

THE EXTRADITION (AMENDMENT) ACT, 1993

No. 66 OF 1993

[4th September, 1993.]

An Act further to amend the Extradition Act, 1962.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Extradition (Amendment) Act, 1993.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

34 of 1962.

2. In the Extradition Act, 1962 (hereinafter referred to as the principal Act), in the long title, after the word "criminals", the words "and to provide for matters connected therewith or incidental thereto" shall be added.

3. In the principal Act,—

(a) the words "or commonwealth country" and the words "or country", wherever they occur, shall be omitted;

(b) for the words "commonwealth country", wherever they occur, the words "foreign State" shall be substituted.

4. In section 2 of the principal Act,—

(a) for clause (a), the following clause shall be substituted, namely:—

'(a) "composite offence" means an act or conduct of a person occurred wholly or in part, in a foreign State or in India but its effects or intended effects, taken as a whole, would constitute an extradition offence in India or in a foreign State, as the case may be';

Short title, extent and commencement.

Amendment of long title.

Substitution of words "foreign State" for words "commonwealth country".

Amendment of section 2.

y 10.12.1993 : vide notification no. G.S.R. 1757(E), dt. 18.12.93

(b) for clause (c), the following clause shall be substituted, namely:—

‘(c) “extradition offence” means—

(i) in relation to a foreign State, being a treaty State, an offence provided for in the extradition treaty with that State;

(ii) in relation to a foreign State other than a treaty State an offence punishable with imprisonment for a term which shall not be less than one year under the laws of India or of a foreign State and includes a composite offence;’

(c) in clause (d), for the words “or agreement” at both the places where they occur, the words “, agreement or arrangement” shall be substituted;

(d) in clause (e), the words “other than a commonwealth country,” shall be omitted;

(e) for clause (f), the following clause shall be substituted, namely:—

‘(f) “fugitive criminal” means a person who is accused or convicted of an extradition offence within the jurisdiction of a foreign State and includes a person who, while in India, conspires, attempts to commit or incites or participates as an accomplice in the commission of an extradition offence in a foreign State.’

Amend-
ment of
section
3.

5. In section 3 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Central Government may, by notified order, direct that the provisions of this Act, other than Chapter III, shall apply to such foreign State or part thereof as may be specified in the order.”;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Where there is no extradition treaty made by India with any foreign State, the Central Government may, by notified order, treat any Convention to which India and a foreign State are parties, as an extradition treaty made by India with that foreign State providing for extradition in respect of the offences specified in that Convention.”.

Amend-
ment of
Chapter
II.

6. In Chapter II of the principal Act, in the heading, the words “AND TO COMMONWEALTH COUNTRIES” shall be omitted.

7. In section 10 of the principal Act, in sub-section (2), in clause (d), the Word "respectively" shall be omitted.

Amend-
ment of
section
10.

8. In section 11 of the principal Act, the words "of a commonwealth country" shall be omitted.

Amend-
ment of
section
11.

9. In Chapter III of the principal Act, in the heading, for the words "COMMONWEALTH COUNTRIES", the words "FOREIGN STATES" shall be substituted.

Amend-
ment of
Chapter
III.

10. In section 12 of the principal Act, in sub-section (1), for the word "country", the word "State" shall be substituted.

Amend-
ment of
section
12.

11. In Chapter IV of the principal Act, in the heading, the words "OR COMMONWEALTH COUNTRIES" shall be omitted.

Amend-
ment of
Chapter
IV.

12. For section 21 of the principal Act, the following section shall be substituted, namely:—

Substitu-
tion of
new
section
for
section
21.

"21. Whenever any person accused or convicted of an offence, which, if committed in India would be an extradition offence, is surrendered or returned by a foreign State, such person shall not, until he has been restored or has had an opportunity of returning to that State, be tried in India for an offence other than—

Accused
or con-
victed
person
surrender-
ed or
returned
by
foreign
State
not to be
tried
for
certain
offences.

(a) the extradition offence in relation to which he was surrendered or returned; or

(b) any lesser offence disclosed by the facts proved for the purposes of securing his surrender or return other than an offence in relation to which an order for his surrender or return could not be lawfully made; or

(c) the offence in respect of which the foreign State has given its consent."

13. In section 25 of the principal Act, for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted.

Amend-
ment of
section
25.

14. In section 26 of the principal Act, after the words "of abetting", the words "conspiring, attempting to commit, inciting or participating as an accomplice in the commission of" shall be inserted.

Amend-
ment of
section
26.

15. In section 30 of the principal Act, the words "or commonwealth country or from any foreign State and any commonwealth country" shall be omitted.

Amend-
ment of
section
30.

Amend-
ment of
section
31.

16. In the principal Act.—

(a) section 31 shall be re-numbered as sub-section (1) of that section and in sub-section (1) as so re-numbered, for clause (c), the following clause shall be substituted, namely:—

“(c) unless provision is made by that law of the foreign State or in the extradition treaty with the foreign State that the fugitive criminal shall not be determined or tried in that State for an offence other than—

(i) the extradition offence in relation to which he is to be surrendered or returned;

(ii) any lesser offence disclosed by the facts proved for the purposes of securing his surrender or return other than an offence in relation to which an order for his surrender or return could not be lawfully made; or

(iii) the offence in respect of which the Central Government has given its consent;”;

(b) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) For the purposes of sub-section (1), the offences specified in the Schedule shall not be regarded as offences of a political character.

(3) The Central Government having regard to the extradition treaty made by India with any foreign State may, by notified order, add or omit any offence from the list given in the Schedule.”.

Substitu-
tion of
new sec-
tions for
section
34.

17. For section 34 of the principal Act, the following sections shall be substituted, namely:—

Extra-
territorial
jurisdic-
tion.

“34. An extradition offence committed by any person in a foreign State shall be deemed to have been committed in India and such person shall be liable to be prosecuted in India for such offence.

Prosecu-
tion on
refusal
to ex-
tradition.

34A. Where the Central Government is of the opinion that a fugitive criminal cannot be surrendered or returned pursuant to a request for extradition from a foreign State, it may, as it thinks fit, take steps to prosecute such fugitive criminal in India.

Pro-
visional
arrest.

34B. (1) On receipt of an urgent request from a foreign State for the immediate arrest of a fugitive criminal, the Central Government may request the Magistrate having competent jurisdiction to issue a provisional warrant for the arrest of such fugitive criminal.

(2) A fugitive criminal arrested under sub-section (1) shall be discharged upon the expiration of sixty days from the date of his

arrest if no request for his surrender or return is received within the said period.

34C. Notwithstanding anything contained in any other law for the time being in force, where a fugitive criminal, who has committed an extradition offence punishable with death in India, is surrendered or returned by a foreign State on the request of the Central Government and the laws of that foreign State do not provide for a death penalty for such an offence, such fugitive criminal shall be liable for punishment of imprisonment for life only for that offence."

Provision of life imprisonment for death penalty.

18. In the principal Act, for the First and Second Schedules, the following Schedule shall be substituted, namely:—

Substitution of new Schedule for the First and Second Schedules.

"THE SCHEDULE

[See section 31(2)]

OFFENCES WHICH ARE NOT TO BE REGARDED AS OFFENCES OF A POLITICAL CHARACTER

The following list of offences is to be construed according to the law in force in India on the date of the alleged offence. Wherever the names of the relevant Acts are not given, the sections referred to are the sections of the Indian Penal Code (45 of 1860):—

1. Offences under the Anti-Hijacking Act, 1982 (65 of 1982).
2. Offences under the Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982 (66 of 1982).
3. An offence within the scope of the Convention on the punishment of crimes against Internationally protected persons including diplomatic agents, opened for signature at New York on 14th December, 1973.
4. An offence within the scope of the International Convention against the taking of hostages opened for signature at New York on 18th December, 1979.
5. Culpable homicide, murder (sections 299 to 304).
6. Voluntarily causing hurt or grievous hurt by a dangerous weapon or means (sections 321 to 333).
7. Offences under the Explosive Substances Act, 1908 (6 of 1908).
8. Possession of a fire arm or ammunition with intention to endanger life [section 27 of the Arms Act, 1959 (54 of 1959)].
9. The use of a fire arm with intention to resist or prevent the arrest or detention [section 28 of the Arms Act, 1959 (54 of 1959)].

10. Causing of loss or damage to property used for public utilities or otherwise with intention to endanger life (section 425 read with section 440).

11. Wrongful restraint and wrongful confinement (sections 339 to 348).

12. Kidnapping and abduction including taking of hostages (sections 359 to 369).

13. Offences related to terrorism and terrorist acts [Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987)].

14. Abetting, conspiring or attempting to commit, inciting, participating as an accomplice in the commission of any of the offences listed above."