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## CHAPTER 87

### SUPPRESSION OF THE TAKING OF HOSTAGES

#### ARRANGEMENT OF SECTIONS

##### SECTION

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**CHAPTER 87**
**SUPPRESSION OF THE TAKING OF HOSTAGES**

**An Act to give effect to the Convention against the Taking of Hostages adopted by the United Nations in 1979, and for matters incidental to the implementation of that Convention by The Bahamas.** *6 cf 1985*

*[Commencement 1st November, 1985]*

- 1.** This Act may be cited as the Suppression of the Taking of Hostages Act. Short title
- 2.** (1) In this Act — Interpretation
- “The 1979 Convention” means the Convention Against the Taking of Hostages adopted by the United Nations in 1979 and to which The Bahamas is a party;
- “Convention country” means a country for the time being that is a party to the 1979 Convention.
- (2) Any reference in this Act to the Extradition Act is a reference to the Extradition Act, 1994. Ch 96
- 3.** (1) Subject to subsection (2) a person commits the offence of hostage-taking who, whether in or outside The Bahamas, unlawfully seizes or detains any person (in this section referred to as the hostage) without his consent, or with his consent obtained by fraud or duress, with intent to compel the government of any country or any international inter-governmental organisation or any other person to do or abstain from doing any act as a condition, whether express or implied, for the release of the hostage. Crime of  
hostage-taking
- (2) No person shall be convicted of the offence of hostage-taking if —
- (a) the act of hostage-taking takes place in The Bahamas; and
  - (b) the alleged offender is in The Bahamas; and
  - (c) the alleged offender and the hostage are citizens of The Bahamas.

(3) A person who commits the offence of hostage-taking is liable on conviction on indictment to imprisonment for fifteen years.

Crime of  
hostage-taking  
within the  
Extradition Act.  
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4. There shall be deemed to be included in the list of extradition crimes in the Extradition Act, the offence of hostage-taking as constituted by this Act.

Crime of  
hostage-taking  
deemed to be  
included in  
extradition  
treaties.  
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5. (1) For the purposes of the Extradition Act the offences of hostage-taking, including attempting to commit that offence, aiding, abetting, inciting, counselling or attempting to procure any person to commit such offence when it is not in fact committed and being an accessory after the fact to that offence shall, if not already described in the treaty, be deemed to be an offence described in any extradition treaty concluded before the commencement of this Act and for the time being in force between The Bahamas and any foreign country that is a party to the 1979 Convention.

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(2) Where no such arrangement as is mentioned in section 4 of the Extradition Act has been made with a state which is a party to the 1979 Convention, an Order applying that Act to that state may be made by the Minister responsible for Foreign Affairs with like effect and subject to like terms and conditions as if authorised by the said section 2 and, for the purposes of any such Order, the 1979 Convention shall be treated as an arrangement such as mentioned in that section:

Provided that where the Extradition Act applies by virtue of an Order under this subsection, no such application shall relate to any extradition crimes within the meaning of the Extradition Act except an offence mentioned in subsection (1).

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(3) Notwithstanding subsection (1) or (2), no person shall be liable to be surrendered under the Extradition Act in respect of an act or omission that amounts to a crime to which either of those subsections applies if that act or omission occurred before the date on which the offence was deemed by subsection (1) to be an offence described in the relevant extradition treaty or before the date of the relevant Order made under subsection (2), as the case may be.

(4) For the purposes of this section the expression “foreign country” includes any territory for whose international relations the government of a foreign country is responsible and to which the extradition treaty and the 1979 Convention extends.

6. (1) Where the surrender of a person is sought under the Extradition Act in respect of any act or omission that amounts to any offence mentioned in section 5 and for which the person whose surrender is sought could be tried and punished in the country seeking surrender, being a country that is a party to the 1979 Convention, that act or omission shall be deemed to have been committed within the jurisdiction of that country notwithstanding that it was committed outside the territory of that country.

Surrender of  
offenders  
Ch 96

(2) Without prejudice to subsection (1), where any act or omission to which that subsection applies occurred in The Bahamas, the Extradition Act and the relevant extradition treaty, as the case may be, shall apply with any necessary modifications as if the act or omission had occurred outside The Bahamas.

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(3) In this section, the term “country” means any territory for whose international relations the government of a country is responsible and to which the extradition treaty (if any) and the 1979 Convention extends.

7. (1) Notwithstanding sections 4 to 6 of the Extradition Act, a person whose surrender is sought in respect of any act or omission that amounts to an offence mentioned in section 5 shall not be surrendered from The Bahamas to another country if it appears to the aforesaid Minister or to the court before which that person is brought or to any court or judge on an application for a writ of *habeas corpus*, that —

Restrictions on  
surrender of  
offenders  
Ch 96

- (a) the surrender of the offender, although purporting to have been sought in respect of such a crime, was sought for the purpose of prosecuting or punishing him on account of his race, ethnic origin, religion, nationality, or political opinions; or

- (b) if the offender is surrendered —
  - (i) he may be prejudiced at his trial, or punished, detained, or restricted in his personal liberty, by reason of his race, ethnic origin, religion, nationality or political opinions; or
  - (ii) his position may be prejudiced because communication with him by the appropriate authorities of the country that is entitled in international law to exercise rights of protection in respect of the accused person cannot be effected.

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(2) Notwithstanding sections 4 to 6 of the Extradition Act, no person shall be surrendered from The Bahamas to another country in respect of any act or omission that amounts to an offence mentioned in section 5 if proceedings have been brought in The Bahamas against that person in respect of the act or omission.

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(3) Notwithstanding sections 4 to 6 of the Extradition Act, but subject to subsection (4), no court in The Bahamas shall order the surrender, or the committal for the purposes of surrender of a person to another country in respect of any act or omission that amounts to an offence mentioned in section 5 if the Attorney-General certifies that the case is being or is about to be considered to determine whether or not proceedings should be brought in The Bahamas against that person in respect of the act or omission.

(4) If, in any case to which subsection (3) applies, it is subsequently determined that proceedings should not be brought in The Bahamas against the person in respect of the act or omission, the Attorney-General shall advise the court accordingly, and the court shall proceed with the matter as if the Attorney-General's certificate had never been given.

Attorney-  
General's  
consent to  
prosecutions

**8.** (1) Subject to subsection (2), no proceedings for the trial and punishment of any person charged with an offence mentioned in section 5 shall be instituted in any court except with the consent of the Attorney-General.

(2) A person charged with an offence referred to in subsection (1) may be arrested, or a warrant for his arrest may be issued and executed, and he may be remanded in custody or on bail, notwithstanding the consent of the Attorney-General to the institution of a prosecution for the offence has not been obtained, but no further proceedings shall be taken until that consent has been obtained.

**9.** For any purpose in connection with this Act, a certificate given by the Minister responsible for Foreign Affairs certifying — Evidence.

- (a) that any country is or is not, or was or was not at any material time, a party to the 1979 Convention; or
- (b) that the government of any country is or is not, or was or was not at any material time, responsible for the international relations of any territory,

shall be sufficient evidence of that fact.

**10.** Nothing in any other law which relates to the jurisdiction of a court of The Bahamas in respect of any offence committed on board any ship or aircraft beyond The Bahamas or which requires the consent of the Attorney-General to proceedings in certain cases for such an offence shall apply with respect to any proceedings brought under this Act in respect of an offence mentioned in section 5. Proceedings for an offence under this Act not otherwise affected.

**11.** (1) This section applies to any offence mentioned in section 5(1) of which a person is accused or has been convicted outside The Bahamas. Hostage-taking not to be regarded as of political character.

(2) For the purposes mentioned in subsection (3), no offence to which this section applies shall be regarded as an offence of a political character and no proceedings in respect of such an offence shall be regarded as a criminal matter of a political character or as a criminal proceedings of a political character.

(3) Those purposes are —

- (a) the purposes of the Extradition Act in relation to any requisition for the surrender of a fugitive criminal made on behalf of a Convention country after the coming into operation of this Act; and Ch. 96.

- (b) the purposes of the taking of evidence pursuant to the Extradition Act in relation to any criminal proceedings instituted in a Convention country after the coming into operation of this Act.

No derogation

**12.** (1) Save as specifically provided for by the other sections of this Act, nothing in this Act shall derogate from the provisions of any other law.

(2) Notwithstanding anything to the contrary, this Act shall be construed and have effect subject to Article 12 of the 1979 Convention as set out in the Schedule.

## **SCHEDULE**

### **ARTICLE 12**

In so far as the Geneva Conventions of 1949 for the protection of war victims or the protocols Additional to those Conventions are applicable to a particular act of hostage-taking, and in so far as States Parties to this Convention are bound under those Conventions to prosecute or hand over the hostage-taker, the present Convention shall not apply to an act of hostage-taking committed in the course of armed conflicts as defined in the Geneva Conventions of 1949 and the Protocols thereto, including armed conflicts mentioned in Article 1, paragraph 4, of protocol Additional I of 1977, in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.