



THE EXTRADITION ACT, 1972



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THE SCHEDULE.

THE EXTRADITION ACT, 1972.

¹ACT No. XXI of 1972

[24th September, 1972]

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

1. Short title, extent, commencement and application.—(1) This Act may be called the Extradition Act, 1972.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date² as the Federal Government may, by notification in the official Gazette, appoint.

(4) 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.

2. Definitions.—(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, Pakistan would constitute an offence against the law of Pakistan 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;

¹For Statement of Objects and Reasons, see Gaz. of P. 1972. Ext., Pt. III, p. 415.

²I.e 20th February, 1973, see S.R.O. 210(I)/73, dated 20-2-1973, Gaz., of P. 1973, Ext., Pt. II, p. 276.

- (b) "extradition treaty" means a treaty or agreement between Pakistan 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, colony or dependency of such 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 Pakistan;
- (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.

3. Treaty State.—(1) As soon as may be after the commencement of this Act, the Federal Government shall publish in the official Gazette a list¹ 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 Pakistan and a foreign state, the Federal 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 modification as may be set out therein; and the provisions of this Act shall have effect accordingly.

4. Application of Act to non-treaty States.—(1) Where the Federal 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 Pakistan should be returned to the 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.

¹ For such list, see S.R.O. No. 211(I)/73, dated 20-2-73, Gaz., of P., 1973, Ext., (Islamabad), Pt. II, pp. 276—284.

CHAPTER II

SURRENDER OF FUGITIVE OFFENDERS

5. Liability of fugitive offenders to be surrendered.—(1) Subject to the provisions of subsection (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 Pakistan 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 Federal 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 Pakistan, be detailed 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 it appears to the Federal Government that he is accused or alleged to have been convicted of such an offence that if he were charged with that offence in Pakistan he would be entitled to be discharged under any law relating to previous acquittal or conviction ;
- (f) if he has been accused of some offence in Pakistan, not being the offence for which his surrender is sought, or is undergoing sentence under any conviction in Pakistan, until after he has been discharged, whether by acquittal or on the expiration of his sentence or otherwise.
- (g) if it is shown to the satisfaction of the Federal 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.

6. Requisition for surrender of fugitive offender. A requisition for the surrender of a fugitive offender shall be made to the Federal Government—

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

- (b) by the Government of the State asking for the surrender through the diplomatic representative of Pakistan in that State; or
- (c) in such other manner as may have been settled by arrangement between the Federal Government and the Government of the State asking for the surrender.

7. Order of Magisterial enquiry. Where a requisition is made under section 6, the Federal Government may, if it thinks fit, issue an order to enquire into the case to any Magistrate of the first class who would have had jurisdiction to enquire into the extradition offence to which the requisition relates if it had been an offence committed within the local limits of his jurisdiction.

8. Magisterial enquiry.—(1) On receipt of an order under section 7, the Magistrate shall issue a summon or a warrant for the arrest of the fugitive offender according as the case appears to be one in which according to the law of Pakistan a summon or warrant would ordinarily issue.

(2) When the fugitive offender appears or is brought before him, the Magistrate shall enquire 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 a court of session and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive offender, including any evidence to show that the offence of which the fugitive offender is accused or alleged to have been convicted is an offence of a political character or is not an extradition offence.

9. Receipt in evidence of exhibits, depositions, etc.—(1) In any proceedings against a fugitive offender under this Act, exhibits and depositions, whether or not they are received or taken in the presence of the person against whom they are used, 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 Pakistan, 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; and
- (d) if the warrant, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness