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INTRODUCTION FILE

# THE EXTRADITION BILL 2010

(NAME OF BILL) (NO. 3 OF 2010)

CONTENTS: Bill  
Objects and Reasons  
Notice of Presentation  
Covering letter from Minister to Clerk to Parliament  
(Authorisation from Minister of Finance under s.60 of Constitution)

- FROM: Attorney General's Chambers  
*x [Signature] - 5/3/10*
- TO: Minister *x [Signature] 2/03/2010*  
(for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk)
- TO: Minister of Finance *[Signature] 26/03/10*  
(for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution)
- TO: Clerk to National Parliament *[Signature]*  
(for certificate by Speaker)
- TO: Attorney General's Chambers *[Signature]*  
(for printing)
- TO: Clerk to National Parliament *[Signature] 26/03/10*  
(for reference during 1st, 2nd and 3rd Readings)  
(Date passed... *26/03/10* ... Act No. ... *3/10*)
- TO: Attorney General's Chambers *[Signature]*  
(for checking before Assent)
- TO: Governor-General *F.O. Kabra 7/4/10*  
(for Assent)
- TO: Clerk to National Parliament *[Signature] 7/4/10*  
(for distribution: 1 copy Attorney General's Chambers  
1 copy Ministry  
1 copy Parliament Office  
1 conv Registrar of the High Court)

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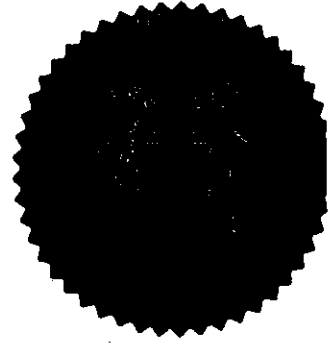
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# EXTRADITION ACT 2010

(NO. 3 OF 2010)



## EXTRADITION ACT 2010

(NO. 3 OF 2010)

**PASSED** by the National Parliament this 26<sup>th</sup> day of March 2010.

*(This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true copy of the Bill)*

*Taeasi Sanga*  
Taeasi Sanga (Mrs)  
Clerk to National Parliament

**ASSENTED** to in Her Majesty's name and on Her Majesty's behalf this 7<sup>th</sup> day of April 2010.

*F. O. Kabui*  
Sir Frank Utu Ofagioro Kabui  
GOVERNOR-GENERAL

*Date of Commencement: (See section 1)*

AN ACT TO REGULATE THE EXTRADITION OF PERSONS FROM SOLOMON ISLANDS, TO FACILITATE THE MAKING OF REQUESTS FOR EXTRADITION BY SOLOMON ISLANDS TO OTHER COUNTRIES, TO ENABLE SOLOMON ISLANDS TO CARRY OUT ITS OBLIGATIONS UNDER EXTRADITION TREATIES AND TO REPEAL THE EXTRADITION ACT (CAP. 59) AND FOR RELATED MATTERS.

**ENACTED** by the National Parliament of Solomon Islands.

**ARRANGEMENT OF SECTIONS**

**PART 1 – PRELIMINARY**

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2. Interpretation
3. Objects of the Act

**PART 2 – EXTRADITION OFFENCES AND RESTRICTIONS**

4. Extradition offence
5. Restriction on extradition

**PART 3 – EXTRADITION FROM SOLOMON ISLANDS – GENERAL PROVISIONS**

6. Application of this Part
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- 41. Application of Part 3
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- 45. Search and seizure on arrest without a warrant
- 46. Search and seizure warrant
- 47. Return of seized property
- 48. Arrest of persons escaping from custody
- 49. Arrest of persons released on bail
- 50. Transit permission

## EXTRADITION ACT 2010

### PART 1 – PRELIMINARY

Short title and commencement

1. This Act may be cited as the Extradition Act 2010, and commences on the day appointed by the Minister, by notice in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires –

“bond” includes recognisance of bail whether with or without surety;

“comity country” means a country other than a Commonwealth country, a Forum country or a treaty country;

“Commonwealth country” means a country listed in Schedule 1, and includes a country not listed in Schedule 1 but later joins the Commonwealth of Nations;

“correctional centre” means a correctional centre established under the Correctional Services Act 2007, and includes a jail, police cell or other place where a person is ordered under this Act to be detained;

“country” includes –

- (a) a colony, territory or protectorate of a country;
- (b) a territory for the international relations of which a country is responsible; and
- (c) a ship or aircraft owned by, or registered in, a country;

“court” means a magistrate’s court, the High Court or the Court of Appeal;

“endorsed warrant” means a warrant that has been issued in a Forum country and endorsed under section 29;

“extradition arrangement” includes any treaty or agreement relating to the extradition of fugitive offenders made

“extradition warrant” means –

- (a) where the expression is used in Part 3, a warrant, in accordance with Form 2 in Schedule 3, issued under section 13(5) or 19(5); or
- (b) where the expression is used in Part 5, a warrant, in accordance with Form 4 in Schedule 3, issued under section 34(3)(a) or 35(3)(a);

“Forum country” means a country that is a member country of the Pacific Islands Forum country listed in Schedule 2;

“foreign escort officer” means a representative of the country to whom a person is to be extradited who is authorised by that country to escort the person from Solomon Islands to that country;

“ICPO-Interpol” means the International Criminal Police Organisation;

“law of a country” includes a law in force in any part of the country;

“magistrate” means a principal magistrate;

“original warrant” means a warrant issued in a Forum country for the arrest of a person in relation to an extradition offence;

“political offence”, in relation to a country, means an offence against the law of the country that is of a political character (whether because of the circumstances in which it is committed or otherwise and whether or not there are competing political parties in the country), but does not include –

- (a) an offence –
  - (i) that is constituted by conduct of a kind referred to in a multilateral treaty to which Solomon Islands is a party; and



“treaty” includes a convention, protocol or agreement between two or more countries;

“treaty country” means a country with which Solomon Islands has an extradition treaty;

“writing” includes facsimile, electronic mail and any other means of communication, which can be reproduced in printed form.

Objects of the Act

3.

The objects of this Act are –

- (a) to provide for the requirements and procedures for making an extradition request;
- (b) to provide for the extradition from Solomon Islands to Commonwealth countries of persons accused or convicted of extradition offences in those countries;
- (c) to provide for the extradition from Solomon Islands to Forum Countries of persons accused or convicted of extradition offences in those countries, by means of the procedure known as backing of warrants;
- (d) to provide for the extradition of persons from Solomon Islands to countries with which Solomon Islands has an extradition treaty;
- (e) to provide for extradition from Solomon Islands to countries other than Commonwealth countries, Forum Countries or treaty countries;
- (f) to provide for the search of persons and seizure of property, the arrest of certain persons, and the transit of extradited persons through third countries; and
- (g) to provide for the extradition of persons to Solomon Islands.

#### PART 2 – EXTRADITION OFFENCES AND RESTRICTIONS

Extradition offence

4.

(1) An offence is an extradition offence if –

- (a) it is an offence against a law of the requesting country for which the maximum

sex or status, or for a political offence in the requesting country;

- (c) on extradition, the person may be prejudiced at his or her trial, or punished, detained or restricted in his or her personal liberty, because of his or her race, religion, nationality, political opinions, sex or status;
- (d) the offence for which extradition is requested is an offence under the military law but the offence is also not an offence under the civilian laws of the requesting country;
- (e) final judgment or order has been given and enforced against the person in Solomon Islands, or in a third country, for the offence for which extradition is requested;
- (f) under the law of the requesting country or Solomon Islands, the person has become immune from prosecution or punishment because of lapse of time, amnesty or any other reason;
- (g) the person has already been acquitted or pardoned in the requesting country or Solomon Islands, or punished under the law of that country or Solomon Islands, for the offence or another offence constituted by the same conduct as the extradition offence; or
- (h) the judgment has been given in the person's absence and there is no provision in the law of the requesting country entitling the person to appear before a court and raise any defence the person may have.

### PART 3 – EXTRADITION FROM SOLOMON ISLANDS – GENERAL PROVISIONS

Application of  
this Part            6.    This Part applies to extradition from Solomon Islands to the  
following countries –

- (a) to a Commonwealth country in accordance with Part 4;
- (b) to a treaty country in accordance with Part 6;

- (d) the text of the law creating the offence or, if the offence is not created by statute, a statement of the offence; and
- (e) the text of the law of the requesting country that prescribes the penalty or, if the penalty is not prescribed by statute, a statement of the penalty that can be imposed.

Arrest and  
remand on  
provisional arrest  
warrant

9. (1) A person arrested under a provisional arrest warrant shall be brought before a magistrate as soon as practicable.

(2) The magistrate shall, until the Minister issues an authority to proceed –

- (a) remand the person in custody; or
- (b) if the magistrate is satisfied that the person is unlikely to abscond, remand the person on bail.

(3) A magistrate who remands a person on bail –

- (a) has the same powers in relation to bonds and reporting conditions as the magistrate has under any other written law; and
- (b) may order that the person's passport and other travel documents be surrendered to the magistrate's court until the extradition proceedings in relation to the person are concluded.

(4) A person shall not be remanded in custody or on bail for a period longer than forty-two days.

(5) As soon as possible after remanding the person, the magistrate shall, within seven days of making a remand order –

- (a) in writing, advise the Minister –
  - (i) that the person has been remanded;
  - (ii) the name of the requesting country; and

- (b) the discharge of the bond on which bail was granted.

Authority to proceed

11. (1) If an extradition request is received, the Minister shall –

- (a) consider the request;
- (b) issue an authority to proceed if the Minister is satisfied that –
  - (i) the offence for which extradition is sought is an extradition offence;
  - (ii) the requesting country is an extradition country;
  - (iii) there is nothing in section 19 or any other law that would preclude extradition of the person; and
  - (iv) there is no other reason why the authority to proceed should not be issued;
- (c) provide the authority to proceed to a magistrate; and
- (d) provide a copy of the authority to proceed and the extradition request to the person.

(2) If an authority to proceed is received by a magistrate in relation to a person who has not been arrested under a provisional arrest warrant, the magistrate shall issue a warrant for the arrest of the person.

Arrest and remand on authority to proceed

12. (1) A person who is arrested under a warrant issued under section 11(2) shall be brought before a magistrate as soon as practicable.

- (2) The magistrate shall –
  - (a) remand the person in custody; or
  - (b) if the magistrate is satisfied that the person is unlikely to abscond, remand the person on bail,

- (aa) the person will be committed to a correctional centre without any extradition proceedings; and
- (bb) after the Minister issues an extradition warrant, the person will be extradited to the requesting country.

(4) If the person again consents to being extradited after being informed under subsection (3), the magistrate shall –

- (a) by warrant, order that the person be committed to a correctional centre; and
- (b) advise the Minister in writing that the person has been committed to a correctional centre for the offence for which the person has consented to be extradited.

(5) The Minister may, after being informed under subsection (4), issue an extradition warrant.

Extradition proceedings

**14.** The magistrate shall conduct the extradition proceedings, as soon as practicable, if –

- (a) the Minister has issued an authority to proceed for an extradition offence in relation to a person;
- (b) the person has not consented to the extradition for the offence;
- (c) an application is made to a magistrate by or on behalf of the person or the requesting country for extradition proceedings to be conducted in relation to the person; and
- (d) the magistrate considers that the person and the requesting country have had reasonable time since the person received a copy of the extradition request in which to prepare for the proceedings.

Conduct of extradition proceedings

**15.** (1) Extradition proceedings shall be conducted in the same manner as criminal proceedings.

(2) The following rules that apply in criminal proceedings apply to extradition proceedings –

- (a) summoning witnesses;

Islands, there would be sufficient evidence to place the person on trial.

(3) If the magistrate makes an extradition order under subsection (1), the magistrate shall –

- (a) issue a warrant, ordering that the person be committed to a correctional centre to await the issuance of the extradition decision;
- (b) inform the person that he or she may, within fifteen days after the day on which the extradition order is made, seek a review of the order under section 18;
- (c) record in writing his or her decision and the extradition offence for which the person should be extradited; and
- (d) provide a copy of the record to the person, the Director of Public Prosecutions and the Minister.

(4) If –

- (a) an extradition order has been made; and
- (b) the requesting country has asked that the person also be extradited for another offence that is not an extradition offence,

the magistrate shall ask the person whether the person also consents to being extradited for that other offence.

(5) If the magistrate determines that the person should not be extradited to the requesting country, the magistrate shall –

- (a) order that the person be released; and
- (b) advise the Minister in writing of the order and of the magistrate's reasons for determining that the person should not be extradited.

the magistrate shall adjourn the proceedings for a reasonable period to allow the deficiency to be remedied.

(3) Any document that is duly authenticated is admissible in the proceedings.

(4) A document that is sought by or on behalf of the requesting country to be admitted in the proceedings is duly authenticated if—

- (a) it purports to be signed or certified by a judge, magistrate or officer of the requesting country; and
- (b) it purports to be authenticated by the oath or affirmation of a witness or to be sealed with an official or public seal—
  - (i) in the case of a requesting country, by or on behalf of a Minister or the Head of a Department of the Government of that country; or
  - (ii) if the extradition country is a colony, territory or protectorate, by or on behalf of the person administering the Government of that country or the Head of Department of the Government of that country.

(5) Nothing in this section prevents the proof of any matter or the admission of any document in the proceedings in accordance with any other law of Solomon Islands.

Review of  
extradition  
order by High  
Court

18. (1) If a magistrate makes an extradition order against a person, the person may apply to the High Court for a review of the extradition order.

(2) If a magistrate orders that a person be released or makes an extradition order that the person be extradited for some offences only, the requesting country may apply to the High Court for a review of the extradition order, through the Minister in accordance with the prescribed procedures.

(3) The application shall be made within fifteen days from the date of the extradition order.

(4) The High Court shall have regard only to the material that was before the magistrate.

- (ii) the law of the requesting country does not contain a provision prohibiting prosecution for an offence other than the one for which the person is extradited;
- (b) the person is a citizen of Solomon Islands;
- (c) the offence for which extradition has been ordered is punishable by death in the requesting country but not in Solomon Islands and the requesting country has not given sufficient undertaking that the penalty either will not be imposed or, if imposed, will not be carried out;
- (d) a prosecution for the offence for which extradition has been ordered is pending against the person in Solomon Islands;
- (e) the offence for which extradition has been ordered was committed outside the territory of the requesting country and the law of Solomon Islands does not provide for jurisdiction over an offence of that kind committed in similar circumstances outside Solomon Islands;
- (f) the offence for which extradition has been ordered is regarded by Solomon Islands as having been committed wholly or partly within Solomon Islands;
- (g) the person has been sentenced or would be liable to be tried or sentenced in the requesting country by an extraordinary or *ad hoc* court or tribunal;
- (h) the person has been subjected in the requesting country to torture or cruel, inhuman or degrading treatment or punishment; or
- (i) having regard to –
  - (i) the national interest of Solomon Islands, including its interests in



an extradition warrant unless the Minister decides that a temporary warrant is to be issued.

(6) If the Minister decides that the person is not to be extradited to the requesting country, the Minister shall order that the person be released.

Requirements for  
extradition  
warrants

20. (1) The extradition warrant shall –
- (a) be in writing;
  - (b) state the offences for which the person is to be extradited;
  - (c) require any person who has custody of the person to hand the person over to a police officer;
  - (d) authorise a police officer–
    - (i) to transport the person from the place where the police officer takes custody of the person to another place within Solomon Islands for the purpose of handing the person over to the custody of a foreign escort officer;
    - (ii) to hold the person in custody for so long as is necessary to enable the person to be handed over to the foreign escort officer; and
  - (e) authorise the foreign escort officer to transport the person out of Solomon Islands.
- (2) If the person is serving a custodial sentence, or has been admitted to bail in Solomon Islands for an offence committed in Solomon Islands, the extradition warrant shall not be executed until –
- (a) the person has been released from custody;  
or
  - (b) the conditions of bail have been met.

Islands for the purpose of completing the sentence for which the person was in custody in Solomon Islands.

(5) If –

- (a) time spent in custody in the requesting country is taken into account as mentioned in subsection (4); and
- (b) because of this, the person's sentence in Solomon Islands is concluded,

the Minister shall inform the requesting country that the undertaking given by that country about the speedy trial and return of the person no longer applies.

Execution of  
extradition  
warrant

22. (1) If a person is not extradited under an extradition warrant within two months –

- (a) after the date the extradition warrant was issued; and
- (b) whether or not the person is in custody or on bail;

the person may apply to the High Court for the discharge of the warrant and the person shall serve a copy of the application on the Director of Public Prosecutions and the Minister.

(2) The High Court shall order that the person be released from custody, if the Court is satisfied that –

- (a) the Director of Public Prosecutions and the Minister have been served with the application; and
- (b) there is no reasonable cause for delay in extraditing the person.

Record of the  
case scheme

26. (1) In this section, "record of the case", for an offence for which extradition is sought, means –

- (a) a document containing a recital of the evidence acquired to support the request; and
- (b) an authenticated copy, reproduction or photograph of all exhibits and documentary evidence.

(2) In addition to any evidentiary requirements in this Part, a magistrate shall not make an extradition order for a commonwealth requesting country listed in Part 2 of Schedule 1 unless a record of the case is produced for the offence for which extradition is sought.

(3) The record of the case shall be accompanied by –

- (a) a sworn statement of an officer of the authority that investigated the offence, stating that –
  - (i) the record of the case was prepared by or under the direction of the officer; and
  - (ii) the evidence in the record of the case has been preserved for use in the person's trial; and
- (b) a certificate of the Minister of the commonwealth requesting country stating that, in the Minister's opinion, the record of the case discloses the existence of evidence that is sufficient under the law of the commonwealth requesting country to justify a prosecution in the requesting country.

(4) A person shall not be remanded in custody or on bail under this section for a period longer than twenty-eight days.

Endorsement of  
warrant

29. (1) If –
- (a) an application is made to a magistrate on behalf of a Forum country for the endorsement of an original warrant; and
  - (b) the magistrate is informed by sworn statement that the person named in the original warrant is, or is suspected of being, in or on his or her way to Solomon Islands,

the magistrate shall endorse the original warrant to authorise the arrest of the person in Solomon Islands under the original warrant.

(2) Where the original warrant has been endorsed, any provisional arrest warrant issued shall be deemed to have been cancelled without affecting anything previously done under the provisional arrest warrant.

Arrest and  
remand on  
endorsed warrant

30. (1) A person who is arrested under an endorsed warrant shall be brought before a magistrate as soon as practicable.

- (2) The magistrate shall –
- (a) remand the person in custody; or
  - (b) if the magistrate is satisfied that the person is unlikely to abscond, remand the person on bail,

for the period that is necessary for the extradition proceedings to be conducted, including the processing of consent for extradition under section 34.

(3) Section 28(3) and (4) applies to this section.

(4) If a magistrate remands the person in custody after the person has made an application for bail, the person is not entitled to apply to any other magistrate for bail during that remand, unless the first magistrate is no longer available.

Release from  
remand

31. (1) A person shall be brought before a magistrate, if –
- (a) the person is on remand in custody or on bail at the expiry of twenty-eight days after the day on which the person was arrested on a provisional warrant; and

extradition proceedings to be conducted in relation to the person.

Conduct of  
extradition  
proceedings

33. (1) A magistrate shall not conduct the extradition proceedings unless the magistrate is satisfied that both the person sought and the Forum country have had reasonable time to prepare for the conduct of the proceedings.

(2) The extradition proceedings shall be conducted in the same manner as criminal proceedings.

(3) The rules that apply in criminal proceedings in relation to the following matters apply to the extradition proceedings –

- (a) summoning witnesses;
- (b) remanding accused persons;
- (c) ordering the production of documents;
- (d) administration of oaths and affirmations;
- (e) payment of witness expenses;
- (f) contempt of court, privilege and other matters relating to the administration of courts;
- (g) imposition and level of fines for offences.

(4) In the extradition proceedings, the person is not entitled to adduce, and the magistrate is not entitled to receive, evidence to contradict an allegation that the person has engaged in conduct that constitutes the offence for which extradition is sought.

Consent to  
extradition

34. (1) At the extradition proceedings the magistrate shall ask the person if he or she consents to being extradited.

(2) If –

- (a) the person informs the magistrate that he or she consents to being extradited; and
- (b) the magistrate is satisfied that the consent was given voluntarily,

- (3) If the magistrate makes an extradition order, the magistrate shall –
- (a) give a copy to the Minister who shall, after twenty-one days has expired from the date of the extradition order, by an extradition warrant, make an extradition decision that the person be extradited to the Forum country;
  - (b) by warrant, order that the person be committed to a correctional centre until the person is extradited to the Forum country;
  - (c) inform the person of his or her right to a review of the extradition order under section 36 within fifteen days;
  - (d) record in writing his or her decision and the extradition offence for which the person is to be extradited; and
  - (e) give a copy to the person.
- (4) Notwithstanding subsection (3), if –
- (a) the person is serving a custodial sentence in Solomon Islands; and
  - (b) extradition is sought for an offence for which the person is accused but not convicted,

the Minister shall not issue an extradition warrant for the person but shall issue a temporary extradition warrant under section 38.

(5) If the Minister determines that the person should not be extradited to the Forum country because of an extradition restriction under section 5, the Minister shall order that the person be released.

Review of extradition order by High Court 36. (1) The person who is subject to the extradition order may apply to the High Court under section 18 for a review of the order, subject to necessary modifications of that section for its application to this Part.

(2) The right under section 18(2) applies to a Forum country.

(4) The Minister shall inform the requesting country that the undertakings given by that country about the speedy trial and return of the person no longer apply, if –

- (a) time spent in custody in the Forum country is taken into account as mentioned in subsection (3); and
- (b) because of this, the person's sentence in Solomon Islands is concluded.

Execution of  
extradition  
warrant

39. (1) If a person is not extradited under an extradition warrant within two months after –

- (a) the date the extradition warrant was issued; or
- (b) if the person is serving a custodial sentence, or has been admitted to bail in Solomon Islands, the person has been released from custody or the bond has been discharged,

the person may apply to the High Court to be released from custody and the person shall serve a copy of the application on the Director of Public Prosecutions and the Minister.

(2) If the High Court is satisfied that –

- (a) the Director of Public Prosecutions and the Minister have been served with the application; and
- (b) there is no reasonable cause for delay in extraditing the person,

the High Court shall order that the person be released from custody.

(3) Without limiting subsection (2)(b), reasonable cause for delay exists if –

- (a) it would have been a danger to the person's life or prejudicial to the person's health, to extradite the person;
- (b) there was no suitable means of transporting the person to the requesting country, and all

(2) When the Minister certifies that the comity country is an extradition country, he or she may also specify the provisions of this Act that are to apply to the extradition request.

(3) In determining whether a comity country is to be an extradition country, the Minister shall consider –

- (a) the public interest of Solomon Islands;
- (b) if the country is to be certified, the seriousness of the offence for which extradition of the person is sought; and
- (c) the public interest of the requesting country.

Limitation on extradition proceedings

43. Proceedings may not be commenced on a request from a comity country for the extradition of a person unless the country has been prescribed or certified as an extradition country under section 42.

Other modifications of Part 3

44. When the Minister prescribes or certifies a comity country as an extradition country, the Minister may also modify Part 3 in its application to the country under this Part.

#### PART 8 – GENERAL PROVISIONS RELATING TO SEARCH, SEIZURE AND ARREST

Search and seizure on arrest without a warrant

45. (1) This section applies to a person arrested –

- (a) on a warrant issued under this Act; or
- (b) on an endorsed warrant.

(2) If a police officer who arrests a person under this Act has reasonable grounds for suspecting that property in the vicinity of the person –

- (a) may be material as evidence in proving an offence for which the warrant was issued; or
- (b) has been acquired by the person as the result of the offence for which the warrant was issued,

the police officer may seize the property.



Search and seizure warrant 46. (1) If a magistrate is informed by sworn statement that there are reasonable grounds for suspecting that there may be in a place –

- (a) a thing that may be material as evidence in proving an offence for which a provisional arrest warrant was issued or extradition of a person is sought; or
- (b) a thing that has been acquired by a person as a result of such an offence,

and the sworn statement sets out those grounds, the magistrate may issue a warrant authorising a police officer, with such assistance, and by such force, as is necessary and reasonable –

- (aa) to seize the thing;
- (bb) to enter the place and seize the thing; or
- (cc) to enter the place, search the place for a thing of that kind and seize a thing of that kind found in the place.

(2) The magistrate shall not issue the warrant unless –

- (a) there has been given to the magistrate by sworn statement further information that the magistrate requires about the grounds on which the warrant is being sought; and
- (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(3) The warrant shall state –

- (a) the purpose for which it is issued, including a reference to the nature of the offence referred to in subsection (1);
- (b) whether it authorises entry at any time of the day or night or during specified hours of the day or night;
- (c) the kind of things that may be seized; and

Judge or magistrate is satisfied that the interests of justice in the requesting country require the property to be returned to the requesting country.

Arrest of persons  
escaping from  
custody 48. (1) A police officer may arrest a person without a warrant if the police officer has reasonable grounds for believing that the person has escaped from custody that was authorised under this Act.

(2) The person shall be returned to the custody mentioned in subsection (1).

Arrest of persons  
released on bail 49. (1) A police officer may arrest a person who has been released on bail under this Act if the police officer has reasonable grounds for believing that the person has contravened, or is about to contravene, a condition subject to which bail was granted.

(2) The person arrested under subsection (1) shall be brought before a magistrate as soon as practicable.

Transit  
permission 50. (1) The Minister shall, after consulting the Minister responsible for immigration, give permission to a country (the "second country") to transport through Solomon Islands a person who has been extradited to the second country by a third country if –

- (a) the second country asked for transit permission before the person entered Solomon Islands; and
- (b) the second country is an extradition country.

(2) Where permission for transit is given under subsection (1) –

- (a) a police officer in Solomon Islands may assist the foreign escort officer escorting the person; and
- (b) the person may be held in custody in Solomon Islands until the person's journey can continue.

(3) If it is necessary to hold the person in custody for more than twenty-four hours, the person shall be brought before a magistrate who may issue a warrant to commit the person to custody.

committed before the person was extradited to Solomon Islands,

unless one of the following circumstances applies –

- (aa) the country that extradited the person to Solomon Islands consents to the person being detained and tried or extradited;
- (bb) the person has had the opportunity of leaving Solomon Islands.

Persons temporarily extradited to Solomon Islands

53. (1) If a person extradited to Solomon Islands –

- (a) has not completed a custodial sentence in the extraditing country immediately before being extradited; or
- (b) is a person whom Solomon Islands has undertaken to hold in custody and return to the extradition country,

the person –

- (aa) shall, while travelling to and from, and while in Solomon Islands, be kept in the custody ordered in writing by the Minister;
- (bb) may only be tried for an offence for which the person was extradited; and
- (cc) after the person has been tried, shall be returned to the extraditing country.

(2) If –

- (a) a person is held in custody only because of an order of the Minister under subsection (1)(aa); and
- (b) the extraditing country notifies Solomon Islands that the extraditing country no longer requires the person to be returned,

the Minister shall order that the person be released from custody.

- (c) the person would have committed an offence under a written law of Solomon Islands if the person had engaged in the conduct, or equivalent conduct, in Solomon Islands at that time,

the person may be prosecuted and punished in Solomon Islands for the offence.

(2) The circumstances for the purpose of subsection (1)(b) are --

- (a) the person is a citizen of Solomon Islands;
- (b) on being extradited, the person may be prejudiced at his or her trial, or punished, detained or restricted in his or her personal liberty, because of his or her race, religion, nationality, political opinion, sex or status;
- (c) the person has been subjected in the requesting country to torture or cruel, inhuman or degrading treatment or punishment;
- (d) the judgment has been given in the person's absence and there is no provision in the law of the requesting country entitling the person to appear before a court and raise any defence the person may have;
- (e) the offence for which extradition has been ordered is punishable by death in the requesting country but not in Solomon Islands and the requesting country has not given a sufficient undertaking that the penalty either will not be imposed or, if imposed, will not be carried out; or
- (f) the person has been sentenced or would be liable to be tried or sentenced in the requesting country by an extraordinary or *ad hoc* court or tribunal.

(3) For the purpose of the prosecution, the person shall be taken to have engaged in the conduct in Solomon Islands.

cruel, inhuman or degrading  
treatment or punishment; or

- (b) a magistrate orders under section 35(2)(e) that a person should not be extradited because the prison conditions in the requesting country are not substantially equivalent to the minimum standards for imprisonment in Solomon Islands,

and the requesting country makes an extradition request for the purposes of trial only, a magistrate or Judge may order the extradition of the person to the requesting country, for the purpose of being tried in the requesting country for the offence for which extradition is sought if –

- (aa) the law of the requesting country permits the transfer of convicted persons to Solomon Islands;
- (bb) the Minister is satisfied that if the person is convicted the person will be returned to Solomon Islands to serve the sentence imposed; and
- (cc) the Minister is satisfied that there is no likelihood that the person will be subjected to torture or cruel, inhuman or degrading treatment or punishment.

Granting of bail      59. Notwithstanding any law allowing of the granting of bail, bail under this Act shall only be granted under special circumstances.

Restrictions on interlocutory applications, etc      60. Without prejudice to the provisions of this Act for the right to make other applications, no other application of an interim or interlocutory nature or for any other relief shall be made by the person to be extradited except to the High Court within twenty-one days from the date of the extradition order.

Regulations and applications      61. (1) The Minister may make regulations to give effect to the provisions of this Act, and in particular –

- (a) to amend Schedules;
- (b) to set out the text of extradition treaties;
- (c) to give effect to a new extradition treaty; and
- (d) to prescribe other forms and fees for the purpose of this Act.

**SCHEDULE 1**  
(Section 24)

**COMMONWEALTH COUNTRIES**

Part 1 – Countries to which *prima facie* evidence scheme applies

Part 2 – Countries to which the record of the case scheme applies

Anguilla	Malaysia
Antigua and Barbuda	Malawi
Bahamas	Maldives
Bangladesh	Malta
Barbados	Mauritius
Belize	Montserrat
Bermuda	Mozambique
Botswana	Namibia
British Antarctic Territory	Nigeria
British Indian Ocean Territory	Pakistan
British Virgin Islands	Pitcairn Islands
Brunei Darussalam	St Helena and Dependencies
Cameroon	St Kitts and Nevis
Canada	St Lucia
Cayman Islands	St Vincent and the Grenadines
Cyprus	Seychelles
Cyprus (Sovereign Base Areas of Akrotiri and Dhekelia)	Sierra Leone
South Africa	Singapore
Dominica	South Georgia and South Sandwich Islands
Falkland Islands	Sri Lanka
Ghana	Swaziland
Gibraltar	Tanzania
Grenada	The Gambia
Guyana	Trinidad and Tobago
India	Turks and Caicos Islands
Jamaica	Uganda
Kenya	United Kingdom of Great Britain and Northern Ireland
Lesotho	Zambia
	Zimbabwe

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- (a) require any person who has custody of [*name of person*] to hand the person over to the police officer who has this warrant; and
- (b) authorise you to bring [*name of person*] to [*name of handover place in Solomon Islands*] for the purpose of handing [*name of person*] over to the custody of a person authorised by [*requesting country*] to escort [*name of person*] to [*requesting country*]; and
- (c) authorise you to hold [*name of person*] in custody for so long as is necessary to hand *him/her* over to the foreign escort officer; and
- (d) authorise the foreign escort officer to transport [*name of person*] out of Solomon Islands.

Dated this        day of

2....

*Signature of Minister*

**Form No. 4 – Extradition Warrant – (Forum Country)**

To all police officers:

I, [*name of the Minister*], have decided under section [34(3) or 35(3)] of Act that [*name of person*] is to be extradited to [*Forum country*] for the offence of [*specify each offence for which the person is to be extradited*].

NOW THEREFORE I, [*name of Minister*]:

- (a) order that [*name of person*] be extradited to [*Forum country*]; and
- (b) order that [*name of person*] be committed to a correctional centre until *he/she* is extradited to [*Forum country*]; and
- (c) require any person who has custody of [*name of person*] to hand the person over to the police officer who has this warrant; and
- (d) authorise you to bring [*name of person*] to [*name of handover place in Solomon Islands*] for the purpose of handing [*name of person*] over to the custody of a person authorised by [*Forum country*] to escort [*name of person*] to [*Forum country*]; and
- (e) authorise you to hold [*name of person*] in custody for so long as is necessary to hand *him/her* over to the foreign escort officer; and
- (f) authorise the foreign escort officer to transport [*name of person*] out of Solomon Islands.

Dated this        day of

2....

*Signature of Minister*