

# The Extradition Act, 1974

( ACT NO. LVIII OF 1974 )

**An Act to consolidate and amend the law relating to the extradition of fugitive offenders.**

WHEREAS it is expedient to consolidate and amend the law relating to the extradition of fugitive offenders;

It is hereby enacted as follows:-

## CHAPTER I PRELIMINARY

### **Short title, commencement and application**

1. (1) This Act may be called the Extradition Act, 1974.
- (2) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.
- (3) It shall apply in relation to the return of persons to, and to persons returned from,-
  - (a) a treaty State, subject to a declaration under section 3, if any; and
  - (b) a foreign State not being a treaty State, subject to a direction under section 4.

### **Definitions**

2. (1) In this Act, unless there is anything repugnant in the subject or context,-
  - (a) “extradition offence” means an offence the act or omission constituting which falls within any of the descriptions set out in the Schedule and, if it took place within, or within the jurisdiction of, Bangladesh would constitute an offence against the law of Bangladesh and also-

- (i) in the case of a treaty State, an offence a person accused of which is, under the extradition treaty with that State, to be returned to or from that State; and
- (ii) in the case of a foreign State not being a treaty State, an offence specified in a direction issued under section 4;
- (b) “extradition treaty” means a treaty or agreement between Bangladesh and a foreign State for the extradition to or from such State of a person accused or convicted of an extradition offence;
- (c) “foreign State” includes every constituent part, or dependency, of such State and any territory under the sovereignty or trusteeship of the State;
- (d) “fugitive offender” means the person who, being accused or convicted of an extradition offence is, or is suspected to be, in any part of Bangladesh;
- (e) “prescribed” means prescribed by rules made under this Act;
- (f) “treaty State” means a foreign State with which an extradition treaty is for the time being in operation.

(2) In determining for the purposes of this Act whether an offence against the law of a foreign State falls within a description set out in the Schedule, any special intent or state of mind or special circumstances of aggravation which may be necessary to constitute that offence under the law shall be disregarded.

### **Treaty State**

3. (1) As soon as may be after the commencement of this Act, the Government shall publish in the official Gazette a list of the foreign States with which an extradition treaty is in operation, specifying in respect of each such State the offences persons accused of which are, under the treaty, to be returned to or from that State.

(2) Whenever there is concluded an extradition treaty between Bangladesh and a foreign State, the Government may, by notification in the official Gazette, declare such State to be a treaty State for the purposes of this Act.

(3) A declaration under sub-section (2) in relation to a foreign State shall specify the offences persons accused of which are, under the extradition treaty with that State, to be returned to or from that State and may provide that this Act shall apply in relation to that State with such modifications, exceptions, conditions and qualifications, if any, as may be set out therein; and the provisions of this Act shall have effect accordingly.

**Application of Act to non-treaty States**

4. (1) Where the Government considers it expedient that the persons who, being accused or convicted of offences at places within, or within the jurisdiction of, a foreign State, are or are suspected to be in Bangladesh should be returned to that State, notwithstanding that there is no extradition treaty with that State, it may, by notification in the official Gazette, direct that the provisions of this Act shall, with respect to such offences and subject to such modifications, exceptions, conditions and qualifications, if any, as may be specified therein, have effect in relation to that State.

(2) Where a direction under sub-section (1) in relation to a foreign State is in force, the provisions of this Act shall, with respect to the offences specified in that direction, have effect in relation to such State as if it were a treaty State.

## **CHAPTER II**

### **SURRENDER OF FUGITIVE OFFENDERS**

**Liability of fugitive offenders to be surrendered**

5. (1) Subject to the provisions of sub-section (2), every fugitive offender shall be liable to be apprehended and surrendered in the manner provided in this Act, whether the offence in respect of which his surrender is sought was committed before or after the commencement of this Act and whether or not a Court in Bangladesh has jurisdiction to try that offence.

(2) No fugitive offender shall be surrendered,-

(a) if the offence in respect of which his surrender is sought is of a political character or if it is shown to the satisfaction of the Government or of the

Magistrate or Court before whom he may be produced that the requisition for his surrender has, in fact, been made with a view to his being tried or punished for an offence of a political character;

(b) if the offence in respect of which his surrender is sought is not punishable with death or with imprisonment for life or a term which is not less than twelve months;

(c) if the prosecution for the offence in respect of which the surrender is sought is, according to the law of the State asking for the surrender, barred by time;

(d) if there is no provision in the law of, or in the extradition treaty with, the state asking for the surrender that the fugitive offender shall not, until he has been restored or has had an opportunity of returning to Bangladesh, be detained or tried in that State for any offence committed prior to his surrender, other than the extradition offence proved by the facts on which the surrender is based;

(e) if he has once been tried in Bangladesh in respect of which his surrender or return is sought and convicted or acquitted of such offence;

(f) if it appears to the Government that he is accused of alleged to have been convicted of such an offence that if he were charged with that offence in Bangladesh he would be entitled to be discharged under any law relating to previous acquittal or conviction;

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

(h) if it is shown to the satisfaction of the Government or of the Magistrate or Court before whom he may be produced that he might, if surrendered, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.

**endorsed  
warrant  
procedure**

6. (1) Where a warrant for arrest of a fugitive offender has been issued in a treaty State, being a Commonwealth Country or such neighbouring country as the Government may specify in this behalf, and the extradition treaty with that State so provides, the Government may, if it is 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 arrest the person named in the warrant and to bring him before any Magistrate in Bangladesh.

(2) When a fugitive offender appears or is brought before a Magistrate in pursuance of a warrant endorsed under sub-section (1), the Magistrate,-

(a) if he is satisfied on inquiry that the warrant so endorsed is duly authenticated and that the offence of which the fugitive offender is accused or has been convicted is an extradition offence, shall commit such offender to prison to await his return and shall forthwith send to the Government a certificate of committal; and

(b) if he is not so satisfied, may, pending receipt of the orders of the Government, detain such offender in custody or release him on bail.

(3) The Magistrate making an inquiry under sub-section (2) shall report the result of the inquiry to the Government and together with such report forward any written statement which the fugitive offender may desire to submit for consideration of the Government.

(4) The Government may, after a fugitive offender has been committed to prison under sub-section (2), issue a warrant for the custody and removal of the fugitive offender to the state concerned and for his delivery at a place and to the person to be named in the warrant.

**Requisition  
for  
surrender  
and order  
of**

7. (1) Except as provided in section 7, a requisition for the surrender of a fugitive offender shall be made to the Government,-

(a) by a diplomatic representative in Bangladesh of the State asking for the surrender; or