the act of which he is accused or of which he was convicted he could not have been punished for it.

**24.—**(1) For the purposes mentioned in subsection (2) below—

- (a) no offence to which section 1 of the Suppression of Terrorism Act 1978<sup>(1)</sup> applies shall be regarded as an offence of a political character; and
- (b) no proceedings in respect of an offence to which that section applies shall be regarded as a criminal matter of a political character or as criminal proceedings of a political character.

(2) Those purposes are the purposes of a request for the return of a person from a listed territory to which the Suppression of Terrorism Act 1978 has been extended in accordance with extradition procedures under Part III of this Act, made by a country to which this subsection applies.

(3) Subsection (2) above applies—

- (a) to the United Kingdom;
- (b) to a Commonwealth country in relation to which the Secretary of State has made an order under section 5 of the Suppression of Terrorism Act 1978 applying that subsection;
- (c) to any British overseas territory to which that Act has been extended; and
- (d) to Ireland.

**25.—**(1) A person shall not be returned under this Act from a listed territory to which the Convention referred to in subsection (3) below has been extended, to Ireland or to a designated Commonwealth country which is party to that Convention, or to a British overseas territory to which that Convention has been extended, or committed or kept in custody for the purposes of such return, if it appears to the appropriate authority—

- (a) that he might, if returned, be prejudiced at his trial by reason of the impossibility of effecting communications between him and the appropriate authorities of the state entitled to exercise rights of protection in relation to him; and
- (b) that the act or omission constituting the offence of which he has been accused or convicted also constituted an offence under section 1 of the Taking of Hostages Act 1982<sup>(2)</sup> as extended to that territory, or a corresponding law of that territory, or an attempt to commit such an offence.

(2) Where the Governor of the relevant listed territory certifies that a country is a party to the Convention or that a British overseas territory is a British overseas territory to which the Convention has been extended, the certificate shall, in any proceedings under this Act, be conclusive evidence of that fact.

(3) The Convention mentioned in subsections (1) and (2) above is the International Convention against the Taking of Hostages opened for signature at New York on 18 December 1979.

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(1) 1978 c. 26.

(2) 1982 c. 28.

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