

Extradition (Hong Kong Special Administrative Region of the People's Republic of China) Notification

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THE SCHEDULE Agreement between the Government of the Republic of Singapore and the Government of the Hong Kong Special Administrative Region of the People's Republic of China for the surrender of fugitive offenders

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EXTRADITION ACT (CHAPTER 103, SECTION 4(1)(b))

EXTRADITION (HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA) NOTIFICATION

N 1

G.N. No. S 317/1998

REVISED EDITION 2000

(31st January 2000)

[11th June 1998]

Citation

1. This Notification may be cited as the Extradition (Hong Kong Special Administrative Region of the People's Republic of China) Notification.

Application of Part II of Act

2. Part II of the Act shall apply in relation to the Hong Kong Special Administrative Region of the People's Republic of China subject to the provisions of the Agreement between the Government of the Republic of Singapore (Singapore) and the Government of the Hong Kong Special Administrative Region of the People's Republic of China (Hong Kong) for the Surrender of Fugitive Offenders, set out in the Schedule, which entered into force between Singapore and Hong Kong on 11th June 1998.

THE SCHEDULE

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE HONG KONG

SPECIAL ADMINISTRATIVE REGION OF

THE PEOPLE'S REPUBLIC OF CHINA

FOR THE SURRENDER OF FUGITIVE OFFENDERS

The Government of the Republic of Singapore and the Government of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong Special Administrative Region"), having been duly authorised to conclude this agreement by the Central People's Government of the People's Republic of China:

Desiring to make provision for the reciprocal surrender of fugitive offenders:

HAVE AGREED AS FOLLOWS:

ARTICLE 1

OBLIGATION TO SURRENDER

The Parties agree to surrender to each other, subject to the provisions laid down in this Agreement, any person who, being accused or convicted of an offence under Article 2 committed within the jurisdiction of the one Party, is found within the jurisdiction of the other Party.

ARTICLE 2

OFFENCES

(1) Surrender shall be granted for an offence coming within any of the following descriptions of offences in so far as it is according to the laws of both Parties punishable by imprisonment or other form of detention for not less than one year, or by a more severe penalty:

- (a)
 - (i) murder of any degree;
 - (ii) manslaughter or culpable homicide;
 - (iii) an offence against the law relating to abortion;
 - (iv) maliciously or wilfully wounding or inflicting grievous bodily harm;
 - (v) assault occasioning actual bodily harm;
 - (vi) rape;
 - (vii) unlawful sexual intercourse with a female;
 - (viii) indecent assault;
 - (ix) procuring, or trafficking in, women or young persons for immoral purposes;
 - (x) bigamy;
 - (xi) kidnapping, abduction or false imprisonment, or dealing in slaves;
 - (xii) stealing, abandoning, exposing or unlawfully detaining a child;
 - (xiii) bribery;
 - (xiv) perjury or subornation of perjury or conspiring to defeat the course of justice;
 - (xv) arson;
 - (xvi) an offence concerning counterfeit currency;
 - (xvii) an offence against the law relating to forgery;
 - (xviii) stealing, embezzlement, fraudulent conversion, fraudulent false accounting, obtaining property or credit by false pretences, receiving stolen property or any other offence in respect of property involving fraud;
 - (xix) burglary, house-breaking or any similar offence;
 - (xx) robbery;
 - (xxi) blackmail or extortion by means of threats or by abuse of authority;
 - (xxii) an offence against bankruptcy law or company law;
 - (xxiii) malicious or wilful damage to property;

- (xxiv) acts done with the intention of endangering vehicles, vessels or aircraft;
 - (xxv) an offence against the law relating to dangerous drugs or narcotics;
 - (xxvi) piracy;
 - (xxvii) revolt against the authority of the master of a ship or the commander of an aircraft;
 - (xxviii) contravention of import or export prohibitions relating to precious stones, gold and other precious metals;
 - (xxix) hijacking and other acts endangering safety of aircraft;
 - (xxx) any other offences for which surrender may be granted in accordance with the laws of both Parties; and
- (b) aiding and abetting, or counselling or procuring the commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit, any of the offences listed in paragraph (a) of this Article.

(2) Where surrender is requested for the purpose of carrying out a sentence and the period of imprisonment or detention which remains to be served is less than four months, the requested Party may refuse surrender unless it is satisfied that the requesting Party has substantial grounds for requesting surrender.

(3) For the purposes of this Article, in determining whether an offence is an offence punishable under the laws of both Parties the totality of the acts or omissions alleged against the person whose surrender is sought shall be taken into account without reference to the elements of the offence prescribed by the law of the requesting Party.

(4) For the purposes of paragraph (1) of this Article, an offence shall be an offence according to the laws of both Parties if the act or omission constituting the offence was an offence against the law of the requesting Party at the time it was committed and an offence against the law of the requested Party at the time the request for surrender is received.

(5) Where the surrender of a fugitive offender is requested for the purpose of carrying out a sentence the requested Party may refuse to surrender him if it appears that the conviction was obtained in his absence, unless he has the opportunity to have his case retried in his presence, in which case he shall be considered as an accused person under this Agreement.

ARTICLE 3

SURRENDER OF NATIONALS

(1) The Government of the Hong Kong Special Administrative Region reserves the right to refuse the surrender of nationals of the People's Republic of China. The Government of the Republic of Singapore reserves the right to refuse the surrender of its nationals.

(2) Where the requested Party exercises this right, the requesting Party may request that the case be submitted to the competent authorities of the requested Party in order that proceedings for prosecution of the person may be considered.

(3) The nationality of the person whose surrender is sought shall be determined at the time of the commission of the offence for which surrender is requested.

ARTICLE 4

BASIS FOR SURRENDER

A person shall be surrendered only if the evidence be found sufficient, according to the law of the requested Party, either to establish a prima facie case of the offence of which that person is accused if the offence had been committed in the territory of the requested Party or to establish that the person sought is the person convicted by the courts of the requesting Party.

ARTICLE 5

MANDATORY REFUSAL OF SURRENDER

(1) A fugitive offender shall not be surrendered if the requested Party has substantial grounds for believing:

- (a) that the offence of which that person is accused or was convicted is an offence of a political character;
- (b) that the request for surrender (though purporting to be made on account of an offence for which surrender may be granted) is in fact made for the purpose of prosecution or punishment on account of his or her race, religion, nationality or political opinions; or
- (c) that the person might, if returned, be prejudiced at that person's trial or punished, detained or restricted in his or her personal liberty by reason of race, religion, nationality or political opinions.

(2) A fugitive offender who has already been tried and discharged or punished, or pardoned or whose prosecution is barred under the law of the requesting or requested Party for any offence set out in the request shall not be surrendered for that offence or for any other offence constituted by the same act or omission as that offence.

ARTICLE 6

DISCRETIONARY REFUSAL OF SURRENDER

(1) The surrender of any person sought under the terms of this Agreement may be refused if it appears to the appropriate authority of the requested Party that:

- (a) by reason of the trivial nature of the offence of which he is accused or was convicted; or
- (b) 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
- (c) because the accusation against him is not made in good faith in the interests of justice; or
- (d) because such surrender would be likely to entail exceptionally serious consequences related to age or health,

it would, having regard to all the circumstances, be unjust or oppressive to return him.