

THE INDIAN EXTRADITION ACT, 1903
(XV OF 1903).

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ACT No. XV OF 1903.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 4th
November, 1903.)*

An Act to consolidate and amend the law
relating to the Extradition and Rendition
of Criminals.

WHEREAS it is expedient to provide for the more
convenient administration in British India of the
Extradition Acts, 1870 and 1873, and of the Fugitive
Offenders Act, 1881;

33 & 34
Vict., c. 52;
36 & 37
Vict., c. 60;
44 & 45
Vict., c. 69.

and whereas it is also expedient to amend the
law relating to the extradition of criminals in cases
to which the Extradition Acts, 1870 and 1873, do
not apply;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Extradition Act, 1903.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of British India (including British Baluchistan, the Santhal Parganas and the Pargana of Spiti); and

(3) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, may direct.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) "European British subject" means a European British subject as defined by the Code of Criminal Procedure for the time being in force:

(b) "extradition

(Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.—Section 3.)

- (b) "extradition offence" means any such offence as is described in the first schedule :
- (c) "Foreign State" means a State to which, for the time being, the Extradition Acts, 1870 and 1873, apply :
- (d) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force :
- (e) "offence" includes any act wheresoever committed which would, if committed in British India, constitute an offence : and
- (f) "rules" include prescribed forms.

33 & 34
Vict., c. 52 ;
36 & 37
Vict., c. 60.

CHAPTER II.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

Requisition
for surrender.

3. (1) Where a requisition is made to the Government of India or to any Local Government by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in or who is suspected of being in British India, the Government of India or the Local Government, as the case may be, may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

Summons or
warrant for
arrest.

(2) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

Inquiry by
Magistrate.

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court,

(Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.—Section 3.)

Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

(4) If the Magistrate is of opinion that a *prima facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government of India or the Local Government, as the case may be. Committal.

(5) If the Magistrate is of opinion that a *prima facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail. Bail.

(6) The Magistrate shall report the result of his inquiry to the Government of India, or the Local Government, as the case may be, and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Government. Magistrate's report.

(7) If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order, and the fugitive criminal shall not be surrendered until such question has been decided. Reference to High Court if Government thinks necessary.

(8) If, upon receipt of such report and statement or upon the decision of any such question, the Government of India or the Local Government, as the case may be, is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant. Warrant for surrender.

(9) It

(Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.—Section 4.)

Lawfulness of custody and re-taking under warrant for surrender.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Discharge of fugitive criminals committed to prison after two months.

(10) If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal, and upon proof that reasonable notice of the intention to make such application has been given to the Government of India or the Local Government, as the case may be, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Power to Magistrate to issue warrant of arrest in certain cases.

4. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Local Government.

Person arrested not to be detained unless order received.

(3) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (1).

(4) In

(Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.—Sections 5-6. Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Section 7.)

(4) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the crime of which he is accused or has been convicted. Bail.

5. (1) If the Government of India or any Local Government is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, it may, if it think fit, refuse to issue any order under section 3, sub-section (1). Power of Government to refuse to issue order under section 3 when crime of political character.

(2) The Government of India or the Local Government may also at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged. Power of Government to discharge any person in custody at any time.

6. The expressions "the Police Magistrate" and "the Secretary of State" in section 3 of the Extradition Act, 1870, shall be read as referring respectively to the Magistrate directed to inquire into a case under section 3 of this Act, and to the Government of India or the Local Government, as the case may be. References to "Police Magistrate" and "Secretary of State" in section 3 of Extradition Act, 1870.

33 & 34
Vict., c. 52.

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

7. (1) Where an extradition offence has been committed or is supposed to have been committed by a person not being a European British subject, in the territories of any State not being a Foreign State, and such person escapes into or is in British India, and the

Issue of warrant by Political Agents in certain cases.

Political

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Section 8.)

Political Agent in or for such State issues a warrant, addressed to the District Magistrate of any district in which such person is believed to be, for his arrest and delivery at a place and to a person or authority indicated in the warrant, such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Execution of such warrant.

(2) A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall, unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Proclamation and attachment in case of persons absconding.

(3) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate under this section as if the warrant had been issued by himself.

Release on giving security.

8. (1) Where a Political Agent has directed by endorsement on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

Magistrate to retain bond.

(2) Where security is taken under this section, the Magistrate shall certify the fact to the Political Agent who issued the warrant, and shall retain the bond.

Re-arrest in case of default.

(3) If the person bound by any such bond does not appear at the time and place specified, the
Magistrate

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Sections 9-10.)

Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorized by the Political Agent to take him into custody.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Deposit in lieu of bond, and forfeiture of bonds.

9. Where a requisition is made to the Government of India or to any Local Government by or on behalf of any State not being a Foreign State, for the surrender of any person accused of having committed an offence in the territories of such State, such requisition shall (except in so far as relates to the taking of evidence to show that the offence is of a political character or is not an extradition crime) be dealt with in accordance with the procedure prescribed by section 3 for requisitions made by the Government of any Foreign State as if it were a requisition made by any such Government under that section :

Requisitions by States not being Foreign States.

Provided that, if there is a Political Agent in or for any such State, the requisition shall be made through such Political Agent.

10. (1) If it appears to any Magistrate of the first class or any Magistrate empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in any State not being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion,

Power to Magistrate to issue warrants of arrest in certain cases.

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Section 11.)

opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section, if the offence appears or is alleged to have been committed in the territories of a State for which there is a Political Agent, to such Political Agent and in other cases to the Local Government.

Limit of time of detention of person arrested.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Local Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

Bail.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the offence with which he is charged.

Surrender of person accused of, or undergoing sentence for, offence in British India.

11. (1) A person accused of an offence committed in British India, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in British India, shall not be surrendered in compliance with a warrant issued by a Political Agent under section 7 or a requisition made by or on behalf of any State not being a Foreign State under section 9, except on the condition that such person be re-surrendered to the Government of India or the Local Government, as the case may be, on the termination of his trial for the offence for which his surrender has been asked :

Provided that no such condition shall be deemed to

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Sections 12-16.)

to prevent or postpone the execution of a sentence of death lawfully passed.

(2) On the surrender of a person undergoing sentence under a conviction in British India, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

Suspension of sentence on surrender.

12. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any State not being a Foreign State, has escaped into or is in British India before his sentence has expired.

Application of Chapter to convicted persons.

13. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Abetment and attempt.

14. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Lawfulness of custody and re-taking under warrant issued under Chapter.

15. The Government of India or the Local Government may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

Power of Government to stay proceedings and discharge persons in custody.

16. The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Act, and

Application of Chapter to offences committed

to

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Section 17.)

before its commencement.

Receipt in evidence of exhibits, depositions and other documents.

Authentication of the same.

to an offence in respect of which a Court of British India has concurrent jurisdiction.

17. (1) In any proceedings under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.

(2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside British India, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated,—

- (a) if the warrant purports to be signed by a Judge, Magistrate or officer of the State where the same was issued or acting in or for such State :
- (b) if the depositions or statements or copies thereof purport to be certified, under the hand of a Judge, Magistrate or officer of the State where the same were taken, or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require :
- (c) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State :
- (d) if the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

(3) For

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.—Section 18. Chapter IV.—Rendition of Fugitive Offenders in His Majesty's Dominions.—Section 19.)

(3) For the purposes of this section, "warrant" includes any judicial document authorizing the arrest of any person accused or convicted of an offence.

Definition of "warrant".

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies, and the provisions of this Act shall be modified accordingly.

Chapter not to derogate from treaties.

CHAPTER IV.

RENDITION OF FUGITIVE OFFENDERS IN HIS MAJESTY'S DOMINIONS.

19. For the purpose of applying and carrying into effect in British India the provisions of the Fugitive Offenders Act, 1881, the following provisions are hereby made:—

Application of Fugitive Offenders Act, 1881.

44 & 45
Vict., c. 69.

- (a) the powers conferred on "Governors" of British possessions may be exercised by any Local Government:
- (b) the powers conferred on a "Superior Court" may be exercised by any Judge of a High Court:
- (c) the powers conferred on a "Magistrate" may be exercised by any Magistrate of the first class or by any Magistrate empowered by the Local Government in that behalf: and
- (d) the offences committed in British India to which the Act applies, are piracy, treason and any offence punishable under the Indian Penal Code with rigorous imprisonment for a term of twelve months or more or with any greater punishment.

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CHAPTER V.

(Chapter V.—Offences committed at Sea.—Section 20.
Chapter VI.—Execution of Commissions issued
by Criminal Courts outside British India.—Sec-
tion 21. Chapter VII.—Supplemental.—Sec-
tion 22.)

CHAPTER V.

OFFENCES COMMITTED AT SEA.

Requisition
for surrender
in case of
offence
committed at
sea.

20. Where the Government of any State outside India makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of British India, the Local Government and any Magistrate having jurisdiction in such port and authorized by the Local Government in this behalf may exercise the powers conferred by this Act.

CHAPTER VI.

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL
COURTS OUTSIDE BRITISH INDIA.

Execution of
commissions
issued by
Criminal
Courts
outside
British India.

21. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any country or place outside British India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding:

Provided that this section shall not apply when the evidence is required for a Court or tribunal in any State outside India other than a British Court and the offence is of a political character.

CHAPTER VII.

SUPPLEMENTAL.

Power to
make rules.

22. (1) The Governor General in Council may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality

(Chapter VII.—Supplemental.—Sections 23-24. The First Schedule.—Extradition Offences.)

generality of the foregoing power, such rules may provide for—

- (a) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them ;
 - (b) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies ;
 - (c) the pursuit and arrest in British India, by officers of the Government or other persons authorized in this behalf, of persons accused of offences committed elsewhere ; and
 - (d) the procedure and practice to be observed in extradition proceedings.
- (3) Rules made under this section shall be published in the Gazette of India and shall thereupon have effect as if enacted by this Act.

V of 1898.

23. Notwithstanding anything in the Code of Criminal Procedure, 1898, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 10.

Detention of persons arrested under section 54, clause *seventhly*, Act V, 1898.

24. The Acts mentioned in the second schedule are repealed to the extent specified in the fourth column thereof.

Repeals.

THE FIRST SCHEDULE.

EXTRADITION OFFENCES.

[See section 2, clause (b), and Chapter III (*Surrender of Fugitive Criminals in case of States other than Foreign States*).]

[The sections referred to are the sections of the Indian Penal Code.]

Frauds upon creditors (section 206).

Resistance

(The Second Schedule—Enactments repealed.)

- Resistance to arrest (section 224).
 Offences relating to coin and stamps (sections 230 to 263A).
 Culpable homicide (sections 299 to 304).
 Attempt to murder (section 307).
 Thagi (sections 310, 311).
 Causing miscarriage, and abandonment of child (sections 312 to 317).
 Causing hurt (sections 323 to 333).
 Wrongful confinement (sections 347, 348).
 Kidnapping and slavery (sections 360 to 373).
 Rape and unnatural offences (sections 375 to 377).
 Theft, extortion, robbery, etc. (sections 378 to 414).
 Cheating (sections 415 to 420).
 Fraudulent deeds, etc. (sections 421 to 424).
 Mischief (sections 425 to 440).
 Lurking house-trespass (sections 443, 446).
 Forgery, using forged documents, etc. (sections 463 to 477A).
 Desertion from any body of Imperial Service Troops.
 Piracy by law of nations.
 Sinking or destroying a vessel at sea or attempting or conspiring to do so.
 Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
 Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.
 Any offence against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Governor General in Council by notification in the Gazette of India either generally for all States or specially for any one or more States.

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THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 2A.)

Year.	No.	Short title.	Extent of repeal.
1879	XXI	The Foreign Jurisdiction and Extradition Act, 1879.	So much as is unrepealed.
1895	IX	The Extradition (India) Act, 1895.	The whole Act.
1896	V	The Foreign Jurisdiction and Extradition Act (1879) Amendment Act, 1896.	The whole Act.