

JAMAICA

No. 14— 2021

I assent,

[L.S.]

Sgd. P. L. Allen
Governor-General.

30th day of July 2021

AN ACT to Amend the Extradition Act to provide for the admission of evidence that would not otherwise be admissible under Jamaican law, in the form of records of evidence of the case in extradition hearings; and for connected matters.

[*30th July 2021*]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Extradition (Amendment) Act, 2021, and shall be read and construed as one with the Extradition Act (hereinafter referred to as the “principal Act”) and all amendments thereto.

Short title
and
construction.

Repeal and
replacement
of section 9
of principal
Act

2. Section 9 of the principal Act is repealed and replaced by the following—

“Arrest for
purposes of
committal

9.—(1) A warrant for the arrest of a person accused of an extradition offence, or alleged to be unlawfully at large after conviction of such an offence, may be issued—

- (a) on receipt of an authority to proceed, by a Judge of a Parish Court; or
- (b) without such an authority, by a Judge of a Parish Court upon information that such person is in Jamaica or is believed to be on the way to Jamaica, however, the warrant, if issued under this paragraph, shall be provisional, only.

(2) A warrant of arrest under this section may be issued upon such information as would, in the opinion of the Judge of the Parish Court, authorize the issue of a warrant for the arrest of a person accused of committing an extradition offence or, as the case may be, of a person alleged to be unlawfully at large after conviction of an an extradition offence.

(3) A warrant of arrest issued under this section (whether or not it is a provisional warrant) may without an endorsement to that effect, be executed in any part of Jamaica and may be executed by any person to whom it is directed or by any constable.

(4) Where a provisional warrant is issued, the Judge of the Parish Court by whom it is issued shall, forthwith, give notice of the issue to the Minister, and transmit to the Minister the information and evidence, upon which it was issued; and the Minister may, in any case and shall if the Minister decides not to issue an authority to proceed in respect of the person to whom the warrant relates, by order cancel the warrant and, if that person has been arrested thereunder, and order the discharge of the person from custody.

(5) For the avoidance of doubt, where a warrant is issued under this section for the arrest of a person accused of an offence of stealing or receiving stolen property, any Judge of a Parish Court shall have the power to issue a warrant to search for the property, whether the offence was committed in the jurisdiction of that Judge or in any part of Jamaica.”.

3. Section 14(1) of the principal Act is amended by—

(a) in subsection (1)—

- (i) by deleting the word “and” at the end of paragraph (b);
- (ii) by deleting the fullstop at the end of paragraph (c) and substituting therefore a semicolon;
- (iii) by inserting next after paragraph (c) as amended, the following as paragraph (d)—

Amendment
of section
14 of
principal
Act.

“(d) a record of the evidence of the case against the person, including evidence that would not otherwise be admissible under Jamaican law, shall be admissible in evidence.”;

(b) inserting next after subsection (4), the following—

“(5) A record of the evidence of the case against a person, referred to in subsection (1)(d) is admissible in evidence if it is accompanied by—

- (a) an affidavit from an officer of the investigating authority, or of the prosecutor, as the case may be, stating that the record of evidence of the case was prepared by, or under the direction of, that officer or that prosecutor and that the evidence has been preserved for use in the person’s trial; and

(b) a certificate (bearing an official seal or stamp) by a person described in subsection (6) stating that, in the opinion of that person, the record of the evidence of the case discloses the existence of evidence that is sufficient under the law of the approved State to justify a prosecution in that State.

(6) A person referred to in subsection (5)(b) is—

(a) the Attorney-General or principal law officer of the approved State, or the deputy to or delegate of the Attorney-General or principal law officer of the approved State; or

(b) any other person who has, under the law of the approved State, control over the decision to prosecute.

(7) Nothing in this section limits the evidence that may be admitted at any hearing to determine whether a person is liable to be extradited.

(8) A court to which a certificate under subsection (5)(b) is produced shall take judicial notice of the signature on it of a person described in subsection (6).

(9) Without limiting subsections (5), (7) and (8), in any proceedings under this Act where direct oral evidence of a fact or opinion would be admissible, a statement made in any deposition, official certificate, or judicial document taken, given, or made outside Jamaica and tending to establish that fact or opinion is, if duly authenticated, admissible as evidence of that fact or opinion.

(10) For the avoidance of doubt—

(a) “record of the evidence of the case” includes—

(i) documents, statements or other evidence which

- describes the identity and probable location of the person sought;
- (ii) a statement of the facts of the case, including, if possible, the time and location of the offence;
 - (iii) a statement of the provisions of the law describing the essential elements and the designation of the offence for which extradition is requested;
 - (iv) a statement of the provisions of the law prescribing the punishment for the offence;
 - (v) a statement of the provisions of the law prescribing any time limit on the prosecution or execution of punishment for the offence; and
 - (vi) any other relevant documents;
- (b) “judicial document” means a document which purports to be certified by a judge, magistrate or officer of the Court in or of an approved State.

Passed in the House of Representatives this 22nd day of June 2021.

JULIET HOLNESS

Deputy Speaker.

Passed in the Senate this 2nd day of July, 2021 with two (2) amendments.

THOMAS TAVARES-FINSON, CD, QC, JP

President.

On the 6th day of July, 2021 the Honourable House of Representatives agreed to the amendments made by the Senate.

M. DALRYMPLE PHILIBERT, MP

Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Sgd. Valrie A Curtis
Clerk to the Houses of Parliament. Actg.