

Seychelles

Extradition Act

## Extradition (Designated Foreign State Belgium) Order Statutory Instrument 14 of 2012

Legislation as at 1 December 2014

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Extradition (Designated Foreign State Belgium) Order  
Contents

Section 1. .... 1  
Section 2. .... 1  
Section 3. .... 1  
Schedule ..... 1

# Seychelles

## Extradition Act

### Extradition (Designated Foreign State Belgium) Order Statutory Instrument 14 of 2012

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Commenced on 2 April 2012

*[This is the version of this document at 1 December 2014.]*

*[SI 14 of 2012]*

In exercise of his powers conferred by section 3(1)(b) of the Extradition Act 1991, the President makes the following Order—

1.

This Order may be cited as the Extradition (Designated Foreign State Belgium) Order.

2.

The Kingdom of Belgium is hereby declared a designated foreign state in pursuance of section 3 of the Extradition Act and in terms of the Treaty between the United Kingdom of Great Britain and Ireland and Belgium for the Mutual Surrender of Fugitive Criminals entered into between the United Kingdom of Great Britain and the Kingdom of Belgium, signed in Brussels on 29th October 1901, as set out in the schedule attached hereto save the references therein to the judicial and executive authorities of the United Kingdom be read as referring to the judicial and executive authorities of the Republic of Seychelles.

3.

This Order shall remain in force until the said Treaty is revoked or resiled from by the Republic of Seychelles or Belgium, or further Order.

## Schedule

### Treaty between the United Kingdom and Belgium for the mutual surrender of fugitive criminals

#### Article I

It is agreed that His Britannic Majesty and His Majesty the King of the Belgians shall, on requisition made in their name by their respective diplomatic agents, deliver up to each other reciprocally, under the circumstances and conditions stated in the present Treaty, any persons who, being accused or convicted, as principals or accessories, of any of the crimes hereinafter specified, committed within the territories of the requiring party, shall be found within the territories of the other party—

1. Murder (including assassination, parricide, infanticide, poisoning), or attempt, or conspiracy to murder, in cases jointly provided for by the laws of the two countries.
2. Administering drugs or using instruments with intent to procure the miscarriage of women.
3. Manslaughter.

4. Bigamy.
5. (a) Counterfeiting or altering money, or uttering counterfeit or altered money;  
(b) Knowingly making, without lawful authority, any instrument, tool or engine adapted and intended for the counterfeiting of the coin of the realm.
6. Abandoning children, exposing or unlawfully detaining them.
7. Forgery, counterfeiting or altering or uttering what is forged, or counterfeited, or altered.
8. Any malicious act done with intent to endanger persons in a railway train.
9. Embezzlement or larceny.
10. Receiving any chattel, money, valuable security or other property, knowing the same to have been embezzled, stolen or feloniously obtained.
11. Obtaining money, goods or valuable securities by false pretences.
12. Crimes by bankrupts against bankruptcy law.
13. Fraud by a bailee, banker, agent, factor, trustee or director, or member or public officer of any company, made criminal by any law for the time being in force.
14. Rape.
15. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age, so far as such acts are punishable by the law of the State upon which the demand is made.
16. Indecent assault. Indecent assault without violence upon children of either sex under 13 years of age.
17. Abduction.
18. Child-stealing.
19. Kidnapping and false imprisonment.
20. Burglary or housebreaking.
21. Arson.
22. Robbery with violence (including intimidation).
23. Threats by letter or otherwise, with intent to extort.
24. Piracy by law of nations.
25. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
26. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
27. Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.
28. Perjury and subornation of perjury.
29. Malicious injury to property, if the offence be indictable.
30. Assault occasioning actual bodily harm. Malicious wounding, or inflicting grievous bodily harm.
31. Offences in connection with the slave trade punishable by the laws of both States.

Provided that the surrender shall be made only when, in the case of a person accused, the commission of the crime shall be so established as that the laws of the country where the fugitive or person accused shall be found would justify his apprehension and commitment for trial if the crime had been there committed, and in the case

of a person alleged to have been convicted, on such evidence as, according to the laws of the country where he is found, would prove that he had been convicted.

In no case can the surrender be made unless the crime shall be punishable according to the laws in force in both countries with regard to extradition.

In no case, nor on any consideration whatever, shall the High Contracting Parties be bound to surrender their own subjects, whether by birth or naturalization.

## Article II

In the dominions of His Britannic Majesty, other than the colonies or foreign possessions of His Majesty, the manner of proceeding shall be as follows:

1. In the case of a person accused—

The requisition for the surrender shall be made to His Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Minister or other diplomatic agent of His Majesty the King of the Belgians, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorised to take cognizance of the acts charged against the accused in Belgium, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

The said Secretary of State shall transmit such documents to His Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

When the fugitive shall have been apprehended, he shall be brought before a competent Magistrate. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in England, the Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender, sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorised to receive him on the part of the Government of His Majesty the King of the Belgians.

2. In the case of a person convicted—

The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Minister or other diplomatic agent in support of his requisition shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place and date of his conviction. The evidence to be produced before the Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

After the Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*; if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant.

### Article III

In the dominions of His Majesty the King of the Belgians, other than the colonies or foreign possessions of his said Majesty, the manner of proceeding shall be as follows:

1. In the case of a person accused—

The requisition for the surrender shall be made to the Minister for Foreign Affairs of His Majesty the King of the Belgians by the Minister or other diplomatic agent of His Britannic Majesty, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorised to take cognizance of the acts charged against the accused in Great Britain, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

The Minister for Foreign Affairs shall transmit the warrant of arrest, with the documents thereto annexed, to the Minister of Justice, who shall forward the same to the proper judicial authority, in order that the warrant of arrest may be put in course of execution by the Chamber of the Council (*Chambre du Conseil*) of the court of first instance of the place of residence of the accused, or of the place where he may be found.

The foreigner may claim to be provisionally set at liberty in any case in which a Belgian enjoys that right, and under the same conditions.

The application shall be submitted to the Chamber of the Council (*Chambre du Conseil*).

The Government will take the opinion of the Chamber of Indictments or Investigation (*Chambre des Mises en Accusation*) of the Court of Appeal within whose jurisdiction the foreigner shall have been arrested.

The hearing of the case shall be public, unless the foreigner should demand that it should be with closed doors.

The public authorities and the foreigner shall be heard. The latter may obtain the assistance of counsel.

Within a fortnight from the receipt of the documents they shall be returned, with a reasoned opinion, to the Minister of Justice, who shall decide and may order that the accused be delivered to the person duly authorised on the part of the Government of His Britannic Majesty.

2. In case of a person convicted—

The course of proceeding shall be the same as in the case of a person accused, except that the conviction or sentence of condemnation issued in original, or in an authenticated copy, to be transmitted by the Minister or other diplomatic agent in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place and date of his conviction. The evidence to be produced shall be such as would, according to the Belgian laws, prove that the prisoner was convicted of the crime charged.

### Article IV

A fugitive criminal may, however, be apprehended under a warrant signed by any Police Magistrate, Justice of the Peace or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant, justify the issue of a warrant if the crime had been committed or the prisoner convicted in that part of the dominions of the two Contracting Parties in which he exercised jurisdiction: Provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a competent Magistrate. He shall be discharged, as well in the United Kingdom as in Belgium, if within fourteen days a requisition shall not have been made for his surrender by the diplomatic agent of the requiring State in the manner directed by Articles II and III of this Treaty.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

### Article V

If within two months, counting from the date of arrest, sufficient evidence for the extradition shall not have been presented, the person arrested shall be set at liberty. He shall likewise be set at liberty if, within two months of the day on which he was placed at the disposal of the diplomatic agent, he shall not have been sent off to the reclaiming country.

The periods fixed by Articles IV, paragraph 1, and V above shall be extended as follows—

1. A fugitive criminal arrested under the terms of Article IV shall be discharged in the dominions of His Britannic Majesty if, within the period of two months from the date of his arrest, a request for his extradition shall not have been made by the Government of the requisitioning State. The fugitive criminal may be discharged in the dominions of His Majesty the King of the Belgians if within the same period a request for his extradition has not been made by the Government of the requisitioning State; he shall be released if within seven days following the expiration of this period the warrant issued by the competent authority shall not have been communicated to the fugitive criminal.
2. The person arrested shall be set at liberty if, within the three months, counting from the date of arrest, sufficient evidence in support of the demand for extradition shall not have been produced.

### Article VI

When a person shall have been extradited by one of the High Contracting Parties, that person until he has been returned to the country from which he had been extradited, or he has had an opportunity of returning to it, shall not be detained or brought to justice in the State to which he has been handed over for any crime or on any other charge whatever prior to the extraction, except those in respect of which extradition has been accorded.

Neither shall that person, until he has had an opportunity of returning to the country from which he has been extradited, be handed over to a third state.

### Article VII

No accused or convicted person shall be surrendered if the offence in respect of which his surrender is demanded shall be deemed by the party upon which it is made to be a political offence, or to be an act connected with (connexe a) such an offence, or if he prove to the satisfaction of the Magistrate, or of the court before which he is brought on *habeas corpus*, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or to punish him for an offence of a political character.

### Article VIII

Warrants, depositions or statements on oath issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the fact of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken:

Provided such warrants depositions, statements, copies, certificates and judicial documents are authenticated by the oath or solemn affirmation of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

### Article IX

The surrender shall not take place if, since the commission of the acts charged, the accusation, or the conviction, exemption from prosecution or punishment, has been acquired by lapse of time, according to the laws of the country where the accused shall have taken refuge.

### **Article X**

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes committed upon their respective territories, his surrender shall be granted to that State whose demand is earliest in date; unless any other arrangement should be made between the Governments which have claimed him, either on account of the gravity of the crimes committed, or for any other reasons.

### **Article XI**

If the individual claimed should be under process, or condemned by the Courts of the country where he has taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall, nevertheless, take place, the injured party retaining his right to prosecute his claims before the competent authority.

### **Article XII**

Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime. It shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

The rights of third parties with regard to the said property or articles are, nevertheless, reserved.

### **Article XIII**

Each of the High Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention and the conveyance to its frontier, of the persons whom it may consent to surrender in pursuance of the present Treaty.

### **Article XIV**

The stipulations of the present Treaty shall be applicable to the colonies and foreign possessions of the two High Contracting Parties.

The requisition for the surrender of a fugitive criminal who has taken refuge in a colony or foreign possession of either Party shall be made to the Governor or chief authority of such colony or possession by the chief consular officer of the other in such colony or possession; or, if the fugitive has escaped from a colony or foreign possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such colony or possession.

Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the surrender or to refer the matter to their Government.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British colonies and foreign possessions for the surrender of Belgian criminals who may there take refuge, on the basis, as nearly as may be, of the provisions of the present Treaty.

### Article XV

The present Treaty shall come into operation ten days after its publication, in conformity with the laws of the respective countries.

From the day when the present treaty shall come into force, the Treaty of Extradition between the two countries of 20 May 1876; the Declaration between the British and Belgian Governments, dated 23 July 1877, extending the Treaty of 20 May 1876 to certain additional crimes; the further Declaration of 21 April 1887 amending Article I of the Treaty of 20 May 1876; and the Convention of 27 August 1896 further amending the Treaty of 20 May 1876, shall all cease to have effect; but the present Treaty shall apply to all crimes within the Treaty, whether committed before or after the day when it comes into force.

Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention.

### Article XVI

The present Treaty shall be ratified, and the ratifications shall be exchanged at Brussels as soon as may be within six weeks from the date of signature.

**IN WITNESS WHEREOF**, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

**DONE** at Brussels, the twenty-ninth day of October, in the year of our Lord one thousand nine hundred and one.