

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

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

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Application of Act
The Schedule
-

[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 Act

2. The Act (except for Parts 5 and 6) applies 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.

[S 560/2022 wef 01/07/2022]

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

THE SCHEDULE — *continued*

punishable by imprisonment or other form of detention for not less than one year, or by a more severe penalty:

- (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;

THE SCHEDULE — *continued*

- (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.

THE SCHEDULE — *continued*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

THE SCHEDULE — *continued*

- (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.

(2) The requested Party may also refuse to surrender a fugitive offender:

- (a) where the Government of Singapore is the requested Party, the surrender would significantly affect the interests of the Government of Singapore in matters of defence or foreign affairs;
- (b) where the Government of the Hong Kong Special Administrative Region is the requested Party, the surrender would significantly affect the interests of the Government of the People's Republic of China in matters of defence or foreign affairs.

(3) Surrender may also be refused if the requested Party considers that the surrender might place that Party in breach of its obligations under an international treaty.

THE SCHEDULE — *continued*

(4) Where the Government of the Republic of Singapore is the requested Party, the requested Party shall not be required to surrender a fugitive offender who is a member of the armed forces of a third state stationed in the territory of the requested Party. The same shall apply to a civilian accompanying and serving with those armed forces and to the dependents of any such member or civilian.

ARTICLE 7

POSTPONEMENT OF SURRENDER

If the person sought is being proceeded against or is under punishment in the jurisdiction of the requested Party for any offence other than that for which surrender is requested, surrender may be granted or deferred until the conclusion of the proceedings and the execution of any punishment imposed.

ARTICLE 8

THE REQUEST AND SUPPORTING DOCUMENTS

(1) Requests for surrender and related documents shall be conveyed through the appropriate authority as may be notified from time to time by one Party to the other.

(2) The request shall be accompanied by:

- (a) as accurate a description as possible of the person sought, together with any other information which would help to establish that person's identity, nationality and location;
- (b) a statement of each offence for which surrender is sought and a statement of the acts and omissions which are alleged against the person in respect of each offence; and
- (c) the text of the legal provisions, if any, creating the offence, and a statement of the punishment which can be imposed therefor and any time limit on the institution of proceedings, or on the execution of any punishment for that offence.

(3) If the request relates to an accused person it shall also be accompanied by a copy of the warrant of arrest issued by a judge, magistrate or other competent authority of the requesting Party and by such evidence as, according to the law of the requested Party, would establish a prima facie case of the offence of which that person is accused if the offence had been committed within the jurisdiction of the requested Party.

THE SCHEDULE — *continued*

(4) If the request relates to a person already convicted or sentenced, it shall also be accompanied by:

- (a) a copy of the certificate of the conviction or sentence; and
- (b) if the person was convicted but not sentenced, a statement to that effect by the appropriate court and a copy of the warrant of arrest; or
- (c) if the person was sentenced, a statement indicating that the sentence is enforceable and how much of the sentence has still to be served.

ARTICLE 9

AUTHENTICATION

(1) Documents supporting a request for surrender shall be admitted in evidence as proof of the facts contained therein if duly authenticated. Documents are duly authenticated if they purport to be:

- (a) certified by a judge or magistrate of the requesting Party to be the original document containing or recording that evidence or a true copy of such a document; and
- (b) sealed with the official seal of a competent authority of the requesting Party.

(2) An authenticated translation of documents submitted in support of a request for surrender provided by the requesting Party shall be admitted for all purposes in proceedings for surrender.

ARTICLE 10

LANGUAGE OF DOCUMENTATION

All documents submitted in accordance with this Agreement shall be in, or translated into, an official language of the requested Party, to be specified by the requested Party in each case.

ARTICLE 11

ADDITIONAL INFORMATION

(1) If the information communicated by the requesting Party is found to be insufficient to allow the requested Party to make a decision in pursuance of this

THE SCHEDULE — *continued*

Agreement, the latter Party shall request the necessary additional information. The requested Party may fix a time-limit for the submission of such information and may grant a reasonable extension of the time-limit upon the application of the requesting party setting forth reasons therefor.

(2) If the person whose surrender is sought is under arrest and the additional information furnished is not sufficient in accordance with this Agreement or is not received within the time specified, the person may be discharged. Such discharge shall not preclude the requesting Party from making a fresh request for the surrender of the person.

ARTICLE 12

PROVISIONAL ARREST

(1) In urgent cases the person sought may, at the discretion of the requested Party and in accordance with its law, be provisionally arrested on the application of the requesting Party.

(2) The application for provisional arrest shall contain an indication of intention to request the surrender of the person sought, a statement of the existence of a warrant of arrest or a judgment of conviction against that person, information concerning identity, nationality and probable location, a description of the person, a brief description of the offence and the facts of the case and a statement of the sentence that can be or has been imposed for the offence and, where applicable, how much of that sentence remains to be served.

(3) An application for provisional arrest may be transmitted by any means affording a record in writing through the channel notified under paragraph (1) of Article 8 or through the International Criminal Police Organisation (Interpol).

(4) The provisional arrest of the person sought shall be terminated upon the expiration of sixty days from the date of arrest if the request for surrender and supporting documents have not been received. The release of a person pursuant to this paragraph shall not prevent the institution or continuation of surrender proceedings if the request and the supporting documents are received subsequently.

ARTICLE 13

CONCURRENT REQUESTS

THE SCHEDULE — *continued*

If the surrender of a person is requested concurrently by one of the Parties and a state with whom the Republic of Singapore or the Hong Kong Special Administrative Region, whichever is being requested, has agreements or arrangements for the surrender of accused and convicted persons, the requested Party shall make its decision having regard to all the circumstances including the provisions in this regard in any agreements in force between the requested Party and the requesting Parties, the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality and ordinary place of residence of the person sought and the possibility of subsequent surrender to another state. The requested Party shall notify the requesting Party of its decision in the event of surrender of the person to another jurisdiction.

ARTICLE 14

REPRESENTATION AND COSTS

(1) The requested Party shall make all necessary arrangements for legal representation and assistance in any proceedings arising out of requests for the surrender of a fugitive offender. In the case of requests made by the Hong Kong Special Administrative Region, the Attorney-General of Singapore or counsel instructed or appointed by him shall conduct the proceedings. In the case of requests made by Singapore, the proceedings shall be conducted by the competent legal authorities in accordance with the law and practice of the Hong Kong Special Administrative Region.

(2) Expenses incurred in the jurisdiction of the requested Party arising from the request or by reason of surrender shall be borne by that Party. If it becomes apparent that expenses of an extraordinary nature are likely to be incurred, the Parties shall consult each other to determine how these expenses shall be met.

(3) The requesting Party shall bear all expenses following the surrender.

ARTICLE 15

ARRANGEMENTS FOR SURRENDER

(1) The requested Party shall, as soon as a decision on the request for surrender has been made, communicate that decision to the requesting Party.

(2) When a person is to be surrendered, that person shall be delivered under the custody of the authorities of the requested Party to a convenient place of departure within that Party's jurisdiction.

THE SCHEDULE — *continued*

(3) Subject to the provisions of paragraph (4) of this Article, the requesting Party shall remove the person within the period specified by the requested Party and if the person is not removed within that period the requested Party may refuse to surrender that person for the same offence.

(4) If circumstances beyond its control prevent a Party from surrendering or taking over the person to be surrendered, it shall notify the other Party. In that case, the two Parties shall agree a new date for surrender and the provisions of paragraph (3) of this Article shall apply.

ARTICLE 16

SURRENDER OF PROPERTY

(1) To the extent permitted under its law, the requested Party may seize and surrender to the requesting Party all property (including sums of money) found in the possession of the fugitive offender at the time of his arrest which may serve as proof of the offence in respect of which surrender is granted.

(2) If the property in question is liable to seizure or confiscation within the jurisdiction of the requested Party the latter may, in connection with pending proceedings, temporarily retain it or hand it over on condition it is returned.

(3) These provisions shall not prejudice the rights of the requested Party or of any person other than the person sought. When such rights exist the property shall on request be returned to the requested Party without charge as soon as possible after the end of the proceedings.

ARTICLE 17

SPECIALTY AND RESURRENDER

(1) A fugitive offender who has been surrendered shall not be proceeded against, sentenced, detained or subjected to any other restriction of personal liberty by the requesting Party for any offence committed prior to his surrender other than:

- (a) the offence or offences in respect of which his surrender was granted;
- (b) an offence, however described, disclosed by the facts in respect of which his surrender was granted, provided such offence is one for which he could be surrendered under this Agreement, and provided further such offence is punishable by a penalty no more severe than the penalty for the offence for which he was surrendered,

THE SCHEDULE — *continued*

unless he has first had an opportunity to exercise his right to leave the jurisdiction of the Party to which he has been surrendered and he has not done so within forty days or has voluntarily returned to that jurisdiction having left it.

(2) A fugitive offender who has been surrendered shall not be re-surrendered to another jurisdiction for an offence committed prior to his surrender.

ARTICLE 18

SURRENDER BY CONSENT

(1) If the person sought consents to surrender to the requesting Party, the requested Party may, in accordance with its laws, surrender the person as expeditiously as possible without further proceedings.

(2) To the extent required under the law of the required Party, the provisions of Article 17 shall apply to a person surrendered pursuant to this Article.

ARTICLE 19

ENTRY INTO FORCE AND TERMINATION

(1) The Parties shall notify each other in writing after their respective requirements for the entry into force of this Agreement have been complied with. This Agreement shall enter into force thirty days from the date of the later notification.

(2) The provisions of this Agreement shall apply to requests made after its entry into force regardless of the date of the commission of the offence or offences set out in the request.

(3) Each of the Parties may terminate this Agreement at any time by giving notice to the other through the channel notified under paragraph (1) of Article 8. Termination of this Agreement shall have effect six months after the receipt of notice to terminate.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective governments have signed this Agreement.

Done at the Hong Kong Special Administrative Region this eleventh day of November One thousand nine hundred and ninety seven in the English and Chinese languages, each text being equally authentic.

THE SCHEDULE — *continued*

For the Government of the Republic of
Singapore:

For the Government of the Hong Kong
Special Administrative Region of the
People's Republic of China:

[G.N. No. S 317/98]

LEGISLATIVE HISTORY
EXTRADITION (HONG KONG SPECIAL ADMINISTRATIVE
REGION OF THE PEOPLE’S REPUBLIC OF CHINA)
NOTIFICATION
(CHAPTER 103, N 1)

This Legislative History is provided for the convenience of users of the Extradition (Hong Kong Special Administrative Region of the People’s Republic of China) Notification. It is not part of this Notification.

1. G. N. No. S 317/1998 — Extradition (Hong Kong Special Administrative Region of the People's Republic of China) Notification 1998

Date of commencement : 11 June 1998

2. 2000 Revised Edition — Extradition (Hong Kong Special Administrative Region of the People’s Republic of China) Notification

Date of operation : 31 January 2000

3. G.N. No. S 560/2022 — Extradition (Hong Kong Special Administrative Region of the People’s Republic of China) (Amendment) Notification 2022

Date of commencement : 1 July 2022