

SCHEDULE 2

PROVISIONS OF EXTRADITION ACT 1989 AS EXTENDED TO THE LISTED TERRITORIES

PART III PROCEDURE

General

12.—(1) Where a person is committed under section 9 above and is not discharged by order of a superior court of the relevant listed territory, the Governor may by warrant order him to be returned unless his return is prohibited, or prohibited for the time being, by this Act, or the Governor decides under this section to make no such order in his case.

(2) Without prejudice to his general discretion as to the making of an order for the return of a person to a country or British overseas territory—

- (a) the Governor shall not make an order in the case of any person if it appears to the Governor in relation to the offence, or each of the offences, in respect of which his return is sought, that—
 - (i) by reason of its trivial nature; or
 - (ii) by reason of the passage of time since he is alleged to have committed it or to have become unlawfully at large, as the case may be; or
 - (iii) because the accusation against him is not made in good faith in the interests of justice, it would, having regard to all the circumstances, be unjust or oppressive to return him; and
- (b) the Governor may decide to make no order for the return of a person accused or convicted of an offence not punishable with death in the relevant listed territory if that person could be or has been sentenced to death for that offence in the country by which the request for his return is made.

(3) An order for return shall not be made in the case of a person who is serving a sentence of imprisonment or detention, or is charged with an offence, in the relevant listed territory—

- (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- (b) in the case of a person charged with an offence, until the charge is disposed of or withdrawn or unless an order is made for it to lie on the file and, if it results in his serving a term of imprisonment or detention, until the sentence has been served.

(5) The Governor may decide to make no order under this section for the return of a person committed in consequence of an extradition request if another extradition request (as defined in section 35 of this Act) has been made in respect of him and it appears to the Governor, 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 that other request or requisition.

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