
First published in the *Government Gazette*, Electronic Edition, on 21 March 2024 at 5 pm.

No. S 216

EXTRADITION ACT 1968

EXTRADITION (REPUBLIC OF INDONESIA) NOTIFICATION 2024

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement
 2. Application of Act
The Schedule
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In exercise of the powers conferred by section 4(1)(b) of the Extradition Act 1968, the Minister for Law makes the following Notification:

Citation and commencement

1. This Notification is the Extradition (Republic of Indonesia) Notification 2024 and comes into operation on 22 March 2024 at 4.01 a.m.

Application of Act

2. The Act (except for Parts 5 and 6) applies in relation to the Republic of Indonesia subject to the provisions of the Treaty between the Government of the Republic of Singapore (Singapore) and the Government of the Republic of Indonesia (Indonesia) for the Extradition of Fugitives, set out in the Schedule, which entered into force between Singapore and Indonesia on 22 March 2024 at 4 a.m.

THE SCHEDULE

Paragraph 2

TREATY

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

FOR THE EXTRADITION OF FUGITIVES

The Government of the Republic of Singapore and the Government of the Republic of Indonesia,

Desiring to promote effective co-operation and to provide for the reciprocal extradition of fugitives for offences punishable under criminal laws in accordance with criminal procedures applicable to criminal courts; and

Noting the Treaty between the Government of the Republic of Indonesia and the Government of the Republic of Singapore for the Extradition of Fugitives signed on 27 April 2007 (“2007 Extradition Treaty”) in Tampak Siring, Bali, Indonesia, has not entered into force,

HAVE AGREED as follows:

ARTICLE 1

OBLIGATION TO EXTRADITE

Each Party agrees to extradite to the other, subject to the provisions of this Treaty, any person who is found in the territory of the Requested Party and is wanted in the Requesting Party for any prosecution or for the imposition or enforcement of a sentence in respect of an extraditable offence, as described in Article 2 of this Treaty, committed within the jurisdiction of the Requesting Party.

ARTICLE 2

EXTRADITABLE OFFENCES

(1) Extradition shall be granted for an extraditable offence, being an offence coming within any of the following descriptions of offences and which is punishable according to the laws of both Parties by a term of imprisonment of not less than 24 months, or by a more severe penalty:

THE SCHEDULE — *continued*

- (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) kidnapping, abduction or false imprisonment, or dealing in slaves;
 - (xi) stealing, abandoning, exposing or unlawfully detaining a child;
 - (xii) bribery and other related acts of corruption;
 - (xiii) arson;
 - (xiv) an offence concerning counterfeit currency;
 - (xv) an offence against the law relating to forgery;
 - (xvi) 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, including fraud against banks;
 - (xvii) robbery;
 - (xviii) blackmail or extortion by means of threats or by abuse of authority;
 - (xix) an offence against bankruptcy law or company law;
 - (xx) malicious or wilful damage to property;
 - (xxi) acts done with the intention of endangering vehicles, vessels or aircraft, including the persons therein;

THE SCHEDULE — *continued*

- (xxii) an offence against the law relating to psychotropic substances, dangerous drugs or narcotics;
 - (xxiii) piracy;
 - (xxiv) revolt against the authority of the master of a ship or the commander of an aircraft;
 - (xxv) hijacking and other acts endangering safety of aircraft and acts endangering safety of an international airport;
 - (xxvi) any terrorism financing offence;
 - (xxvii) hijacking of ships, destroying or damaging a ship, other acts endangering or likely to endanger safe navigation and offences involving threats thereof;
 - (xxviii) an offence against the law relating to benefits derived from corruption, drug trafficking, and other serious crimes;
 - (xxix) perjury or subornation of perjury or conspiring to defeat the course of justice;
 - (xxx) burglary, house-breaking or any similar offence;
 - (xxxi) any other offence which is made extraditable by the extradition laws of both Parties and laws enacted to give effect to obligations under an international convention to which both are 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 (1)(a) of this Article.
- (2) In determining whether an offence is an offence punishable according to the laws of both Parties, it shall not matter whether:
- (a) the laws of both Parties place the offence within the same category of offences or describe the offence by the same terminology; or
 - (b) under the laws of both Parties, the constituent elements of the offence differ, it being understood that the totality of the acts or omissions as presented by the Requesting Party constitute an extraditable offence under the laws of the Requested Party.
- (3) For the purpose of paragraph (1) of this Article, an extraditable offence shall be an offence punishable according to the laws of both Parties if the act or omission constituting the offence was an offence for which extradition could be

THE SCHEDULE — *continued*

granted under the laws of both Parties at the time it was committed and also at the time the request for extradition is received.

(4) The provisions of this Treaty shall apply to all extraditable offences committed after the entry into force of this Treaty and also to all extraditable offences committed not more than 18 years prior to the entry into force of this Treaty.

ARTICLE 3

BASIS FOR EXTRADITION

(1) Where an extradition request is made in respect of a fugitive accused of an extraditable offence, he shall be extradited only if, in accordance with the laws of the Requested Party, there is either a prima facie case or sufficient evidence of that offence if the acts or omissions constituting the offence had taken place in or within the jurisdiction of the Requested Party.

(2) A fugitive who has been convicted of an extraditable offence shall, subject to the provisions of this Treaty, be extradited only if there is proof that the person sought is the person convicted of the offence by the courts of the Requesting Party.

ARTICLE 4

MANDATORY EXCEPTIONS TO EXTRADITION

(1) Extradition shall not be granted under this Treaty in any of the following circumstances:

- (a) where the Requested Party determines that the offence for which extradition is requested is an offence of a political character;
- (b) where the fugitive has undergone the punishment provided by the law of, or of a part of, any country or has been acquitted or pardoned by a competent tribunal or authority, in respect of that offence or another offence constituted by the same acts or omissions constituting the offence for which his extradition is requested;
- (c) where the person whose extradition is requested is liable to be tried by a court or tribunal that is especially established for the purpose of trying his case or is only occasionally, or under exceptional circumstances, authorised to try such cases, or his extradition is requested for the purpose of his serving a sentence imposed by such a court or tribunal;

THE SCHEDULE — *continued*

- (d) where the offence for which extradition is requested is an offence under the military law of the Requested Party, which is not also an offence under ordinary criminal law;
- (e) where the Requested Party has substantial grounds for believing that the request for extradition of the fugitive, although purporting to be made on account of an offence for which extradition would otherwise be granted, is made for the purpose of prosecuting or punishing the person sought on account of that person's race, religion, nationality, ethnic origin, or political opinions;
- (f) where the Requested Party has substantial grounds for believing that the fugitive 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; or
- (g) where the extradition of a fugitive is requested for the purpose of carrying out a sentence, and it appears that the conviction was obtained in his absence, unless:
 - (i) he had the opportunity of being present at his trial; and
 - (ii) he would, if surrendered, be entitled to be retried in his presence.

(2) Where the fugitive is:

- (a) concerned in an investigation that is in progress or a prosecution that is pending in the Requested Party in respect of any offence that is alleged to have been committed within the jurisdiction of the Requested Party; or
- (b) lawfully detained under the laws of the Requested Party,

a request for his extradition shall be refused, but this is without prejudice to another request being made for the extradition of the fugitive for the same offence when the above-mentioned circumstances no longer apply.

(3) For the purpose of this Treaty, the following shall be deemed not to be an offence of a political character:

- (a) an offence against the life or person of any Head of State or any Head of Government or a member of his immediate family;
- (b) an offence for which both Parties have the obligation pursuant to a multilateral international convention, the purpose of which is to prevent or repress a specific category of offences, to either extradite the person sought or submit the case without undue delay to their competent authorities for the purpose of prosecution;

THE SCHEDULE — *continued*

- (c) murder;
 - (d) offences against laws relating to terrorist acts; and
 - (e) any attempt, abetment or conspiracy to commit any of the offences referred to in sub-paragraphs (a) to (d).
- (4) If any question arises as to whether the offence for which the fugitive is sought is an offence of a political character, the decision of the Requested Party shall be determinative.

ARTICLE 5

DISCRETIONARY EXCEPTIONS TO EXTRADITION

- (1) Extradition may be refused under this Treaty in any of the following circumstances:
- (a) where extradition is requested for the purpose of carrying out a sentence and the period of imprisonment which remains to be served is less than 12 months;
 - (b) where the competent authorities of the Requested Party have decided either not to institute or terminate proceedings against the fugitive for the acts or omissions constituting an offence for which extradition is sought;
 - (c) where the fugitive is a national of the Requested Party;
 - (d) where the offence for which a fugitive is sought is an offence which has been committed in whole or in part within the territory of the Requested Party;
 - (e) where the offence for which the extradition is requested has been committed outside the territory of either Party and the law of the Requested Party does not provide for jurisdiction over such an offence committed outside its territory in comparable circumstances;
 - (f) where the surrender of a fugitive is likely to violate obligations arising from international agreements to which the Requested Party is a party;
 - (g) where having regard to the circumstances of the offence, it would be unjust, oppressive or too severe a punishment to extradite the fugitive;
or
 - (h) where the prosecution or the execution of the sentence has become barred by lapse of time according to the law of the Requesting Party.
- (2) Paragraphs (1)(b), (c) and (d) of this Article shall not apply where the offence for which the surrender is sought is one:

THE SCHEDULE — *continued*

- (a) against laws relating to terrorist acts;
- (b) of bribery and other related acts of corruption;
- (c) which has occurred within the territory of the Requesting Party; or
- (d) in respect of which substantial harm (damage or injury) arising from or intended by the commission of the offence is in the territory of the Requesting Party.

(3) For the purpose of paragraph (1)(c) of this Article, the nationality of the fugitive shall be determined as of the time of the commission of the offence for which the extradition is requested.

ARTICLE 6

THE REQUEST AND SUPPORTING DOCUMENTS

(1) Requests for extradition shall be made, in the case of the Republic of Singapore, by the Minister for Law, and in the case of the Republic of Indonesia, by the Minister of Law and Human Rights, or any other appropriate authority as may be notified, and be conveyed with the related documents through the diplomatic channel.

(2) The request shall be accompanied by:

- (a) as accurate a description as possible of the fugitive sought, together with any other information which would help to establish that person's identity, nationality, and probable location, including a recent photograph or fingerprint records, where available;
- (b) a statement of each offence for which extradition is sought and a statement of the acts and omissions which are alleged against the fugitive in respect of each offence, including the date, time, and location of the commission of the offence;
- (c) the text of the legal provisions creating the offence, the designation of the offence for which extradition is requested and a statement of the punishment which the offence carries, including any law relating to the limitation on the institution of proceedings, or on the execution of any punishment for that offence; and
- (d) a written confirmation by the Attorney-General of the Requesting Party, certifying that in his opinion, the documents submitted disclose the existence of sufficient evidence under the laws of the Requesting Party to justify a prosecution.

(3) If the request relates to a fugitive who is an accused person, it shall, in addition to the information required in paragraph (2) of this Article, be

THE SCHEDULE — *continued*

accompanied by a warrant of arrest issued by a judge, magistrate or competent authority of the Requesting Party or an authenticated copy thereof, and sworn statements of witnesses concerning their knowledge of the offence, and by such other evidence as would satisfy the requirements of Article 3 of this Treaty.

(4) If the request relates to a fugitive who has already been convicted or sentenced by the Requesting Party, it shall, in addition to the information required in paragraphs (2) and (3) of this Article, be accompanied by an authenticated copy of the certificate of the conviction or sentence, as the case may be, and:

- (a) if the fugitive has been convicted but not sentenced, a statement to that effect by the appropriate court; or
- (b) if the fugitive has been sentenced, a statement by the competent authority indicating that the sentence is enforceable and the extent to which the sentence remains to be served.

(5) If the person sought has been convicted *in absentia*, the Requesting Party shall, in addition to the other information required in this Article, submit such documents describing in which manner that person had been given the opportunity to be present at his trial and confirming that, if surrendered, he will be entitled to be retried in his presence.

ARTICLE 7

PROVISIONAL ARREST

(1) In urgent cases, where there is sufficient evidence to justify the fugitive's apprehension, the fugitive sought may be provisionally arrested at the request of the Requesting Party.

(2) A request for provisional arrest may be transmitted by any means affording a record in writing through the diplomatic channel or by means of the facilities of the International Criminal Police Organization.

(3) The request for provisional arrest shall contain:

- (a) an indication of the intention to request the extradition of the fugitive sought;
- (b) a description of the fugitive and information concerning his identity, nationality, and probable location;
- (c) original or authenticated copies of a warrant of arrest or judgment of conviction against the fugitive;
- (d) a brief description of the offence and copies of the charges against the fugitive; and

THE SCHEDULE — *continued*

- (e) a sworn statement setting out the facts of the case, including the sentence that can be or has been imposed for the offence and, where applicable, how much of that sentence remains to be served.
- (4) The Requesting Party shall be promptly notified of the result of its request.
- (5) The provisional arrest of the fugitive sought shall be terminated upon the expiration of 45 days from the date of the provisional arrest if the request for extradition and supporting documents specified in Article 6 have not been received or where any information requested under Article 8 is not furnished within the time specified. If the fugitive is released, the Requested Party shall promptly notify the Requesting Party.
- (6) The release of a fugitive pursuant to paragraph (5) of this Article shall not prevent a re-arrest and institution of proceedings with a view to the extradition of the fugitive if the request for extradition and supporting documents are subsequently received.

ARTICLE 8

ADDITIONAL INFORMATION

- (1) If the Requested Party considers that the information furnished in support of a request for extradition is insufficient to allow the Requested Party to make a decision pursuant to this Treaty, the Requested Party shall request that additional information be provided. The Requested Party may fix a reasonable time limit for the submission of such information.
- (2) If the fugitive whose extradition is sought is under arrest and the additional information provided is insufficient to allow the Requested Party to make a decision pursuant to this Treaty or is not received within the time limit specified in paragraph (1) of this Article, the fugitive may be released. Such release shall not preclude the Requesting Party from making a new request for the extradition of the fugitive.
- (3) Where the fugitive is released from custody in accordance with paragraph (2) of this Article, the Requested Party shall notify the Requesting Party as soon as possible.

ARTICLE 9

AUTHENTICATION

- (1) Documents supporting a request for extradition shall be admissible in evidence if duly authenticated. Documents are duly authenticated if they purport to be:

THE SCHEDULE — *continued*

- (a) certified by a judge or magistrate or relevant Minister 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 the Requesting Party.
- (2) An authenticated translation of documents submitted by the Requesting Party in support of a request for extradition shall be admissible in proceedings for extradition.

ARTICLE 10

LANGUAGE OF DOCUMENTATION

All documents submitted in accordance with this Treaty shall be in, or translated into, the language of the Requested Party. The costs of supplying the translation shall be borne by the Requesting Party.

ARTICLE 11

CONCURRENT REQUESTS

- (1) Where the Requested Party receives requests from two or more States for the extradition of the same fugitive, the Requested Party shall determine to which State the fugitive is to be extradited and, in so doing, shall give priority to requests from States with whom it has a treaty, agreement or arrangement for the surrender of fugitives.
- (2) In making a determination under paragraph (1) of this Article, the Requested Party shall consider all the circumstances of the case, including:
- (a) the relative seriousness or gravity of the offences;
 - (b) the time and place of the commission of the offences;
 - (c) the relative dates on which the requests were made; and
 - (d) the citizenship or other national status and ordinary residence of the fugitive sought.

ARTICLE 12

ARRANGEMENTS FOR SURRENDER

- (1) The Requested Party shall, as soon as a decision on the request for extradition has been made, communicate that decision through the diplomatic channel to the Requesting Party.

THE SCHEDULE — *continued*

(2) Where the request for extradition is rejected, the Requested Party shall also inform the Requesting Party of the provisions of this Treaty on which the rejection is based.

(3) When a fugitive is to be surrendered, that fugitive shall be delivered under the custody of the authorities of the Requested Party to the last point of departure within that Party's territory. The Parties shall agree on the time and place of the surrender of the fugitive.

(4) Subject to the provisions of paragraph (5) of this Article, the Requesting Party shall remove the fugitive within the period specified by the Requested Party and if the fugitive is not removed within that period, the fugitive may be discharged from custody and the Requested Party may subsequently refuse to surrender that fugitive for the same offence.

(5) If circumstances beyond the control of both Parties prevent a Party from surrendering or taking over the fugitive to be surrendered, it shall notify the other Party. In that case, the Parties shall agree on a new time and place for surrender and the provisions of paragraphs (3) and (4) of this Article shall apply.

ARTICLE 13

POSTPONEMENT OF SURRENDER

The Requested Party may postpone the surrender of the fugitive in order to proceed against him or so that he may serve a sentence in the Requested Party, for any offence other than that for which extradition is requested, until the conclusion of the proceedings and the execution of any sentence imposed, as the case may be.

ARTICLE 14

EVIDENCE

(1) The Requested Party may hand over to the Requesting Party any items of evidence found on the fugitive and seized at the time of his arrest which are relevant as proof of the offence in respect of which extradition is granted.

(2) The handing over of the items of evidence shall be subject to such terms and conditions as may be imposed by the Requested Party.

(3) Notwithstanding paragraph (2) of this Article, the Requested Party may temporarily retain any item of evidence in connection with pending proceedings in its jurisdiction.

(4) The handing over of the items of evidence shall not prejudice the rights of the Requested Party or of any third party in those items.

THE SCHEDULE — *continued*ARTICLE 15

SPECIALTY AND RESURRENDER

(1) A fugitive who has been extradited shall not be tried, 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 extradition was granted; or
- (b) an offence disclosed by the facts in respect of which his extradition was granted, provided such offence is one for which he could be extradited under this Treaty, and provided further that such offence is punishable by a penalty no more severe than the penalty for the offence for which he was extradited.

(2) Paragraph (1) of this Article shall not apply if the fugitive has:

- (a) first had an opportunity to exercise his right to leave the territory of the Requesting Party and he has not done so within 40 days; or
- (b) voluntarily returned to the territory of the Requesting Party, having left it.

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

ARTICLE 16

REPRESENTATION AND COSTS

(1) The Requested Party shall make all necessary arrangements for legal representation and assistance in any proceedings arising out of a request for the extradition of a fugitive. In the case of a request made by the Republic of Indonesia, the Attorney-General of the Republic of Singapore, or counsel instructed or appointed by him, shall conduct the proceedings. In the case of a request made by the Republic of Singapore, the proceedings shall be conducted by the competent legal authorities in accordance with the laws and practices of the Republic of Indonesia.

(2) The Requested Party shall bear the expenses incurred within its territory arising from the request or by reason of extradition. 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 will be met.

(3) The Requesting Party shall bear the expenses following the surrender of the fugitive at the place of departure according to Article 12 of this Treaty.

THE SCHEDULE — *continued*ARTICLE 17

CONSULTATIONS

(1) The relevant agencies of both Parties may consult with each other concerning the interpretation, application or operation of this Treaty in general, or in a specific case.

(2) For the purpose of paragraph (1) of this Article, the relevant agencies shall be, in the case of the Republic of Singapore, the Attorney-General's Chambers, and in the case of the Republic of Indonesia, the Ministry of Law and Human Rights.

ARTICLE 18

AMENDMENTS

Any amendment to this Treaty shall be mutually agreed by the Parties and shall enter into force on a date to be determined in a written exchange between the Parties, indicating that all necessary procedures have been completed by the respective Parties.

ARTICLE 19

ENTRY INTO FORCE AND TERMINATION

(1) The Parties shall notify each other in writing that their respective domestic requirements for the entry into force of this Treaty have been complied with. This Treaty shall enter into force on a date to be mutually agreed between the Parties through an exchange of Third Person Notes.

(2) Each of the Parties may terminate this Treaty at any time by giving notice to the other through the diplomatic channel. Termination of this Treaty shall have effect 6 months after the receipt of the notice to terminate.

(3) Upon its entry into force, this Treaty shall supersede the 2007 Extradition Treaty.

THE SCHEDULE — *continued*

IN WITNESS WHEREOF the undersigned, duly authorised by their respective Governments, have signed this Treaty.

Done at Bintan, Indonesia on 25 January 2022 in the English and Indonesian languages, both texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF
THE REPUBLIC OF SINGAPORE

FOR THE GOVERNMENT OF
THE REPUBLIC OF INDONESIA

K. SHANMUGAM, S.C.
MINISTER FOR HOME AFFAIRS
AND MINISTER FOR LAW

YASONNA H. LAOLY
MINISTER OF LAW
AND HUMAN RIGHTS

Made on 31 January 2024.

LUKE GOH
*Permanent Secretary,
Ministry of Law,
Singapore.*

[LAW/062/003; AG/LEGIS/SL/103/2020/15 Vol. 1]