

SAINT LUCIA

No. 1 of 2004

ARRANGEMENT OF SECTIONS

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I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

15th January, 2004.

SAINT LUCIA

No. 1 of 2004

AN ACT to make provision for the endorsement and execution in Saint Lucia of warrants of arrest issued in certain countries for the purpose of the return of persons to those countries.

[ON ORDER]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows :

Short title and commencement

1.— (1) This Act may be cited as the Backing of Warrants Act, 2003.

(2) This Act shall come into force on a day to be fixed by the Minister by Order published in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires —

“correctional facility” has the meaning assigned under section 2 of the Correctional Services Act No. 24 of 2003;

“inmate” has the meaning assigned under section 2 of the Correctional Services Act No. 24 of 2003;

“Minister” means the Minister for Justice;

“requesting country” means a country designated a requesting country by the Attorney-General by Order published in the *Gazette*.

Provisional arrest warrant

3.— (1) A Magistrate shall issue a provisional warrant for the arrest of a person where —

(a) an application is made to the Magistrate on behalf of a requesting country for the issue of a provisional warrant for the arrest of a person and the Magistrate is told by affidavit -

(i) that an original warrant for the arrest of the person has been issued in the requesting country but that the warrant is not available in Saint Lucia;

(ii) that the person named in the original warrant is, or is suspected of being, in or on his or her way to Saint Lucia;

(iii) the offence the suspected person is charged with, the circumstances surrounding the offence and the means of identifying the person named in the original warrant; and

(b) the Magistrate is satisfied that it is reasonable in the circumstances to issue a provisional warrant.

(2) A provisional warrant issued in accordance with subsection (1) shall be in the manner prescribed at Form A of the Schedule.

Endorsement of warrant issued in requesting country

4. A Magistrate shall endorse the original warrant in the manner prescribed at Form B of the Schedule to authorise the arrest of the person under that warrant in Saint Lucia where —

- (a) an application is made to the Magistrate on behalf of a requesting country for the endorsement of an original warrant issued in the requesting country for the arrest of a person; and
- (b) the Magistrate is told by affidavit —
 - (i) that the person named in the original warrant is, or is suspected of being, in or on his or her way to Saint Lucia; and
 - (ii) the offence the person is charged with, the circumstances surrounding the offence and the means of identifying the person named in the original warrant.

Arrest and remand on endorsed warrant

5.— (1) A person who is arrested under an endorsed warrant shall be brought before a Magistrate as soon as practicable.

(2) The Magistrate before whom the person arrested under subsection (1) is brought shall —

- (a) remand the person in custody, or
- (b) if the Magistrate is satisfied that the person is unlikely to abscond, release the person on bail.

(3) A Magistrate who remands a person on bail has the same powers in relation to recognisances as he or she has under section 603 of the Criminal Code, 2003.

(4) Where a Magistrate remands the person in custody, the person shall have the right to apply to a Judge in Chambers for release on bail during that remand.

Arrest and remand on provisional arrest warrant

6.— (1) A person arrested under a provisional arrest warrant shall be brought before a Magistrate as soon as practicable.

(2) Where a person is arrested under subsection (1), the Magistrate shall —

- (a) remand the person in custody; or
- (b) if the Magistrate is satisfied that the person is unlikely to abscond, release the person on bail,

until the requesting country produces the original warrant on which the Caribbean provisional arrest warrant was granted.

(3) A Magistrate who remands a person on bail pursuant to subsection (2) —

- (a) has the same powers in relation to recognisances as he or she has under section 603 of the Criminal Code, 2003; and
- (b) may order that the person's passport and other travel documents be surrendered to the Magistrate until the surrender proceedings in relation to the person are concluded.

(4) A person shall not be remanded in custody or on bail under subsection (2) for a period exceeding twenty-eight days.

Release from remand

7.— (1) A person shall be brought before a Magistrate where —

- (a) that person is on remand in custody or on bail twenty-eight days after the day on which he or she was arrested; and
- (b) an endorsed warrant for that person's arrest has not been obtained.

(2) Where a person is brought before the Magistrate under subsection (1), the Magistrate shall order —

- (a) the release of the person from custody; or
- (b) the discharge of the recognisances on which bail was granted;

as the case requires, unless the Magistrate is satisfied that the endorsed warrant will be obtained within a particular period that is reasonable in all the circumstances.

Committal to custody to await surrender

8.— (1) Subject to subsection (2) and section 10, a Magistrate shall order that a person be —

- (a) surrendered to the requesting country by warrant issued in the manner prescribed at Form C of the Schedule;

(b) committed to a correctional facility by warrant issued in the manner prescribed at Form D of the Schedule until he or she is surrendered to the requesting country.

(2) The Magistrate making the order under subsection (1) shall make such order if —

(a) the person has been remanded after being arrested under —

(i) a provisional arrest warrant and the original warrant has been received and endorsed in Saint Lucia; or

(ii) the endorsed warrant; and

(b) the Magistrate is satisfied at the proceedings for the person's surrender that the person remanded is the person sought and that the person should be surrendered.

Application for habeas corpus

9.— (1) The Magistrate shall, on committing any person to custody under section 8, inform that person in ordinary language of his or her right to make an application to the High Court for *habeas corpus* and shall give immediate notice of the committal to the Attorney-General.

(2) A person committed to custody under section 8 shall not be returned to a requesting country if an application for *habeas corpus* is made in his or her case, so long as proceedings in that application are pending.

Surrender proceedings

10.— (1) At the beginning of the proceedings for the return of a remanded person under section 8(a) or (b), the Magistrate shall ask the person if he or she consents to being surrendered.

(2) The Magistrate shall inform the person who —

(a) consents to be surrendered under subsection (1); and

(b) the magistrate is satisfied consents voluntarily, that he or she shall be —

(i) committed to a correctional facility without further proceedings; and

(ii) returned to the requesting country as soon as practicable.

(3) Where the person maintains his or her consent to being returned after being informed by the Magistrate under subsection (2), the Magistrate shall order that the person be —

- (a) surrendered to the requesting country by warrant issued in the manner prescribed at Form C of the Schedule; and
- (b) committed to a correctional facility by warrant issued in the manner prescribed at Form E of the Schedule until the person is returned to the requesting country.

(4) Where the Magistrate determines that the person should be surrendered, the Magistrate shall —

- (a) order that the person be committed to a correctional facility by warrant issued in the manner prescribed at Form D of the Schedule until the person is surrendered to the requesting country;
- (b) inform the person that he or she may, within fifteen days of the day on which the order is made, seek a review of the order under section 11;
- (c) record in writing his or her decision and the offence for which the person is to be surrendered; and
- (d) give a copy of the record referred to in paragraph (c) to the person and to the Attorney-General.

(5) Notwithstanding subsection (1), where the Magistrate determines that the person should be surrendered and the person is serving a custodial sentence in Saint Lucia for an offence committed in Saint Lucia, the Magistrate shall refer the matter to the Attorney-General.

(6) Where the Magistrate determines that the person should not be surrendered to the requesting country, the Magistrate shall —

- (a) order that the person be released pending any application under section 11(2) from the requesting country for a review of the order; and
- (b) advise the Attorney-General in writing of the order and of his or her reasons for determining that the person should not be surrendered.

Review of magistrate's decision

11.— (1) Where a Magistrate makes an order for the surrender of a person, the person may apply to the High Court for a review of the order.

(2) Where a Magistrate makes an order for the release of a person, the requesting country may apply to the High Court for a review of the order.

(3) An application under subsection (1) or (2) shall be made within fifteen days after the day on which the Magistrate makes the order.

(4) The court shall have regard only to the material that was before the Magistrate.

(5) The court may, by order, confirm or quash the order of the Magistrate and order that the person be released or be surrendered.

(6) Where the court orders that the person be surrendered, the court shall order that the person remain in or be committed to custody until the person is surrendered.

Determination of whether person should be surrendered

12.— (1) Where a matter is referred to the Attorney-General in accordance with section 10(5), the Attorney-General shall decide whether or not to surrender the person to the requesting country.

(2) The Attorney-General in deciding whether or not the person shall be surrendered pursuant to subsection (1), shall take into account the following—

- (a) whether the offence for which surrender is sought is of a political or trivial nature;
- (b) if the offence is one for which the person is accused but not convicted, the accusation was not made in good faith and in the interests of justice;
- (c) an unreasonably lengthy period has lapsed since the offence was committed; or
- (d) it would be unjust, oppressive or too severe a punishment to surrender the person.

(3) Where the Attorney-General decides to surrender a person to the requesting country he or she shall issue a warrant in the manner prescribed at Form F of the Schedule.

Surrender warrant

13.— (1) A Magistrate shall issue a warrant of surrender in the manner prescribed at Form C of the Schedule where a person has been —

(a) committed to custody to await surrender to the requesting country under section 8 or section 10(3)(b) and has not applied for a review of the Magistrate's decision within the time stipulated under section 11(3), or

(b) ordered by the High Court to custody.

(2) The surrender warrant issued under subsection (1) shall —

(a) require any person who has custody of the person, to hand the person over to a police officer;

(b) authorise a police officer to —

(i) transport the person from a place where the police officer takes custody of the person to another place within Saint Lucia for the purpose of handing the person over to the custody of an escorting officer assigned by the requesting country; and

(ii) hold the person in custody for so long as is necessary to enable the person to be handed over to the assigned escorting officer; and

(c) authorise the assigned escorting officer to transport the person out of Saint Lucia.

(3) If the person is serving a custodial sentence, or has been admitted to bail in Saint Lucia for an offence committed or allegedly committed in Saint Lucia, the surrender warrant shall not be executed until —

(a) the person has been released from custody; or

(b) the recognisances have been discharged.

Temporary surrender warrants

14.— (1) Where the Magistrate refers a matter to the Attorney-General under section 10(3), the Attorney-General may issue a temporary surrender warrant instead of a surrender warrant where —

- (a) the person is serving a custodial sentence in Saint Lucia;
 - (b) surrender is sought for an offence for which the person is charged but of which the person has not been convicted;
 - (c) the Attorney-General is satisfied that the requesting country has given adequate undertaking that -
 - (i) the person will be given a speedy trial in the requesting country;
 - (ii) the person will be returned to Saint Lucia after the trial and sentence; and
 - (d) the Attorney-General is satisfied that adequate provision has been made for the travel of the person to the requesting country and for his or her return to Saint Lucia.
- (2) A temporary surrender warrant issued pursuant to subsection (1) shall —
- (a) be in writing;
 - (b) require any person who has custody of the person to hand the person over to a police officer;
 - (c) authorize a police officer to —
 - (i) transport the person from a place where the police officer takes custody of the person to another place within Saint Lucia for the purpose of handing the person over to the custody of an escorting officer assigned by the requesting country; and
 - (ii) hold the person in custody for so long as is necessary to enable the person to be handed over to the assigned officer; and
 - (d) authorize the assigned escorting officer to transport the person out of Saint Lucia.
- (3) A Magistrate shall issue a surrender warrant for the surrender of the person to the requesting country if a person who was the subject of a temporary surrender warrant has —
- (a) been returned to Saint Lucia after trial and sentence in the requesting country; and
 - (b) completed his or her sentence in Saint Lucia.

Execution of surrender warrant

15.— (1) Where a person is not surrendered under a surrender warrant within two months after —

- (a) the date the surrender warrant was issued; or
- (b) if the person is serving a custodial sentence, or has been admitted to bail in Saint Lucia, the date the person has been released from custody or the recognisance has been discharged;

that person may apply to a Magistrate to be released from custody and shall inform the Attorney-General of the application.

(2) A Magistrate who considers an application under subsection (1) shall order that the person be released from custody if the Magistrate is satisfied that —

- (a) the Attorney-General has been informed of the application; and
- (b) there is no reasonable cause for delay in surrendering the person.

(3) For the purposes of subsection (2), reasonable cause for delay exists where —

- (a) it is a danger to the person's life, or prejudicial to the person's health, to surrender the person;
- (b) there is no suitable means of transporting the person to the requesting country and all reasonable steps are taken to obtain suitable transport; or
- (c) there is delay by Saint Lucia in responding to a request for permission to transport the person, and all reasonable steps are taken to obtain the permission.

Amendment to Schedules

16. The Attorney-General may by Order amend the Schedule to this Act.

No. 1]

Backing of Warrants Act

[2004.

SCHEDULE

(Section 3)

FORMA

PROVISIONAL ARREST WARRANT

Country

To

There being evidence that (hereinafter referred to as "the person accused) is accused of the offence of against the laws of [Requesting Country].

And there being in my opinion such evidence as would justify the issue of a warrant for the arrest of the person accused of committing a corresponding offence in Saint Lucia:

And there being information that the person accused is or is believed to be in or on his or her way to Saint Lucia:

YOU ARE HEREBY COMMANDED to arrest the person accused and to bring him or her before a Magistrate to be dealt with in accordance with the provisions of the Backing of Warrants Act.

Dated the day of , 20 .

.....
Magistrate

No. 1]

Backing of Warrants Act

[2004.

FORM B

(Section 4)

AUTHORISATION FOR ARREST ON ENDORSED WARRANT

Country

To

In my opinion there is significant evidence to justify the issue of a warrant for the arrest of the person accused of the offence stated overleaf.

I hereby authorize the arrest of the person accused who should be brought before a Magistrate to be dealt with in accordance with the provisions of the Backing of Warrants Act.

Dated the day of , 20 .

.....
Magistrate

FORMC

(Sections 8(1)(a),10(3)(a), and section 13(1))

WARRANT ORDERING SURRENDER TO REQUESTING COUNTRY

Country

To the Keeper of Correctional facility and to all police officers.

WHEREAS a request was made to Saint Lucia on behalf of [Requesting Country] for the surrender to that country of (hereinafter referred to as “the accused”) who is accused of the offence of :

AND WHEREAS I am satisfied that the evidence before me would be sufficient to warrant the accused trial for that offence if it had been committed in Saint Lucia :

AND WHEREAS the accused has not been discharged from custody by order of the High Court :

NOW, THEREFORE, I hereby order that the accused be surrendered to [Requesting Country] in respect of the offence for which he or she was accused.

Dated the day of , 20 .

.....
Magistrate

FORMD

(Sections 8(1)(b),10(4)(a))

**WARRANT FOR COMMITTAL TO CORRECTIONAL FACILITY FOR
RETURN TO REQUESTING COUNTRY**

Country

To the Keeper of Correctional facility and to all police officers.

WHEREAS a request has been made on behalf of [Requesting Country] for the surrender to that country of (hereinafter referred to as "the accused") who is accused of the offence of

AND WHEREAS I ordered on the day of, 20..... that the accused be surrendered to [Requesting Country].

Dated the day of, 20..... .

.....
Magistrate

FORME

(Section 10(3)(b))

**WARRANT FOR COMMITTAL TO CORRECTIONAL FACILITY FOR
RETURN (BY CONSENT) TO REQUESTING COUNTRY**

Country

To the Keeper of _____ Correctional facility and to all police officers.

WHEREAS a request has been made on behalf of [Requesting Country] for the surrender to that country of (hereinafter referred to as "the accused") who is accused of the offence of :

AND WHEREAS the accused consented before me on the _____ day of _____, 20____ to being surrendered to [Requesting Country]:

NOW, THEREFORE, I hereby order that the accused be surrendered to [Requesting Country] in respect of the offence for which he or she was accused.

Dated the _____ day of _____, 20____ .

.....
Magistrate

FORM F

(Section 12)

WARRANTSURRENDERINGINMATETOREQUESTINGCOUNTRY

To the Keeper of _____ Correctional facility and to all police officers.

WHEREAS a request was made on behalf of [Requesting Country] for the surrender to that country of (hereinafter referred to as “the inmate”) who is accused of the offence of

AND WHEREAS I/the High Court ordered on the _____ d a y of _____, 20____ that the inmate be committed to a correctional facility until he or she is surrendered to [Requesting Country].

NOW, THEREFORE, I hereby order that the inmate be surrendered to [Requesting Country] in respect of the offence for which he or she was committed to custody and authorize —

- (1) any person who has custody of the inmate to hand the inmate over to a police officer;
- (2) the police officer to -
 - (a) transport the inmate from a place where the police officer takes custody of the inmate to another place within Saint Lucia for the purpose of handing the inmate over to the custody of an escorting officer assigned by the requesting country;
 - (b) hold the inmate in custody for so long as is necessary to enable the inmate to be handed over to the assigned escorting officer;
- (3) the assigned escorting officer to transport the inmate out of Saint Lucia.

Dated the _____ day of _____, 20____

.....
Attorney-General

No. 1]

Backing of Warrants Act

[2004.

Passed in the House of Assembly this 25th day of November, 2003.

J. BADEN ALLAIN,
Speaker of the House of Assembly

Passed in the Senate this 15th day of December, 2003.

HILFORD DETERVILLE,
President of the Senate.