

## Extradition Act, 1962

### Chapter V - Miscellaneous

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Every fugitive criminal of a foreign State or Commonwealth country shall, subject to the provisions of this Act, be liable to be arrested and surrendered or returned, whether the offence in respect of which the surrender or return is sought was committed before or after the commencement of this Act, and whether or not a Court in India has jurisdiction to try that offence.

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#### Section 23 - Jurisdiction as to offences committed at sea or in air

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Where the offence in respect of which the surrender or return of a fugitive criminal is sought was committed on board any vessel on high seas or any aircraft while in the air outside India or the Indian territorial waters which comes into any port or aerodrome of India, the Central Government and any Magistrate having jurisdiction in such port or aerodrome may exercise the powers conferred by this Act.

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#### Section 24 - Discharge of person apprehended if not surrendered or returned within two months

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If a fugitive criminal who, in pursuance of this Act, has been committed to prison to await his surrender or return to any foreign State<sup>1</sup>[\* \* \* \*] is not conveyed out of India within two months after such committal, the High Court upon application made to it by or on behalf of the fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Central Government may order such prisoner to be discharged unless sufficient cause is shown to the contrary.

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1. Omitted by Act 66 of 1993, Section 3 (w.e.f. 18th December, 1993).

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#### Section 25 - Release of persons arrested on bail

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In the case of a person who is a fugitive criminal arrested or detained under this Act, the provisions of <sup>1</sup>[the Code of Criminal Procedure, 1973 (2 of 1974)], relating to bail shall apply in the same manner as they would apply if such person were accused of committing in India the offence of which he is accused or has been convicted and in relation to such bail, the Magistrate before whom the fugitive criminal is brought shall have, as far as may be, the same powers and jurisdiction as a Court of Session under that Code.

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1. Substituted by Act 66 of 1993, Section 3 (w.e.f. 18th December, 1993).

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#### Section 26 - Abetment of extradition offences

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A fugitive criminal who is accused or convicted of abetting<sup>1</sup>[conspiring, attempting to commit, inciting or participating as an accomplice in the commission of] any extradition offence shall be deemed for the purposes of this Act to be accused or convicted of having committed such offence and shall be liable to be arrested and surrendered accordingly.

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1. Omitted by Act No. 66 of 1993, Section 15

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### **Section 27 - Lawfulness of, and retaking on escape from custody under warrants**

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It shall be lawful for any person to whom a warrant is directed for the apprehension of a fugitive criminal to 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 India (may be re-taken) upon an escape.

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### **Section 28 - Property found on fugitive criminal**

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Everything found in the possession of a fugitive criminal at the time of his arrest which may be material as evidence in proving the extradition offence may be delivered up with the fugitive criminal on his surrender or return, subject to the rights, if any, of third parties with respect thereof.

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### **Section 29 - Power of Central Government to discharge any fugitive criminal**

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If it appears to the Central Government that by reason of the trivial nature of the case or by reason of the application for the surrender or return of a fugitive criminal not being made in good faith or in the interests of justice or for political reasons or otherwise, it is unjust or inexpedient to surrender or return the fugitive criminal, it may, by order at any time stay any proceedings under this Act and direct any warrant Issued or endorsed under this Act to be cancelled and the person for whose arrest the warrant has been issued or endorsed to be discharged.

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### **Section 30 - Simultaneous requisitions**

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If requisitions for the surrender of a fugitive criminal are received from more than one foreign State<sup>1</sup> [\* \* \* \*], the Central Government may, having regard to the circumstances of the case surrender the fugitive criminal to such State<sup>2</sup>[\* \* \* \*] as that Government thinks fit.

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1. Omitted by Act No. 66 of 1993, Section 15

2. Omitted by Act No. 66 of 1993, Section 3 (w.e.f. 18th December, 1993).

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### **Section 31 - Restrictions on surrender**

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<sup>1</sup>[(1)] A fugitive criminal shall not be surrendered or returned to a foreign State or Commonwealth country--

(a) if the offence in respect of which his surrender is sought is of a political character or if he proves to the satisfaction of the Magistrate or Court before whom he may be produced or of the Central Government that the requisition or warrant for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character ;

(b) if prosecution for the offence in respect of which his surrender is sought is according to the law of that State or country barred by time ;

<sup>2</sup>[(c) unless provision is made by that law of the foreign State or in the extradition treaty with the foreign State that 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;]

(d) if he has been accused of some offence in India, not being the offence for which his surrender or return is sought or is undergoing sentence under any conviction in India until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise ;

(e) until after the expiration of fifteen days from the date of his being committed to prison by the Magistrate.

3(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 lists given in the Schedule.]

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1. Renumbered by Act No. 66 of 1993, Section 16.

2. Substituted by Act No. 66 of 1993, Section 16 (w.e.f. 18th December, 1993).

3. Inserted by Act No. 66 of 1993, Section 16 (w.e.f. 18th December, 1993).

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### **Section 32 - Sections 29 and 31 to apply without any modification thereof**

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Notwithstanding anything to the contrary contained in Section 3 or Section 12 the provisions of Secs. 29 and 31 shall apply without any modification to every foreign State1[\* \* \* \* \*].

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1. Omitted by Act No. 66 of 1993, Section 3. (w.e.f. 18th December, 1993).

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### **Section 33 - Act not to affect Foreigners Act, 1946**

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Nothing in this Act shall affect the provisions of the Foreigners Act, 1946 (31 of 1946), or any order made thereunder.

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### **Section 34 - Extra-territorial jurisdiction**

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#### **1[34. Extra-territorial jurisdiction.--**

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.

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1. Substituted by Act No. 66 of 1993, Section 17 (w.e.f. 18th December, 1993).

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### **Section 34A - Prosecution on refusal to extradition**

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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.

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## **Section 34B - Provisional arrest**

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(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.

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## **Section 34C - Provision of life imprisonment for death penalty**

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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. ]

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## **Section 35 - Notified orders and notifications to be laid before Parliament**

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Every notified order made or notification issued, under this Act shall, as soon as may be after It is made or issued, be laid before each House of Parliament.

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## **Section 36 - Power to make rules**

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(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :

(a) the form in which a requisition for the surrender of a fugitive criminal may be made ;

(b) the form in which warrant for the apprehension of any person in a<sup>1</sup>[foreign State] to which Chapter III applies may be made;

(c) the manner in which any warrant may be endorsed or authenticated under this Act ;

(d) the removal of fugitive criminals 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 ;

(e) 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;

(f) the form and manner in which or the channel through which Magistrate may be required to make his report to the Central Government under this Act;

(g) any other matter which has to be or may be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or<sup>2</sup>[in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification In the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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1. Substituted by Act 66 of 1993, Section 3 (w.e.f. 18th December, 1993).

2. Substituted by Act 4 of 1986, Schedule, (w.e.f. 15th May, 1986) vide G.S.R. 764 (E), dated 15th May, 1986.

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### **Section 37 - Repeals and savings**

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(1) The Indian Extradition Act, 1903 (15 of 1903), and any law corresponding thereto in force at the commencement of this Act In the territories which immediately before the 1st day of November, 1956, were comprised in Part B States and the North East Frontier Agency and Tuensang District (Extradition) Regulation, 1961 (3 of 1961), are hereby repealed.

(2) The Extradition Acts, 1870 to 1932 (33 & 34 Vict. c. 52; 36 & 37 Vict, c. 60; Edw. 7, c. 15; 22 & 23 Geo. 5, c. 39; 44 & 45 Vict., c. 69) and the Fugitive Offenders Act, 1881, in so far as they apply to and operate as part of the law of India, are hereby repealed.

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