

## NATIONAL LAWS

### THE EXTRADITION ACT, 1962 \*

ACT NO. 34 OF 1962

[15th September 1962.]

**An Act to consolidate and amend the law relating to the extradition of fugitive criminals 1\*[and to provide for matters connected therewith or incidental thereto]**

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:-

#### CHAPTER I

#### PRELIMINARY

1. **Short title, extent and commencement.** (1) This Act may be called the Extradition Act, 1962.  
(2) It extends to the whole of India.  
(3) It shall come into force on such date 2\* as the Central Government may, by notification in the Official Gazette, appoint.
2. **Definitions.** In this Act, unless the context otherwise requires,--
3. \*(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;]

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1. Added by Act 66 of 1993, s. 2 (w.e.f. 18-12-1993)

2. 5th January, 1963; vide Notification No. G.S.R. 55, dated 5-1-1963, Gazette of India, Extraordinary, Pt. II, Sec. 3(i) p. 7.

3. Subs. by Act 66 of 1993 s. 4, (w.e.f. 18-12-1993)

Extended to and brought into force in the State of Sikkim (w.e.f. 17.9.1975) vide Notifn. No. G.S.R. 495(E), dated 17.9.1975.

\*The provisions of the Act, other than Chapter III, shall apply to Papua New Guinea w.e.f. 1-9-1978, vide Notifn. No. G.S.R. 433 (E), dated 17.8.1978, Gaz. of India, Exty., Pt. II, Sec. 3(i), p. 748.

(b) “conviction” and “convicted” do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term “person accused” includes a person so convicted for contumacy;

\*The provisions of the Act, other than Chapter III, shall apply to Fiji w.e.f. 1-2-1979, vide Notifn. No. G.S.R. 38(E), dt. 22-1-1979, Gaz. Of India, Exty., Pt. II, Sec. 3(i), p. 58.

3 \*(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;]

\*The provisions of The Act, other than Chapter III, shall apply to the Commonwealth of Australia w.e.f. 30.8.1971, vide Notifn. No. G.S.R. 1381, dt. 30.8.1971, Gaz. of India, Exty., Pt. II, Sec. 3(i), p-895.

(d) “extradition treaty” means a treaty 1\*[ agreement or arrangement] made by India with a foreign State relating to the extradition of fugitive criminals, and includes any treaty 1\*[ agreement or arrangement] relating to the extradition of fugitive criminals made before the 15th day of August, 1947, which extends to, and is binding on, India;

(e) “foreign State” means any State outside India 1\*xxx, and includes every constituent part, colony or dependency of such State;

1\*[(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.]

(g) “magistrate” means a magistrate of the first class or a presidency magistrate;

(h) “notified order” means an order notified in the Official Gazette;

(i) “prescribed” means prescribed by rules made under this Act; and

(j) “treaty State” means a foreign State with which an extradition treaty is in operation.

3. **Application of Act.** 2\*[(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.]

(2) The Central Government may, by the same notified order as is referred to in subsection (1) or any subsequent notified order, restrict such application to fugitive criminals found, or suspected to be, in such part of India as may be specified in the order.

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1. Subs. & omitted by Act 66 of 1993, s. 4 (w.e.f. 18-12-1993)

2. Subs. by s. 5 *ibid* (w.e.f. 18-12-1993)

(3) Where the notified order relates to a treaty State,-

- (a) it shall set out in full the extradition treaty with that State;
- (b) it shall not remain in force for any period longer than that treaty; and
- (c) the Central Government may, by the same or any subsequent notified order, render the application of this Act subject to such modifications, exceptions, conditions and qualifications as may be deemed expedient for implementing the treaty with that State.

1\*[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.]

## CHAPTER II

### EXTRADITION OF FUGITIVE CRIMINALS TO FOREIGN STATES 2\*\*\* TO WHICH CHAPTER III DOES NOT APPLY

4. **Requisition for surrender.** A requisition for the surrender of a fugitive criminal of a foreign State 3\*\*\* may be made to the Central Government—
  - (a) by a diplomatic representative of the foreign State 3\*\*\* at Delhi; or
  - (b) by the Government of that foreign State 3\*\*\* communicating with the Central Government through its diplomatic representative in that State 1\*\*\*. and if neither of these modes is convenient, the requisition shall be made in such other mode as is settled by arrangement made by the Government of the foreign State 3\*\*\* the Government of India.
5. **Order for magisterial inquiry.** Where such requisition is made, the Central Government may, if it thinks fit, issue an order to any magistrate who would have had jurisdiction to inquire into the offence if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.
6. **Issue of warrant for arrest.** On receipt of an order of the Central Government under section 5, the magistrate shall issue a warrant for the arrest of the fugitive criminal.
7. **Procedure before magistrate.** (1) When the fugitive criminal appears or is brought before the magistrate, the magistrate shall inquire into the case in the same manner and shall have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by a court of session or High Court.
  - (2) Without prejudice to the generality of the foregoing provisions, the magistrate shall, in particular, take such evidence as may be produced in support of the requisition of the foreign State 1\*\*\* and on behalf of the fugitive criminal, including any evidence to show that the offence of which the fugitive criminal is accused or has been convicted is an offence of political character or is not an extradition offence.
  - (3) If the magistrate is of opinion that a prima facie case is not made out in support of the requisition of the foreign State 1\*xxx, he shall discharge the fugitive criminal.
  - (4) If the magistrate is of opinion that a prima facie case is made out in support of the requisition of the foreign State, 1\*\*\*he may commit the fugitive criminal to prison to await the orders of the Central Government, and shall report the result of his inquiry to the Central Government, and shall forward together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Central Government.
8. **Surrender of fugitive criminal.** If, upon receipt of the report and statement under sub-section (4) of section 7, the Central Government is of opinion that the fugitive criminal ought to be surrendered

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1. Ins. by Act 66 of 1993 s. 5 (w.e.f. 18-12-1993)

2. Omitted by s. 6, *ibid* (w.e.f. 18-12-1993)

3. Omitted by s. 3 *ibid*. (w.e.f. 18-12-1993)

to the foreign State 1\*\*\*, it may issue a warrant for the custody and removal of the fugitive criminal and for his delivery at a place and to a person to be named in the warrant.

9. **Power of magistrate to issue warrant of arrest in certain cases.** (1) Where it appears to any magistrate that a person within the local limits of his jurisdiction is a fugitive criminal of a foreign State 1\*\*\* he may, if he thinks fit, issue a warrant for the arrest of that person on such information and on such evidence as would, in his opinion, justify the issue of a warrant if the offence of which the person is accused or has been convicted had been committed within the local limits of his jurisdiction.
- (2) The magistrate shall forthwith report the issue of a warrant under sub-section (1) to the Central Government and shall forward the information, and the evidence or certified copies thereof to that Government.
- (3) A person arrested on a warrant issued under sub-section (1) shall not be detained for more than three months unless within that period the magistrate receives from the Central Government an order made with reference to such person under section 5.

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1. omitted by Act 66 of 1993, s. 3 (w.e.f 18-12-1993)

10. **Receipt in evidence of exhibits, depositions and other documents and authentication thereof.**

(1) In any proceedings against a fugitive criminal of a foreign State 1\*xxx 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 or taken by any court of justice outside India or copies thereof, certificates of, or judicial documents stating the facts of, conviction before any such court shall be deemed to be duly authenticated if—

- (a) the warrant purports to be signed by a judge, magistrate or officer of the State or country where the same was issued or acting in or for such State or country;
- (b) the depositions or statements or copies thereof purport to be certified, under the hand of a judge, magistrate or officer of the State or country where the same were taken, or acting in or for such State or country, to be the original depositions or statements or to be true copies thereof, as the case may require;
- (c) 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 or country where the conviction took place or acting in or for such State;
- (d) 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 or country where the same were 2\*xxx issued, taken or given.

11. **Chapter not to apply to foreign states countries to which Chapter III applies.** Nothing contained in this Chapter shall apply to fugitive criminals 1\*\*\* to which Chapter III applies.

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1. Omitted by Act 66 of 1993, s. 3 (w.e.f. 18-9-1993).

2. Omitted by s. 7. *ibid* (w.e.f. 18-12-1993).

**CHAPTER III**  
**RETURN OF FUGITIVE CRIMINALS TO [FOREIGN STATES] 2\* WITH EXTRADITION**  
**ARRANGEMENTS**

12. **Application of Chapter.** (1) This Chapter shall apply only to any such 3\*[foreign state] to which, by reason of an extradition arrangement entered into with that 4\*[State], it may seem expedient to the Central Government to apply the same.
- (2) Every such application shall be by notified order, and the Central Government may, by the same or any subsequent notified order, direct that this Chapter and Chapters I, IV and V shall, in relation to any such 3\*[foreign state], apply subject to such modifications, exceptions, conditions and qualifications as it may think fit to specify in the order for the purpose of implementing the arrangement.
13. **Liability of fugitive criminals from foreign states to be apprehended and returned.** Where a fugitive criminal of any 3\*[foreign state] to which this Chapter applies is found in India, he shall be liable to be apprehended and returned in the manner provided by this Chapter to that 3\*[foreign state].
14. **Endorsed and provisional warrants.** A fugitive criminal may be apprehended in India under an endorsed warrant or a provisional warrant.
15. **Endorsed warrant for apprehension of fugitive criminal.** Where a warrant for the apprehension of a fugitive criminal has been issued in any 3\*[foreign state] to which this Chapter applies and such fugitive criminal is, or is suspected to be, in India, the Central Government may, if satisfied that the warrant was issued by a person having lawful authority to issue the same, endorse such warrant in the manner prescribed, and the warrant so endorsed shall be sufficient authority to apprehend the person named in the warrant and to bring him before and magistrate in India.
16. **Provisional warrant for apprehension of fugitive criminal.** (1) Any magistrate may issue a provisional warrant for the apprehension of a fugitive criminal from any commonwealth country to which this Chapter applies who is, or is suspected to be, in or on his way to India, on such information and under such circumstances as would, in his opinion, justify the issue of a warrant, if the offence of which the fugitive criminal is accused or has been convicted had been committed within his jurisdiction and such warrant may be executed accordingly.
- (2) A magistrate issuing a provisional warrant shall forthwith send a report of the issue of the warrant together with the information or a certified copy thereof to the Central Government, and the Central Government may, if it thinks fit, discharge the person apprehended under such warrant.

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1. Omitted by Act 66 1993 s. 8 (w.e.f. 18-12-1993)  
2. Subs. by s. 9. *ibid* (w.e.f 18-12-1993)  
3. Subs by s. 3 *ibid*. (w.e.f. 18-12-1993)  
4. Subs s. 10. w.e.f 18-12-1993)

- (3) A fugitive criminal apprehended on a provisional warrant may, from time to time, be remanded for such reasonable time, not exceeding seven days at any one time, as under the circumstances seems requisite for the production of an endorsed warrant.

**17. Dealing with fugitive criminal when apprehended.** (1) If the magistrate, before whom a person apprehended under this Chapter is brought, is satisfied on inquiry that the endorsed warrant for the apprehension of the fugitive criminal is duly authenticated and that the offence of which the person is accused or has been convicted in an extradition offence, the magistrate shall commit the fugitive criminal to prison to await his return and shall forthwith send to the Central Government a certificate of the committal.

- (2) If on such inquiry the magistrate is of opinion that the endorsed warrant is not duly authenticated or that the offence of which such person is accused or has been convicted is not an extradition offence, the magistrate may, pending the receipt of the orders of the Central Government, detain such person in custody or release him on bail.

- (3) The magistrate shall report the result of his inquiry to the Central Government and shall forward together with such report any written statement which the fugitive criminal may desire to submit for the consideration of that Government.

**18. Return of fugitive criminal by warrant.** The Central Government may, at any time after a fugitive criminal has been committed to prison under this Chapter, issue a warrant for the custody and removal to the commonwealth country concerned of the fugitive criminal and for his delivery at a place and to a person to be named in the warrant.

**CHAPTER IV**  
**SURRENDER OR RETURN OF ACCUSED OR CONVICTED PERSONS FROM FOREIGN STATES**

19. **Mode of requisition of form of warrant for the surrender or return to India of accused or convicted person who is in a foreign State.** (1) A requisition for the surrender of a person accused or convicted of an extradition offence committed in India and who is, or is suspected to be, in any foreign State to which Chapter 111 does not apply, may be made by the Central Government-
- (a) to be a diplomatic representative of that State or country at Delhi; or
  - (b) to the Government of that State or country through the diplomatic representative of India in that State and if neither of these modes is convenient there requisition made by the Government of India with that State.
2. a warrant issued by a Magistrate in India for the apprehension of any person who is, or is suspected to be, in any [foreign State] to which Chapter III applies shall be in such form as may be prescribed.
20. **Conveyance of accused or convicted person surrendered or returned.** Any person accused or convicted of an extradition offence who is surrendered or returned by a foreign State or 2\*\*\* may, under the warrant of arrest for his surrender or return issued in such State or country, be brought into India and delivered to the proper authority to be dealt with according to law.
- 3\*[ 21. **Accused or convicted person surrendered or returned by foreign State not to be tried for certain offences.** 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—
- (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.]

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1. Omitted by Act 66 of 1993 s. 11 (w.e.f 18-12-1993).

2. Omitted & Subs. by s. 3 *ibid.* (w.e.f. 18-12-1993).

3. Subs. by s. 12, *ibid* (w.e.f. 18-12-1993).

**CHAPTER V**  
**MISCELLANEOUS**

22. **Liability of fugitive criminals to be arrested and surrendered or returned.** Every fugitive criminal of a foreign State 1\*xxx 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.
23. **Jurisdiction as to offences committed at sea or in air.** Where the offence in respect of which the surrender or return of a fugitive criminal is sought was committed on board any vessel on the 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.
24. **Discharge of person apprehended if not surrendered or returned within two months.** 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 1\*xxx 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.
25. **Release of persons arrested on bail.** In the case of a person who is a fugitive criminal arrested or detained under this Act, the provisions of the 2\*[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.
26. **Abetment of extradition offences.** A fugitive criminal who is accused or convicted of abetting 1\*[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.
27. **Lawfulness of, and re-taking on escape from, custody under warrants.** 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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1. Omitted by act 66 of 1993, s. 3 (w.e.f 18-12-1993).

2. Subs. by s. 13, *ibid* (w.e.f 18-12-1993)

28. **Property found on fugitive criminal.** 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 thereto.
29. **Power of Central Government to discharge any fugitive criminal.** 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.
30. **Simultaneous requisitions.** If requisitions for the surrender of a fugitive criminal are received from more than one foreign State 2\*\*\*, the Central Government may, having regard to the circumstances of the case, surrender the fugitive criminal to such State or country as that Government thinks fit.
31. **Restrictions on surrender.** 3\*[(1)] A fugitive criminal shall not be surrendered or returned to a foreign State 4\*\*\*.
- (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;
- 1\*[(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;]
- (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;

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1. Ins. by s. Act of 66 of 1993 14 (w.e.f 18-12-1993).

2. Omitted by s. 15, *ibid* (w.e.f 18-12-1993)

3. Renumbered by s. 16 *ibid* (w.e.f. 18-12-1993).

4. Omitted by s. 3 *ibid*. (w.e.f. 18-12-1993).

- (e) until after the expiration of fifteen days from the date of his being committed to prison by the magistrate.
- 1\*[(2) For the purposes of sub-section (1), the offence 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.]
32. **Sections 29 and 31 to apply without any modification thereof.** Notwithstanding anything to the contrary contained in section 3 or section 12, the provisions of sections 9 and 31 shall apply without any modification to every foreign State 1\*xxx.
33. **Act not to affect the Foreigners Act, 1946.** Nothing in this Act shall affect the provisions of the Foreigners Act, 1946, (31 of 1946), or any order made thereunder.
- 2\*[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.
- 34A. **Prosecution on refusal to extradition.** 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.
- 34B. **Provisional arrest.** (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. **Provision of life imprisonment for death penalty.** 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.”]
35. **Notified orders and notifications to be laid before Parliament.** 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.
36. **Power to make rules.** (1) The central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

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1. Subs. & Ins by Act 66 of 1993, s. 16 (w.e.f. 18-12-1993).

2. Subs. by s. 17. *ibid* (w.e.f. 18-12-1993).

(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 a warrant for the apprehension of any person in a [foreign state] 1\* 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 a 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 2\*[in two or more successive sessions, and if, before the expiry of the session immediately following the session 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.

**37. Repeals and savings.** (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 and 34 Vict. c. 52; 36 and 37 Vict.c. 60; 6 Edw. 7, c. 15; 22 and 23 Geo. 5, c. 39. 44 and 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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1. Subs. by Act 66 of 1993, s. 3, (w.e.f 18-12-1993)

2. Subs. by Act 4 of 1986, s. 2 and sch. (w.e.f 15-5-1986).

**THE SCHEDULE**

[See Sec.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 [Sec.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 [Sec.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 (Sec.425 read with section 440).
11. Wrongful restraint and wrongful confinement (Secs. 339 to 348).
12. Kidnapping and abduction including taking of hostages (Secs.339 to 348).
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.]

**FOREIGN JURISDICTION ACT 1947**  
THE 1\*[FOREIGN] JURISDICTION ACT, 1947,  
ACT NO. 47 OF 1947

[24th December, 1947.]

An Act to provide for the exercise of certain 1\*[foreign] jurisdiction of the Central Government. WHEREAS by treaty, agreement, grant, usage, sufferance and other lawful means, the Central Government has, and may hereafter acquire, jurisdiction in and in relation to areas outside 2\*\*\* India; It is hereby enacted as follows:--

1. **Short title.** This Act may be called the 1\*[Foreign] Jurisdiction Act, 1947.
2. **Definitions.** In this Act,-- (a) “1\*[foreign] jurisdiction” means any jurisdiction which by treaty, agreement, grant, usage, sufferance or other lawful means the Central Government has for the time being in or in relation to any area outside 3\*[India];  
(b) “jurisdiction” includes rights, power and authority.
3. **Exercise of jurisdiction.** (1) It shall be lawful for the Central Government to exercise 1\*[foreign] jurisdiction in such manner as it thinks fit.  
(2) The Central Government may 4\*delegate any such jurisdiction as aforesaid to any officer or authority in such manner and to such extent as it thinks fit.
4. **Power to make orders.** (1) The Central Government may, by 5\*notification in the Official Gazette, make such orders as may seem to it expedient for the effective exercise of any 1\*[foreign] jurisdiction of the Central Government.  
(2) Without prejudice to the generality of the powers conferred by sub-section (1), any order made under that sub-section may provide-
  - (a) for determining the law and procedure to be observed, whether by applying with or without modifications all or any of the provisions of any enactment in force in any State or otherwise;

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1. Subs. by the A. O. 1950 for “extra-provincial”.
  2. The words “the Provinces of” omitted by the A. O. 1950.
  3. Subs., *ibid.*, for “the Provinces”.
  4. For such delegation, see Gazette of India, 1948, Pt. I, pp. 358 and 431.
  5. For such notifications, see Gazette of India, 1948, Pt. I, pp. 44, 80, 201, 248, 281, 335, 336, 433, 454, 455, and *ibid.*, Extraordinary, p. 75. 110

- (b) for determining the persons who are to exercise jurisdiction, either generally or in particular cases or classes of cases, and the powers to be exercised by them;
  - (c) for determining the Courts, Judges, Magistrates and authorities by whom, and for regulating the manner in which, any jurisdiction auxiliary or incidental to or consequential on the jurisdiction exercised under this Act is to be exercised within any State; and
  - (d) for regulating the amount, collection and application of fees.
5. **Validity of acts done in pursuance of jurisdiction.** Every act and thing done, whether before or after the commencement of this Act, in pursuance of any 1\*[foreign] jurisdiction of the Central Government in an area outside 2\*[India] shall be as valid as if it had been done according to the local law then in force in that area.
6. **Evidence as to existence or extent of jurisdiction.** (1) If in any proceeding, civil or criminal, in a Court established in 2\*[India] or by the authority of the Central Government outside 2\*[India], any question arises as to the existence or extent of any 1\*[foreign] jurisdiction of the Central Government, the Secretary to the Government of India in the appropriate department shall, on the application of the Court, send to the Court the decision of the Central Government on the question, and that decision shall for the purposes of the proceeding be final.
- (2) The Court shall send to the said Secretary, in a document under the seal of the Court or signed by a Judge of the Court, questions framed so as properly to raise the question, and sufficient answers to those questions shall be returned to the Court by the Secretary and those answers shall on production thereof be conclusive evidence of the matters therein contained.
7. **Repeal and saving.** (1) The Extra-Provincial Jurisdiction Ordinance, 1947 (15 of 1947), is hereby repealed.
- (2) Any order made, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 27th day of August, 1947.

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- 1. Subs. By the A.O. 1950 for “extra-provincial”.
  - 2. Subs. *ibid.*, for “the Provinces”.

**The Code of Criminal Procedure, 1973**  
**Relevant Provisions**

**105A. CHAPTER II-A**

**<sup>1</sup> RECIPROCAL ARRANGEMENTS FOR ASSISTANCE IN CERTAIN MATTERS AND  
PROCEDURE FOR ATTACHMENT AND FORFEITURE OF PROPERTY**

**1. Chapter VIIA (containing Sections 105A to 105L) Ins. by Act 40 of 1993, sec. 2 (w.e.f. 20-7-1994).**

**Definitions:-** In this Chapter, unless the context otherwise requires,—

- (a) “contracting State” means any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise;
- (b) “identifying” includes establishment of a proof that the property was derived from, or used in, the Commission of an offence;
- (c) “proceeds of crime,” means any property derived or obtained directly or indirectly by any person as a result of criminal activity (including crime involving currency, transfers) or the value of any such property;
- (d) “property” means property and assets of every description whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets derived or used in the Commission of an offence and includes property obtained through proceeds of crime;
- (e) “tracing” means determining the nature source, disposition, movement, title or ownership of property.

**105B. Assistance in securing transfer of persons**

- (1) Where a court in India, in relation to a criminal matter, desires that a warrant for arrest of any person to attend or produce a document or other thing issued by it shall be executed in any place in a contracting State, it shall send such warrant in duplicate in such form to such Court, Judge or Magistrate, through such authority, as the Central Government may, by notification, specify in this behalf and that court, Judge or Magistrate, as the case may be, shall cause the same to be executed.
- (2) Notwithstanding anything contained in this Code, if, in the course of an investigation or any inquiry into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that the attendance of a Person who is in any place in a contracting State is required in connection with such investigation or inquiry and the court is satisfied that such attendance is so required, it shall issue a summons or warrant, in duplicate, against the said person to such court, Judge or Magistrate, in such form as the Central Government by notification, specify in this behalf, to cause the same to be served or executed.

- (3) Where a court in India, in relation to a criminal matter, has received a warrant for arrest of any person requiring him to attend or attend and produce a document or other thing in that court or before any other investigating agency, issued by a court, Judge or Magistrate in a contracting State, the same shall be executed as if it is the warrant received by it from another court in India for execution within its local limits.
- (4) Where a person transferred to a contracting State pursuant to sub-section (3) is a prisoner in India, the court in India or the Central Government may impose such conditions as that court or Government deems fit.
- (5) Where the person transferred to India pursuant to sub-section (1), or sub-section (2) is a prisoner in a contracting State, the court in India shall ensure that the conditions subject to which the prisoner is transferred to India are complied with and such prisoner shall be kept in such custody subject to such conditions as the Central Government may direct in writing.

**105C. Assistance in relation to orders of attachment or forfeiture of property.**

- (1) Where a court in India has reasonable grounds to believe that any property obtained by any person is derived or obtained, directly or indirectly, by such person from the commission of an offence, it may make an order of attachment or forfeiture of such property, as it may deem fit under the provisions of sections 105D to 105J (both inclusive).
- (2) Where the Court has made an order for attachment or forfeiture of any property under sub-section (1), and such property is suspected to be in a contracting State, the court may issue a letter of request to a court or an authority in the contracting State for execution of such order.
- (3) Where a letter of request is received by the Central Government from a court or an authority in a contracting State requesting attachment or forfeiture of the property in India, derived or obtained, directly or indirectly, by any person from the commission of an offence committed in that contracting State, the Central Government may forward such letter of request to the court, as it thinks fit, for execution in accordance with the provisions of sections 105D to 105J (both inclusive) or, as the case may be, any other law for the time being in force.

**105D. Identifying unlawfully acquired property.**

- (1) The court shall, under subsection (1), or on receipt of a letter of request under sub-section (3) of section 105C, direct any police officer not below the rank of Sub-Inspector of Police to take all steps necessary for tracing and identifying such property.
- (2) The steps referred to in sub-section (1) may include any inquiry, investigation or survey in respect of any person, place, property assets, documents, books of account in any bank or public financial institutions or any other relevant matters.
- (3) Any inquiry, investigation or survey referred to in sub-section (2) shall be carried out by an offence mentioned in sub-section (1) in accordance with such directions issued by the said court in this behalf.

### **105E. Seizure or attachment of property**

- (1) Where any officer conducting an inquiry or investigation under section 105D has a reason to believe that any property in relation to which such inquiry or investigation is being conducted is likely to be concealed, transferred or dealt with in any manner which will result in disposal of such property, he may make an order for seizing such property and where it is not practical to seize such property, he may make an order of attachment directing that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned.
- (2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the said court, within a period of thirty days of its being made.

### **105F. Management of properties seized or forfeited under this Chapter.**

- (1) The court may appoint the District Magistrate of the area where the property is situated, or any other officer that may be nominated by the District Magistrate, to perform the functions of an administrator of such property.
- (2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which the order has been made under sub-section (1) of section 105E or under section 105H in such manner and subject to such conditions as may be specified by the Central Government.
- (3) The Administrator shall also take such measures, as the Central Government may direct, to dispose of the property, which is forfeited to the Central Government.

### **105G. Notice of forfeiture of property.**

- (1) If as a result of the inquiry, investigation or survey under section 105D, the court has reason to believe that all or any of such properties are proceeds of crime, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon him within a period of thirty days specified in the notice to indicate the source of income, earning or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties, as the case may be, should not be declared to be proceeds of crime and forfeited to the Central Government.
- (2) Where a notice under sub-section (1) to any person specifies any property as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person.

### **105H. Forfeiture of property in certain cases**

- (1) The court may, after considering the explanation, if any, to the show-cause notice issued under section 105G and the material available before it and after giving to the person affected (and in a case where the person affected holds any property specified in the notice through any other person, to such other person also) a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are proceeds of crime:

Provided that if the person affected (and in a case where the person affected holds any property specified in the notice through any other person such other person also) does not appear before the

court or represent his case before it within a period of thirty days specified in the show-cause notice, the court may proceed to record a finding under this sub-section *ex parte* on the basis of evidence available before it.

- (2) Where the court is satisfied that some of the properties referred to in the show cause notice are proceeds of crime but it is not possible to identify specifically such properties, then, it shall be lawful for the court to specify the properties which, to the best of its judgment, are proceeds of crime and record a finding accordingly under sub-section (1).
- (3) Where the court records a finding under this section to the effect that any property is proceeds of crime, such property shall stand forfeited to the Central Government free from all encumbrances.
- (4) Where any shares in a company stand forfeited to the Central Government under this section, then the company shall, notwithstanding any thing contained in the Companies Act, 1956 (1 of 1956) or the articles of association of the company, forthwith register the Central Government as the transferee of such shares.

#### **105-I. Fine in lieu of forfeiture**

- (1) Where the Court makes a declaration that any property stands forfeited to the Central Government under section 105H and it is a case where the source of only a part of such property has not been proved to the satisfaction of the Court, it shall make an order giving an option to the person affected to pay, in lieu of forfeiture, a fine equal to the market value of such part.
- (2) Before making an order imposing a fine under sub-section (1), the person affected shall be given a reasonable opportunity of being heard.
- (3) Where the person affected pays the fine due under sub-section (1), within such time as may be allowed in that behalf, the Court may, by order, revoke the declaration of forfeiture under section 105h and thereupon such property shall stand released.

#### **105J. Certain transfers to be null and void.**

Where after the making of an order under sub-section (1) of section 105E or the issue of a notice under section 105G, any property referred to in the said order or notice is transferred by any mode whatsoever such transfer shall, for the purposes of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited to the Central government under section 160H, then the transfer of such property shall be deemed to be null and void.

#### **105K. Procedure in respect of letter of request.**

Every letter of request, summons or warrant, received by the Central Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Chapter shall be transmitted to a contracting State or, as the case may be, sent to the concerned court in India in such form and in such manner as the Central Government may, by notification, specify in this behalf.

### **105L. Application of this Chapter.**

The Central Government may, by notification in the Official Gazette, direct that the application of this Chapter in relation to a contracting State with which reciprocal arrangements have been made, shall be subject to such conditions, exceptions or qualifications as are specified in the said notification.]

### **166A. Letter of request to competent authority for investigation in a country or place outside India.**

<sup>1</sup>[166A. Letter of request to competent authority for investigation in a country or place outside India.

- (1) Notwithstanding anything contained in this Code, if, in the Course of an investigation into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that evidence may be available in a country or place outside India, any Criminal Court may issue letter of request to a court or an authority in that country or place competent to deal with such request to examine orally any person supposed to be acquainted with the facts and Circumstances of the case and to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing which may be in his possession pertaining to the case and to forward all the evidence so taken or collected or the authenticated copies thereof or the thing so collected to the court issuing such letter.
- (2) The letter of request shall be transmitted in such manner as the Central Government may specify in this behalf.
- (3) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be the evidence collected during the course of investigation under this Chapter.

### **166B. Letter of request from a country or place outside India to a court or an authority for investigation in India.**

- (1) Upon receipt of a letter of request from a court or an authority in a country or place outside India competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to an offence under investigation in that country or place, the Central Government may, if it thinks fit-
  - (i) Forward the same to the Chief Metropolitan Magistrate or Chief Judicial Magistrate or such Metropolitan Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall thereupon summon the person before him and record his statement or cause the document or thing to be produced, or
  - (ii) Send the letter to any police officer for investigation, who shall thereupon investigate into the offence in the same manner, as if the offence had been committed within India.
- (2) All the evidence taken or collected under sub-section (1), or authenticated copies thereof or the thing so collected, shall be forwarded by the Magistrate or police officer, as the case may be, to the Central Government for transmission to the court or the authority issuing the letter of request, in such manner as the Central Government may deem fit.

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1. Ins. by Act 10 of 1990, sec. 2 (w.e.f. 19-2-1990).