

SUPPLEMENT to the Solomon Islands GazetteTuesday 21st October, 2008

S.I. No.

[Legal Notice No. 76]

**EXTRADITION ACT
(CAP. 59)****Extradition Regulations 2008**

IN exercise of the powers conferred upon me by section 18 of the Act, I make these Regulations –

Citation

1. These Regulations may be cited as the Extradition Regulations 2008.

Interpretation

2. In these Regulations, unless the context otherwise require –

“authority to proceed” means an order of the Minister issued pursuant to section 7 of the Act to proceed with extradition proceedings;

“provisional warrant” means a warrant for arrest issued under section 8(1)(b) of the Act;

“request” means a request for extradition made by a country entitled to make such request under the Act;

“search warrant” means a search warrant issued under section 8(5) of the Act;

“warrant for arrest” means a warrant for arrest issued under section 8(1)(a) of the Act;

“warrant to extradite” means a warrant to extradite issued by order of the Minister under section 11 of the Act.

Making requests

3. (1) All request to the Government of Solomon Islands shall be sent to the Minister responsible for Foreign Affairs.

(2) The Minister responsible for Foreign Affairs shall, within 2 working days of receiving the request, forward the request to the Minister responsible for the Act, if the Minister is not the responsible Minister.

(3) The Minister responsible for the Act shall, within 10 working days of receiving the request under subregulation (2), make a decision on whether or not to issue the authority to proceed provided that all information required to make such decision is given by the requesting country and the Minister is satisfied with the provisions of the Act.

(4) The Minister may make a decision within a reasonable time if all information required to make a decision under the Act is not made available to the Minister or the Minister requires further legal advice on whether or not the authority should be issued.

Application for warrants

4. All applications for warrants under the Act shall be made by the Director of Public Prosecutions or persons authorised in writing by the Director of Public Prosecutions.

Forms

5. (1) The forms set out in the Schedule are prescribed for the purpose of the Act.

(2) An authority to proceed is to be issued in Form No. 1 as set out in the Schedule.

(3) A warrant for arrest is to be issued in Form No. 2 as set out in the Schedule.

(4) A provisional warrant is to be issued in Form No. 3 as set out in the Schedule.

(5) A notice for provisional warrant required under section 8(3) is to be issued in Form No. 4 as set out in the Schedule.

(6) An order issued by the Minister under section 8(3) to cancel a provisional warrant is to be issued in Form No.5 as set out in the Schedule.

(7) A search warrant is to be issued in Form No. 6 as set out in the Schedule.

(8) A notice of the extradition warrant required under section 11(6) is to be issued in Form No.7 as set out in the Schedule.

(9) A warrant to extradite is to be issued in Form No.8 as set out in the Schedule.

Made at Honiara this fourteenth day of October, 2008.

Toswell Kaua, CSI, CMG, OBE, MP
MINISTER FOR JUSTICE AND LEGAL AFFAIRS

SCHEDULE
(Regulation 5)

PRESCRIBED FORMS

Form No. 1: Authority to Proceed

**MINISTER'S AUTHORITY TO PROCEED WITH EXTRADITION
PROCEEDINGS**

TO: Magistrate

WHEREAS:

- (a) a request for extradition has been made to the Solomon Islands Government by [*name of country*];
- (b) the request is in respect of [*name and address of the *accused person/*convicted person*] a person *accused of [*extradition offence*] or *convicted of [*extradition offence*]; and
- (c) I am satisfied with the evidence produced to me by [*name of country*] and with other provisions of the Extradition Act, (including extradition treaties and agreements that Solomon

NOW THEREFORE I, [name], Minister for (*Ministry*) under section 7(1) of the Extradition Act, order and authorise that extradition proceedings be made against [name and address of the *accused person/* convicted person] a person *accused of [extradition offence] or *convicted of [extradition offence] for his/her extradition to [name of country].

Dated at this day of 20

[Signature and name]
Minister for (*Ministry*)

Form No. 2: Warrant of Arrest

WARRANT OF ARREST UNDER SECTION 8(1)(a)

To: [*Name of Person] [*Police officers]

WHEREAS:

- (a) [name and address of the *accused person/*convicted person] a person *accused of [extradition offence and place committed] or *convicted of [extradition offence and place of conviction]; and
- (b) [name], the Minister for (*Ministry*), has issued an authority to proceed with extradition proceedings dated [insert date] to the Magistrate's Court for committal proceedings for the extradition of [name and address of the *accused person/*convicted person] to [name of country].

NOW THEREFORE I, (*name and designation of magistrate*), under section 8(1)(a) of the Extradition Act, authorise and request you to arrest, detain and bring such person before a Magistrate to be dealt with under the Extradition Act.

Dated at this day of 20

(Signature and designation of magistrate issuing warrant)

Form No. 3: Provisional Warrant

PROVISIONAL WARRANT OF ARREST UNDER SECTION 8(1)(b)

TO: [*Name of *person*] [*Police officers]

WHEREAS:

- (a) [*name and address of the *accused person/*convicted person*] a person *accused of [*extradition offence and place committed*] or *convicted of [*extradition offence and place of conviction*]; and
- (b) [*name*], the Minister for (**Minister**), has not issued an authority pursuant to section 7 of the Act;
- (c) upon application by (*name of applicant*) with supporting statement on *oath of *affidavit that [*name of person*] has been *accused of [*extradition offence*] or *convicted of [*extradition offence*] is or is believed to be on his way to Solomon Islands.

NOW THEREFORE I, (name and designation of magistrate), under section 8(1)(b) of the Extradition Act, authorise and request you to arrest, detain and bring such person before a Magistrate's Court to be dealt with according to the Extradition Act when such person arrives in Solomon Islands.

Dated at this day of 20

(Signature and designation of magistrate issuing warrant)

Form No. 4: Notice to Minister on Issuance of Provisional Warrant

NOTICE UNDER SECTION 8(3) TO MINISTER

To: Minister for (Ministry)

WHEREAS

- (a) [name and address of the *accused person/*convicted person] a person *accused of [extradition offence] or *convicted of [extradition offence]; and

- (b) upon my application (*name of applicant*), to the Magistrate's Court, a provisional warrant was issued by (*name and designation of magistrate*) on (*date of issue*).

NOW THEREFORE I, (*name magistrate*), notify you pursuant to section 8(3) that a Provisional Warrant of Arrest has been issued under section 8(1)(b) of the Extradition Act against [*name and address of the *accused person/*convicted person*] a person **accused of [extradition offence]* or **convicted of [extradition offence]*, to be dealt with according to that Act when such person arrives in Solomon Islands.

Dated at this day of20

(Signature and designation of Magistrate)

Form No 5: Minister's Order to Cancel Provisional Warrant

**MINISTER'S ORDER TO CANCEL PROVISIONAL WARRANT
UNDER SECTION 8(3)**

To: [*Person][*Police officers]

WHEREAS:

- (a) [*name and address of the *accused person/*convicted person*] a person **accused of [extradition offence]* or **convicted of [extradition offence]*;
- (b) the magistrate has issued a provisional warrant dated [*insert date*] for the arrest and detention of such person pursuant to section 8(1)(b) of the Act; and
- (c) I have decided not to issue an authority to proceed with extradition proceedings against such person after having assessed all evidence in the matter given to me.

NOW THEREFORE I, [name] Minister for (Ministry) under section 8(3) of the Extradition Act, cancel the Provisional Warrant dated [insert date] and order that [insert name of person] be discharged forthwith from custody in respect of that extradition offence.

Dated at this day of 20

(Signature and name)
Minister for (Ministry)

Form No. 6: Search Warrant

SEARCH WARRANT UNDER SECTION 8(5)

To: [*Name of person] [*Police officer]

WHEREAS:

- (a) I have been informed by affidavit/statement on oath that there are reasonable grounds for suspecting that there may be in (*specify place*) stolen property or other property, namely, (*insert description of property*):
 - * that may be material as evidence in proving the offence/*s of
 - * in relation to which a provisional arrest warrant for the arrest of (insert name of person) was issued as follows: (give details of warrant);
 - * that has been acquired by (insert name of person) as a result of the offence/*s of
- (b) I am satisfied that there are reasonable grounds for issuing the search warrant.

NOW THEREFORE I, (name and designation of magistrate), under section 8(5) of the Act, authorise you, [.....] or a police officer, for the purpose of (state purpose for issue of warrant) in relation to the abovementioned offence/*s of , with such assistance, and by such force, as is necessary and reasonable:

- * between the hours of and
- * at any time of the day or night,
- * to seize any property of the following kind:
- * to enter *upon/*into/ (specify place) and to seize any property of the following kind:
- * to enter *upon/*into/ (Specify place), to search that place for any property of the following kind: and to seize any property of that kind found in that place.

THIS WARRANT ceases to have effect on (insert date not being later than one month after the issue of the warrant).

Dated at this day of 20

(Signature and designation of magistrate issuing warrant)

Form No. 7: Notice of Warrant for Extradition

NOTICE UNDER SECTION 11(6)

To: [name of the *accused person/*convicted person]

WHEREAS

- (a) an authority to proceed dated [insert date] was issued for proceedings to be undertaken for your extradition to [name of country]; and
- (b) the Magistrate’s Court, after having conducted the committal proceedings, has found that you be committed to custody awaiting your extradition to [name of country]

NOW THEREFORE I, (name) Minister for (Ministry), notify you pursuant to section 11(6) that a Warrant for your Extradition to [name of country] will be issued after all necessary travel arrangements are made.

Dated at this day of 20

(Name and signature)
Minister for (Ministry)

Form No. 8: Warrant for Extradition

WARRANT FOR EXTRADITION UNDER SECTION 11(1)

To the person in whose custody (*insert name of person*) is being held

AND to all police officers

AND to (*insert name of foreign escort officer*)(if any).

WHEREAS

- (a) an authority to proceed dated [*insert date*] was issued for proceedings to be undertaken for the extradition of [*insert name of person in custody*] to [*name of country*]; and
- (b) the request from [*name of country*] stated that such person has *committed/*been convicted of [*extradition offence*];
- (c) the Magistrate, after conducting the committal proceedings for extradition, has committed such person on [*date*] to custody awaiting a warrant for extradition,

I, [*name*] Minister for (*Ministry*), by this Warrant made pursuant to section 11(1) of the Act order that [*insert name of person in custody*] be extradited to [*name of country*] and:

- (i) require you, the person in whose custody (*insert name of person in custody*) is being held, to release *him/*her into the custody of a police officer; and
- (ii) authorise that police officer to transport (*insert name of person*) in custody, and if necessary or convenient, to detain *him/*her in custody, for the purpose of enabling *him/*her to be placed in the custody if the escort and transported out of Solomon Islands; and
- (iii) authorise the escort to transport (*insert name of person*) in custody out of Solomon Islands to a place in (**insert name of country**) for the purpose of surrendering *him/*her to a person appointed by that country to receive *him/*her.

DATED at this day of 20

(Signature and Name)
Minister for (Ministry)

Honiara, Solomon Islands
Printed under the authority of the
Solomon Islands Government

Printed by Solomon Islands Printers Limited.