

SCHEDULE 2

PROVISIONS OF EXTRADITION ACT 1989 AS EXTENDED TO THE LISTED TERRITORIES

PART II

RESTRICTIONS ON RETURN

6.—(1) A person shall not be returned under Part III of this Act, or committed or kept in custody for the purposes of return, if it appears to an appropriate authority—

- (a) that the offence of which that person is accused or was convicted is an offence of a political character;
- (b) that it is an offence under military law which is not also an offence under the general criminal law;
- (c) that the request for his return (though purporting to be made on account of an extradition crime) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions; or
- (d) that he might, if returned, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.

(3) A person accused of an offence shall not be returned, or committed or kept in custody for the purposes of return, if it appears to an appropriate authority that if charged with that offence in the relevant listed territory he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.

(4) A person shall not be returned, or committed or kept in custody for the purposes of such return, unless provision is made by the relevant law, or by an arrangement made with the relevant country or British overseas territory, for securing that he will not, unless he has first had an opportunity to leave it, be dealt with there for or in respect of any offence committed before his return to it other than—

- (a) the offence in respect of which his return is ordered;
- (b) an offence, other than an offence excluded by subsection (5) below, which is disclosed by the facts in respect of which his return was ordered; or
- (c) subject to subsection (6) below, any other offence being an extradition crime in respect of which the Governor may consent to his being dealt with.

(5) The offences excluded from paragraph (b) of subsection (4) above are offences in relation to which an order for the return of the person concerned could not lawfully be made.

(6) The Governor may not give consent under paragraph (c) of subsection (4) above in respect of an offence in relation to which it appears to him that an order for the return of the person concerned could not lawfully be made, or would not in fact be made.

(7) Any such arrangement as is mentioned in subsection (4) above may be an arrangement made for the particular case or an arrangement of a more general nature, and for the purposes of that subsection a certificate issued by or under the authority of the Governor confirming the existence of an arrangement with a country or a British overseas territory and stating its terms shall be conclusive evidence of the matters contained in the certificate.

(8) The reference in subsection (1) above to an offence of a political character does not include an offence against the life or person of the Head of the Commonwealth or attempting or conspiring to commit, or assisting, counselling or procuring the commission of or being accessory before or

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after the fact to such an offence, or of impeding the apprehension or prosecution of persons guilty of such an offence.

(9) In this Act “appropriate authority” means—

- (a) the Governor;
- (b) the court of committal;
- (c) a superior court of the relevant listed territory, on an application for habeas corpus or for review of the order of committal.

(10) In this section, in relation to Commonwealth countries and colonies, “race” includes tribe.