

**BILL No. 34 of 2009**

*Wednesday 7<sup>th</sup> October, 2009*

PARLIAMENT OFFICE,  
Public Buildings,  
Georgetown,  
Guyana.

7<sup>th</sup> October, 2009.

The following Bill which will be introduced in the National Assembly is published for general information.

*S. E. Isaacs,*  
Clerk of the National Assembly.



**GUYANA**

**BILL No. 34 of 2009**

**FUGITIVE OFFENDERS (AMENDMENT) BILL 2009**

**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title.
2. Amendment of section 8 of the Principal Act.



**A BILL  
Intituled**

AN ACT to amend the Fugitive Offenders Act 1988.

Enacted by the Parliament of Guyana:-

A.D. 2009

Short title.  
Act No. 15 of  
1998

Amendment of  
section 8 of the  
Principal Act.

1. This Act, which amends the Fugitive Offenders Act 1988, may be cited as the Fugitive Offenders (Amendment) Act 2009.

2. Section 8 of the Principal Act is amended by inserting immediately after subsection (3) the following subsections –

“(3A)(a) Notwithstanding anything contained in subsection (3)(b) or any other law or treaty, a fugitive offender or any class or category of fugitive offenders may be committed to, or kept in, custody for the purpose of extradition or may be extradited to a Commonwealth country or a treaty territory in connection with any extraditable offence, if the Minister considers it necessary in the interest of justice.

(b) In determining under paragraph (a) whether it is in the interest of justice, the Minister may take into account any relevant factors, including but not limited to, any credible evidence that there is a likelihood of the fugitive offender being extradited to a third country from the Commonwealth country or treaty territory.

(3B)(a) Notwithstanding the requirement of the express provision in subsection (3)(b), but subject to paragraph (b), a person may be extradited from Guyana under this Act to any Commonwealth country or treaty territory and prior to the extradition, be committed to, or kept in custody for the purpose of extradition where the law of a Commonwealth country or treaty with a treaty territory relating to the extradition of fugitive offenders does not contain the provision required by subsection (3)(b).

(b) Where the law of a Commonwealth country or a treaty territory or a treaty relating to the extradition of fugitive offenders does not contain the provision required by subsection (3)(b), the law or treaty shall, by necessary implication, be read and construed by the Minister, magistrate, High Court, Full Court and Court of Appeal as if the provision was incorporated into the law or treaty.

(c) The right to complain of infractions, if any, in the extradition arrangements lies in the asylum state and the person whose extradition is sought is not entitled so to complain to the Court in any proceedings.”



## EXPLANATORY MEMORANDUM

This Bill seeks to amend the Fugitive Offenders Act 1988 (Act No. 15 of 1988). The Act makes provisions with respect to the extradition of fugitive offenders from and to Guyana and for related matters. Section 8 of the Act deals with the general restrictions on extradition of a fugitive offender to a Commonwealth country or a treaty territory.

The Court of Appeal in **King v Director of Prisons** [(1992) 47 W.I.R 210] held that the 1931 U.K.-U.S.A. treaty impliedly provided in Article 7 of that treaty that a person once extradited to the USA will not be re-extradited to a third country. However, the Full Court or the High Court or the Supreme Court of Judicature in its decision dated 10<sup>th</sup> December, 2008, in **Barry Dataram's case** held that there is no implied condition of prohibition of re-extradition of a fugitive offender to a third country emerging from the 1931 U.K.-USA treaty.

In order to give due recognition to the judicial architecture of Guyana where the ruling of the Court of Appeal is binding on all inferior Courts of record in Guyana, it is considered necessary to clarify the extant law as settled by the Court of Appeal on the statute book itself thereby ensuring the empowerment of the Minister of Home Affairs to accede to a request for extradition of certain fugitive offenders or class or category of fugitive offenders to a Commonwealth country or a treaty territory to meet the ends of justice. This is to ensure speedy extradition of fugitive offenders without waiting for the making of provision in its laws by the requesting Commonwealth country or making a provision in a treaty with the treaty territory for the prevention of re-extradition as referred to in Section 8(3)(b) of the Act.

**Clause 1** of the Bill sets out the short title of the proposed legislation.

**Clause 2** seeks to amend section 8 of the Principal Act so as to enable the Government to extradite fugitive offenders in the interests of justice in the light of the principles of law as settled by the Court of Appeal in **King v Director of Prisons** [(1991) 47 WIR 210] which is the extant law binding on all inferior Courts of record in Guyana.



Attorney General and Minister of Legal Affairs.