

# Burma Extradition Act, 1904

## CHAPTER I - PRELIMINARY.

1. [Omitted.]
2. Definitions

In this Act, unless there is anything repugnant in the subject or context:

- (a) "extradition offence" means any such offence as is described in the schedule;
- (b) "Foreign State" means a State notified as such by the President of the Union;
- (c) "fugitive criminal" means any person accused or convicted of an extradition offence committed within the jurisdiction of any Foreign State who is in or suspected of being in some part of the Union, of Burma whether or not the offence committed by such person is triable by any Court within the Union;
- (d) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force;
- (e) "rules" include prescribed forms.

## CHAPTER II - SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

3.
  - (1) Requisition for surrender.

Where a requisition is made to the President of the Union by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in or who is suspected of being in the Union of Burma, the President of the Union may, if he thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

- (2) Summons or warrant for arrest.

The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

- (3) Inquiry by Magistrate.

When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire 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 the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition offence.

**(4) Committal.**

If the Magistrate is of opinion that a prima facie case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the President of the Union.

**(5) Bail.**

If the Magistrate is of opinion that a prima facie case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure, the Magistrate may release the fugitive criminal on bail.

**(6) Magistrate's report.**

The Magistrate shall report the result of his inquiry to the President of the Union and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the President of the Union.

**(7) Reference to High Court if President thinks necessary.**

If the President of the Union is of opinion that such report or written statement raises an important question of law, he may make an order referring such question of law to the High Court, and the fugitive criminal shall not be surrendered until such question has been decided.

**(8) Warrant for surrender.**

If, upon receipt of such report and statement or upon the decision of any such question, the President of the Union is of opinion that the fugitive criminal ought to be surrendered, he may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

**(9) Lawfulness of custody and retaking under warrant for surrender.**

It shall be lawful for any person to whom a warrant is directed in pursuance of subsection (8), to receive, 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 retaken as a person accused of an offence against the law of the Union of Burma may be retaken upon an escape.

**(10) Discharge of fugitive criminals committed to prison after two months.**

If such a warrant as is prescribed by subsection (8) is not issued and executed in the case of any fugitive criminal, has been committed to prison under subsection (4), within two months after such committal, the High Court committed may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the President of the Union, order such criminal to be discharged unless sufficient cause is shown to the contrary.

**4.**

**(1) Power to Magistrate to issue warrant of arrest in certain cases.**

Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the President of the Union in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

**(2) Issue of warrant to be reported forthwith.**

The Magistrate shall forthwith report the issue of a warrant under this section to the President of the Union.

**(3) Person arrested not to be detained unless order received.**

A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, subsection (1).

#### **(4) Bail.**

In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure relating to bail shall apply in the same manner as if such person were accused of committing in the Union of Burma the crime of which he is accused or has been convicted.

#### **5.**

##### **(1) Power of President to refuse to issue order under section 3 when crime of political character.**

If the President of the Union is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, he may, if he thinks fit, refuse to issue any order under section 3, subsection (1).

##### **(2) Power of President to discharge any person in custody at any time.**

The President of the Union may also at any time stay any proceedings taken under this chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

#### **6. [Omitted by the Union of Burma (Adaption of Laws) Order, 1948.]**

#### **CHAPTER III - SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES AND INDIA OR PAKISTAN.**

#### **7-10. [Omitted by the Union of Burma (Adaption of Laws) Order, 1948.]**

#### **11.**

##### **(1) Surrender of person accused of, or undergoing sentence for, offence in the Union of Burma.**

A person accused of an offence committed in the Union of Burma, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in the Union of Burma, shall not be surrendered in compliance with a requisition made by or on behalf of a Foreign State except on the condition that such person be re-surrendered to the President of the Union on the termination of his trial for the offence for which his surrender has been asked:

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

## **(2) Suspension of sentence on surrender.**

On the surrender of a person undergoing sentence under a conviction in the Union of Burma, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

## **12. Application of Act to convicted persons.**

The provisions of this Act with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any Foreign State, has escaped or is in the Union of Burma before his sentence has expired.

## **13. Abetment and attempt.**

Every person who is accused or convicted of abetting or attempting to commit any 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.

**14-16. [Omitted by the Union of Burma (Adaption of Laws) Order, 1948.]**

**17.**

### **(1) Receipt in evidence of exhibits, depositions and other documents.**

In any proceedings under this Act, 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) Authentication of the same.**

Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside the Union of Burma, 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;

(d) if 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 where the same were respectively issued, taken or given.

### **(3) Definition of "warrant".**

For the purposes of this section, "warrant" includes: a requisition and any other judicial document requiring the arrest of any person accused convicted of an offence.

## **18. Chapter not to derogate from treaties.**

Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies, and the provisions of this Act shall be modified accordingly.

## **CHAPTER IV**

19. [Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.]

## **CHAPTER V - OFFENCES COMMITTED AT SEA.**

20. Requisition for surrender in case of offence committed at sea.

Where the Government of ally State outside the Union of Burma makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of the Union of Burma, the President of the Union and any Magistrate having jurisdiction in such port and authorized by the President of the Union in this behalf may exercise the powers conferred by this Act.

## **CHAPTER VI - EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE THE UNION OF BURMA**

21. Execution of commissions issued by Criminal Courts in Foreign States.

The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any Foreign State in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding:

Provided that this section shall not apply when the evidence is required in respect of an offence of a political character.

## **CHAPTER VII - SUPPLEMENTAL**

### **22. Power to make rules.**

(1) The President of the Union may 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:

(a) the removal of prisoners 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 are entitled to receive them;

(b) 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:

(c) the pursuit and arrest in the Union of Burma by officers of the Government or other persons authorized in this behalf of persons accused of offences committed elsewhere; and

(d) the procedure and practice to be observed in extradition proceedings.

(3) Rules made under this section shall be published in the Gazette and shall thereupon have effect as if enacted by this Act.

### **23. Detention of persons arrested under section 54, clause seventy, Code of Criminal Procedure.**

Notwithstanding anything in the Code of Criminal Procedure, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause seventy of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be

detained in the same manner and subject to the same restrictions as person arrested on a warrant issued by such Magistrate under section 4.

#### **THE FIRST SCHEDULE - EXTRADITION OFFENCES.**

[See section 2, clause (b), and Chapter III (Surrender of Fugitive Criminals in case of States other than Foreign States and India or Pakistan).]

[The sections referred to are the sections of the Penal Code.]

Frauds upon creditors (section 206).

Resistance to arrest (section 224).

Offences relating to coin and stamps (sections 230 to 263A).

Culpable homicide (sections 299 to 304).

Attempt to murder (section 307).

Thagi (sections 310, 311).

Causing miscarriage, and abandonment of child (sections 312 to 317).

Causing hurt (sections 323 to 333).

Wrongful confinement (sections 347, 348).

Kidnapping and slavery (sections 360 to 373).

Rape and unnatural offences (sections 375 to 377).

Theft, extortion, robbery, etc. (sections 378 to 414).

Cheating (sections 415 to 420).

Fraudulent deeds, etc. (sections 421 to 424).

Mischief (sections 425 to 440).

Lurking house-trespass (sections 443, 444).

Forgery, using forged documents, etc. (sections 463 to 477A).

Piracy by the law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Any offence against any section of the Penal Code or against any other law which may, from time to time, be specified by the President of the Union by notification in the Gazette either generally for all States or specially for any one or more States.