

# UNDCP MODEL EXTRADITION (AMENDMENT) BILL 2000

Bill No..... of 2000

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To be presented by the Minister of Justice

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## ***MEMORANDUM OF OBJECTS AND REASONS***

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*The object of this Bill is to provide for the implementation in [name of State] of the provisions of the international drug control conventions relating to extradition.*

**ATTORNEY - GENERAL**

**An Act to ensure that drug trafficking and related conduct including money laundering are extraditable offences, to provide for more flexible and simplified surrender in certain types of cases, and related purposes.**

ENACTED by the President and the National Assembly in this present Parliament assembled, as follows:

### **PART I PRELIMINARY**

#### **1. Short title and commencement**

This Act may be cited as the "Extradition (Amendment) Act, 2000", and shall come into force on the day on which it receives the assent of the President.

#### **2. Definitions**

(1) In this Act, unless the context indicates otherwise,

- (a) "foreign State" means any country other than [name of State] and every constituent part of such country, including a territory, dependency or protectorate;
- (b) "proceedings" means any procedure conducted by or under the supervision of a judge, magistrate or judicial officer however described in relation to any alleged or proven offence, or property derived from such offence, and includes an inquiry, investigation, or preliminary or final determination of facts;

(2) A reference in this Act to a law of [name of State], or of any foreign State, includes a reference to a written or

unwritten law of, or in force in, any part of [name of State] or that foreign State, as the case may be.

**PART II**  
**AMENDMENTS TO THE [EXTRADITION ACT]**

**3. Extraditable offences**

(1) Insert after **section [?]** a new **section [?]**, as follows:

" *Extraditable offences*

For the purposes of this Act, an offence against a provision of:

- (a) **Part III** of the **[Drug Abuse Act, 2000]**; and
- (b) **Part II** of the **[Money Laundering and Proceeds of Crime Act, 2000]**,

shall be deemed to be:

- (i) an extraditable offence: and
- (ii) not be a political offence."

**4. Consent surrender**

(1) Insert after **section [?]** a new **section [?]**, as follows:

" *Consent surrender*

Where the **[Attorney-General]** has made application to the **[name of Court]** for an extradition order:

- (a) the person whose extradition is sought may consent in writing to the making of the extradition order without the **[name of Court]** proceeding to determine his or her liability to be extradited under this Act, and if the **[name of Court]** is satisfied that the person understands the implications of consent and that it was given voluntarily, it shall forthwith grant the order;
- (b) in every other case, the **[name of Court]** shall proceed to determine the person's liability to be extradited. "

**5. Temporary surrender**

(1) Insert after **section [?]** a new **section [?]**, as follows:

" *Temporary surrender*

(1) Where the person the subject of an application for an extradition order is:

- (a) the subject of criminal proceedings, or
- (b) serving or undergoing sentence,

in **[name of State]** for an offence against the law of **[name of State]**, the **[name of Court]** may order the temporary surrender of that person to the foreign State where it is satisfied that:

- (i) the person is liable to be extradited;
  - (ii) it is in the interests of the administration of justice that the person be temporarily surrendered; and
  - (iii) the foreign State has given adequate undertakings to the **[Attorney-General]** in relation to:
    - (A) the trial of the person in the foreign State for the offence of which the person is accused;
    - (B) the return of the person to **[name of State]** for the purpose of completion of the proceedings or the sentence being served; and
    - (C) the custody of the person while travelling to and from, and while in, the foreign State.
- (2) Where an order is made under **sub-section (1)** in relation to any person:
- (a) it shall be lawful for the person to be released into the custody of authorities of the foreign State for the purposes of the temporary surrender, and to be taken into custody upon return for the purpose of completion of the proceedings or sentence; and
  - (b) any time spent in the custody outside **[name of State]** for the purposes of the temporary extradition shall be deemed to be time served under sentence in **[name of State]."**

**6. Requirement to submit case for the purposes of prosecution if extradition refused on certain grounds**

- (1) Insert after **section [?]** a new **section [?]**, as follows:

" *Requirement to submit case for the purposes of prosecution if extradition refused on certain grounds*

- (1) Where:

- (a) a request is received by **[name of State]** from a foreign State for the extradition to that State of a person who is present in **[name of State]**, in relation to acts or omissions, which, had they occurred in **[name of State]**, would have constituted an offence for which the maximum penalty is:
  - (I) death; or
  - (ii) imprisonment or other deprivation of liberty for a period of not less than **[12 months]** [, **including an offence of a purely fiscal character**]; and
- (b) the request is refused:
  - (I) on the ground that the fugitive is a national or habitual resident of **[name of State]**; or
  - (ii) on any other ground,

**[The Attorney-General]** shall in relation to **subsection (b)(i)** above and may in relation to **subsection (b)(ii)** above submit the case to the **[Director of Public Prosecutions]** for the purpose of prosecution."



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## **UNDCP MODEL EXTRADITION (AMENDMENT) BILL 2000**

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