
STATUTORY INSTRUMENTS

1992 No. 3200

EXTRADITION

The Extradition (Hijacking) Order 1992

Made - - - - 17th December 1992
Laid before Parliament 6th January 1993
Coming into force - - 27th January 1993

At the Court at Buckingham Palace, the 17th day of December 1992

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Convention for the Suppression of Unlawful Seizure of Aircraft ("the Convention")(1) signed at The Hague on 16th December 1970, the terms of which are set out in Part I of Schedule I to this Order, 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 Schedule 3 to this Order are foreign States in respect of which the Convention is for the time being in force and with which extradition arrangements are in force in relation to extradition between those States and one or more of the Territories specified in Schedule 5 to this Order.

And whereas the States mentioned in Part I of Schedule 4 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 is in force in relation to that State, an Order in Council applying the 1989 Act 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 2, 17 and 21 of the Extradition Act 1870, and Sections 4(1), 22(3), 30(1) and 37(3) of the Extradition Act 1989,

(1) Cmnd. 4956.

(2) 1870 c. 52; the act was repealed by the Extradition Act 1989, with the savings mentioned in section 37 of that Act.

(3) 1989 c. 33.

or otherwise in Her Majesty vested, 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 1992 and shall come into force on 27th January 1993.

2. Schedule 1 to the Extradition Act 1989 (“the 1989 Act”) shall apply in the case of a State mentioned in Schedule 2 to this Order under and in accordance with the extradition treaties listed in the second column of that Schedule as supplemented by paragraphs 1 and 4 of Article 8 of the Convention (set out in Schedule 1 to this Order); the Orders in Council which give effect to the said extradition treaties and which are listed in the fourth column of the said Schedule 2 shall be amended accordingly. The Convention entered into force for those States on the dates specified in the third column of the said Schedule 2.

3. Schedule 1 to the 1989 Act shall apply in the case of a State mentioned in Schedule 3 to this Order under and in accordance with the extradition treaties listed in the second column of that Schedule (being treaties which continue to apply in respect of extradition between that State and one or more of the Territories specified in Schedule 5) as supplemented by paragraphs 1 and 4 of Article 8 of the Convention (set out in Schedule 1 to this Order); the Orders in Council which give effect to the said extradition treaties and which are listed in the fourth column of the said Schedule 3 shall be amended accordingly. The Convention entered into force for those States on the dates specified in the third column of the said Schedule 3.

4. The 1989 Act, so far as it relates to extradition procedures under Part III of that Act, shall apply in the case of a State mentioned in Part I of Schedule 4 to this Order (being States in respect of which the Convention entered into force on the dates specified in the second column of Part I of that Schedule) subject to the limitations, restrictions, exceptions and qualifications contained in part II of that Schedule.

5. The following Orders are hereby revoked:—

The Extradition (Hijacking) Order 1971(4)

The Extradition (Hijacking) (Amendment) Order 1982(5)

The Extradition (Hijacking) (Amendment) Order 1985(6)

The Extradition (Hijacking) (Amendment) Order 1986(7)

The Extradition (Hijacking) (Amendment) Order 1987(8)

The Extradition (Hijacking) (Amendment) Order 1988(9)

6. Article 3 of the Aviation Security (Anguilla) Order 1987(10) is hereby revoked.

7. The operation of this Order is limited to the United Kingdom, the Channel Islands, the Isle of Man and the Territories specified in Schedule 5 to this Order.

(4) S.I. 1971/2102.

(5) S.I. 1982/146.

(6) S.I. 1985/1989.

(7) S.I. 1986/2012.

(8) S.I. 1987/2041.

(9) S.I. 1988/2243.

(10) S.I. 1987/451.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

N. H. Nicholls
Clerk of the Privy Council

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SCHEDULE 1

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 on 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 forced landing, the flight shall be deemed to continue until the competent authorities take over the 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 this 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.

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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 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.

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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 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 FOR WHICH ORDERS UNDER THE EXTRADITION ACT 1870 ARE IN FORCE

State	Date of Extradition Treaty	Date of entry into force of Convention	Order in Council
Argentina	22nd May 1889	11th October 1972	1894/76
Belgium	29th October 1901	23rd September 1973	1902/208
Bolivia	22nd February 1892	17th August 1979	1898/1065
Chile	26th January 1897	3rd March 1972	1898/597
Colombia	27th October 1888	2nd August 1973	28th November 1889
Cuba	3rd October 1904	25th December 1982	1905/558
Ecuador	20th September 1880	14th October 1971	26th June 1886
El Salvador	23rd June 1881	16th February 1973	16th December 1882
Guatemala	4th July 1885	15th June 1979	26th November 1886
Haiti	7th December 1874	8th June 1984	5th February 1876
Hungary	3rd December 1873	14th October 1971	17th March 1874
Iraq	2nd May 1932	29th January 1972	1933/357
Liberia	16th December 1892	3rd March 1982	1894/114
Mexico	7th September 1886	18th August 1972	6th April 1889
Monaco	17th December 1891	3rd July 1983	9th May 1892
Nicaragua	19th April 1905	6th December 1973	1906/382
Panama	25th August 1906	9th April 1972	1907/648

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State	Date of Extradition Treaty	Date of entry into force of Convention	Order in Council
Paraguay	12th September 1908	5th March 1972	1911/662
Peru	26th January 1904	28th May 1978	1907/383
Poland	11th January 1932	20th April 1972	1934/209
Romania	21st March 1893	9th August 1972	1894/119
Thailand	4th March 1911	15th June 1978	1911/1151
United States of America	8th June 1972	14th October 1971	1976/2144
Uruguay	26th March 1884	11th February 1977	5th March 1885
Yugoslavia	6th December 1900	1st November 1972	1901/586

SCHEDULE 3

Article 3

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION AND WITH WHICH EXTRADITION TREATIES ARE IN FORCE IN RELATION TO EXTRADITION BETWEEN THOSE STATES AND ONE OR MORE OF THE TERRITORIES SPECIFIED IN SCHEDULE 5

State	Date of Extradition Treaty	Date of entry into force of Convention	Order in Council
Austria	9th January 1963	11th March 1974	1970/1111
Czech and Slovak Federal Republic	11th November 1924	6th May 1972	1926/1466
Denmark	31st March 1873	16th November 1972	26th June 1873
Finland	29th October 1975	14th January 1972	1976/1037
France	14th August 1876	18th October 1972	16th May 1878
Germany	14th May 1872 (reapplied and amended by the Agreement of 23rd February 1960)	10th November 1974	1960/1375
Greece	24th September 1910	20th October 1973	1912/193
Iceland	31st March 1873	29th July 1973	26th June 1873
Israel	4th April 1960	14th October 1971	1960/1660
Italy	5th February 1873	21st March 1974	24th March 1873
Luxembourg	24th November 1880	22nd December 1978	21st March 1881
Netherlands	26th September 1898	26th September 1973	1899/83
Norway	26th June 1873	14th October 1971	30th September 1873
Portugal	17th October 1892	27th December 1972	1894/102

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State	Date of Extradition Treaty	Date of entry into force of Convention	Order in Council
Spain	22nd July 1985	29th November 1972	1986/766
Sweden	26th April 1963	14th October 1971	1966/226
Switzerland	26th November 1880	14th October 1971	18th May 1881

SCHEDULE 4

Article 4

PART I

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

State	Date of entry into force of Convention
Afghanistan	28th September 1979
Bahrain	21st March 1984
Benin	12th April 1972
Bhutan	27th January 1989
Brazil	13th February 1972
Bulgaria	14th October 1971
Burkina Faso	18th November 1987
Byelorussia	29th January 1972
Cameroon	14th May 1988
Cape Verde	19th November 1977
Central African Republic	31st July 1991
Chad	11th August 1972
China	10th October 1980
Comoros	31st August 1991
Congo	24th December 1987
Costa Rica	14th October 1971
Dominican Republic	22nd July 1978
Egypt	30th March 1975
Equatorial Guinea	2nd February 1991
Ethiopia	25th April 1979
Gabon	14th October 1971
Guinea	1st June 1984

State	Date of entry into force of Convention
Guinea Bissau	19th September 1976
Honduras	13th May 1987
Indonesia	26th September 1976
Iran	24th February 1972
Ivory Coast	8th February 1973
Japan	14th October 1971
Jordan	16th December 1971
Korea, North	28th May 1983
Korea, Republic of	17th February 1973
Kuwait	24th June 1979
Laos	6th May 1989
Lebanon	9th September 1973
Libya	3rd November 1978
Madagascar	28th December 1986
Mali	14th October 1971
Marshall Islands	30th June 1989
Mauritania	1st December 1978
Mongolia	7th November 1971
Morocco	23rd November 1975
Nepal	9th February 1979
Niger	14th November 1971
Oman	4th March 1977
Philippines	25th April 1973
Qatar	25th September 1981
Rwanda	3rd December 1987
Saudi Arabia	14th July 1974
Senegal	5th March 1978
Slovenia	26th June 1992
South Africa	29th June 1972
Sudan	17th February 1979
Suriname	26th November 1978
Syria	9th August 1980
Togo	11th March 1979
Tunisia	16th December 1981

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State	Date of entry into force of Convention
Ukraine	20th March 1972
Russia	24th October 1971
United Arab Emirates	14th May 1981
Venezuela	6th August 1983
Vietnam	17th October 1979
Yemen	29th October 1986
Zaire	5th August 1977

PART II

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

1. The 1989 Act shall have effect only in respect of—
 - (a) an offence mentioned in section 22(4)(g) of that Act;
 - (b) an attempt to commit such an offence;
 - (c) counselling, procuring, commanding, aiding or abetting such an offence; and
 - (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 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 subject as aforesaid the signification of consent shall not affect the provisions of the said section 8.

3.—(1) Without prejudice to his so deciding on other grounds, the Secretary of State may, in the circumstances mentioned in the following sub-paragraph, decide not to make an order or issue a warrant—

- (a) under section 7 of the 1989 Act (an authority to proceed), or
 - (b) under section 12 of the 1989 Act ordering the person to be returned, or
 - (c) for the purposes of paragraph 2 above signifying his consent to an application for a provisional warrant.
- (2) The circumstances referred to in the preceding sub-paragraph are—
- (a) that the Secretary of State is not satisfied that provision is made by the law of the State requesting the return under which a person accused or convicted in the United Kingdom of the like offence as that with which the person whose return is sought is accused or convicted might be surrendered to the United Kingdom if found in that State, or
 - (b) that the person whose return is sought is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person.

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 134 of the Criminal Justice Act 1988.

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 _____ 19____.

SCHEDULE 5

Article 7

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
British Virgin Islands
Cayman Islands
Falkland Islands
Gibraltar
Hong Kong
Montserrat
Pitcairn, Henderson, Ducie & Oeno Islands
St Helena
St Helena Dependencies
South Georgia and the South Sandwich Islands
Sovereign Base Areas of Akrotiri & Dhekelia
Turks and Caicos Islands

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies the Extradition Act 1989 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; it does not apply to those States Parties (Commonwealth countries and Parties to the European Convention on Extradition) in relation to which the definition of extraditable offence already includes offences of the kind mentioned in this Order, except to the extent that extradition arrangements continue in force in respect of extradition between Parties to the said European Convention and one or more of the territories specified in Schedule 5.