

Extradition Act, 1965



Number 17 of 1965.

EXTRADICTION ACT, 1965

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Acts Referred to

Criminal Justice Act, 1960	1960, No. 27
Extradition Act, 1870	1870, c. 52



Number 17 of 1965.

EXTRADICTION ACT, 1965

AN ACT TO AMEND THE LAW RELATING TO EXTRADICTION. [19th July, 1965.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

PART I

Preliminary

- Short title. **1.**—This Act may be cited as the Extradition Act, 1965.
- Commencement. **2.**—This Act shall come into operation on such day as the Minister by order appoints.
- Interpretation. **3.**—(1) In this Act—

“*act*” includes omission;

“*detention order*”, in relation to another country, means any order involving deprivation of liberty which has been made by a criminal court in that country in addition to or instead of a prison sentence;

“*diplomatic agent*” means an ambassador extraordinary and plenipotentiary, envoy extraordinary and minister plenipotentiary or chargé d'affaires;

“*extradition*” means the surrender of a person under the provisions of Part II to a country in relation to which that Part applies;

“*extradition agreement*” has the meaning assigned to it by subsection (1) of section 8;

“*extradition provisions*” means the provisions of an extradition agreement or of an order under

section 8 applying Part II otherwise than in pursuance of an extradition agreement;

“*habeas corpus proceedings*” means proceedings (including proceedings on appeal) under section 4.2° of Article 40 of the Constitution;

“*imprisonment*”, in relation to the State, includes penal servitude and detention in Saint Patrick's Institution and, in relation to any other country, includes deprivation of liberty under a detention order;

“*justice of the District Court*” includes the President of the District Court;

“*the Minister*” means the Minister for Justice;

“*person claimed*” means a person whose extradition is requested;

“*political offence*” does not include the taking or attempted taking of the life of a Head of State or a member of his family;

“*remand institution*” means an institution (other than a prison) within the meaning of the [Criminal Justice Act, 1960](#) ;

“*requested country*” means a country which is requested to surrender a person to the State for prosecution or punishment for an offence;

“*requesting country*” means a country which requests extradition;

“*revenue offence*”, in relation to any country or place outside the State, means an offence in connection with taxes, duties or exchange control but does not include an offence involving the use or threat of force or perjury or the forging of a document issued under statutory authority or an offence alleged to have been committed by an officer of the revenue of that country or place in his capacity as such officer;

“*Saint Patrick's Institution*” has the meaning assigned to it in the [Criminal Justice Act, 1960](#) ;

“*sentence*” includes detention order.

(2) This Act applies, except where otherwise provided, in relation to an offence whether committed or alleged to have been committed before or after the passing of this Act.

Laying of orders before Houses of Oireachtas. **4.**—Every order made by the Government under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either House within the next twenty-one days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses. **5.**—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Repeals. **6.**—(1) Each of the enactments specified in the [Schedule](#) to this Act is hereby repealed to the extent set out in the third column of that Schedule.

(2) Rule 74 (3) of the District Court Rules, 1948, shall cease to have effect.

Transitory provisions.

7.—(1) Any order made under section 2 of the Extradition Act, 1870, and in force immediately before the commencement of this Act shall continue in force and be deemed to be an order made under subsection (1) of section 8 and the arrangement to which it relates shall be deemed to be an extradition agreement.

(2) An order to which subsection (1) applies shall, if not sooner revoked under section 8, expire on the 1st day of January, 1972.

PART II

Extradition Generally

Application of Part II.

8.—(1) Where by any international agreement or convention to which the State is a party an arrangement (in this Act referred to as an extradition agreement) is made with another country for the surrender by each country to the other of persons wanted for prosecution or punishment or where the Government are satisfied that reciprocal facilities to that effect will be afforded by another country, the Government may by order apply this Part in relation to that country.

(2) Where the Government have made an arrangement amending an extradition agreement the Government may by order so declare and the extradition agreement shall thereupon have effect as so amended.

(3) An order relating to an extradition agreement or an amendment thereof shall recite or embody the terms of the agreement or amendment and shall be evidence of the making of the agreement or amendment and of its terms.

(4) An order applying this Part in relation to any country otherwise than in pursuance of an extradition agreement may be made subject to such conditions, exceptions and qualifications as may be specified in the order.

(5) Every extradition agreement and every order applying this Part otherwise than in pursuance of an extradition agreement shall, subject to the provisions of this Part, have the force of law in accordance with its terms.

(6) The Government may by order revoke or amend an order under this section.

(7) On the revocation of an order applying this Part in relation to any country, this Part shall cease to apply in relation to that country.

(8) Every order under this section shall be published in *Iris Oifigiúil* as soon as may be.

Obligation to extradite.

[Art. 1]

9.—Where a country in relation to which this Part applies duly requests the surrender of a person who is being proceeded against in that country for an offence or who is wanted by that country for the carrying out of a sentence, that person shall, subject to and in accordance with the provisions of this Part, be surrendered to that country.

Extraditable offences.

[Art. 2]

10.—(1) Subject to subsection (2), extradition shall be granted only in respect of an offence which is punishable under the laws of the requesting country and of the State by imprisonment for a maximum period of at least one year or by a more severe penalty and for which, if there has been a conviction and sentence in the requesting country, imprisonment for a period of at least four months or a more severe penalty has been imposed.

(2) If a request is made for extradition in respect of an offence to which subsection (1) applies and the request includes also any other offence which is punishable under the laws of the requesting country and of the State but does not comply with the conditions as to the period of imprisonment which may be, or has been, imposed, then extradition may, subject to the provisions of this Part, be granted also in respect of the latter offence.

(3) In this section references to an offence punishable under the laws of the State shall be construed as including references to an act which, if it had been committed in the State, would constitute such an offence.

Political offences.

[Art. 3]

11.—(1) Extradition shall not be granted for an offence which is a political offence or an offence connected with a political offence.

(2) The same rule shall apply if there are substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion or that that person's position may be prejudiced for any of these reasons.

Military offences.

[Art. 4]

12.—Extradition shall not be granted for offences under military law which are not offences under ordinary criminal law.

Revenue offences.

[Art. 5]

13.—Extradition shall not be granted for revenue offences.

Irish citizens.

[Art. 6.1 (a)]

14.—Extradition shall not be granted where a person claimed is a citizen of Ireland, unless the relevant extradition provisions otherwise provide.

Place of commission.

[Art. 7]

15.—Extradition shall not be granted where the offence for which it is requested is regarded under the law of the State as having been committed in the State.

Pending proceedings for the same offence.

[Art. 8]

16.—Extradition shall not be granted where a prosecution is pending in the State against the person claimed for the offence for which extradition is requested.

Non bis in idem.

17.—(1) Extradition shall not be granted if final judgment has been passed in the State or in a third country upon the person claimed in respect of the offence for which extradition is requested.

[Art. 9]

(2) Extradition may be refused by the Minister for an offence which is also an offence under the law of the State if the Attorney General has decided either not to institute or to terminate proceedings against the person claimed in respect of the offence.

Lapse of time.

[Art. 10]

18.—Extradition shall not be granted when the person claimed has, according to the law of either the requesting country or the State, become immune by reason of lapse of time from prosecution or punishment.

Capital punishment.

[Art. 11]

19.—Extradition shall not be granted for an offence which is punishable by death under the law of the requesting country but is of a category for which the death penalty is not provided for by the law of the State or is not generally carried out unless the requesting country gives such assurance as the Minister considers sufficient that the death penalty will not be carried out.

Rule of specialty.

[Art. 14]

20.—(1) Extradition shall not be granted unless provision is made by the law of the requesting country or by the extradition agreement—

(a) that the person claimed shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or detention order, or otherwise restricted in his personal freedom, for any offence committed prior to his surrender other than that for which his extradition is requested, except in the following cases—

(i) with the consent of the Minister, or

(ii) where that person, having had an opportunity to leave the territory of that country, has not done so within forty-five days of his final discharge in respect of the offence for which he was extradited or has returned to the territory of that country after leaving it, and

(b) that where the description of the offence charged in the requesting country is altered in the course of proceedings, he shall only be proceeded against or sentenced in so far as the offence under its new description is shown by its constituent elements to be an offence which would allow extradition.

(2) Notwithstanding anything in subsection (1), the fact that the law of the requesting country permits the taking of any measures necessary to remove the person from its territory or any measures necessary under its law, including proceedings by default, to prevent any legal effects of lapse of time shall not of itself prevent his extradition.

(3) The consent of the Minister shall not be given unless a request for consent is submitted by the requesting country, supported by the documents mentioned in section 25 and a legal record of any statement made by the extradited person in respect of the offence concerned.

(4) The consent of the Minister shall be given if the offence for which it is requested is itself one for which there is an obligation to grant extradition.

Re-extradition to a third country.

[Art. 15]

21.—(1) Extradition shall not be granted unless provision is made by the law of the requesting country or by the extradition agreement that that country shall not surrender to another country a person surrendered to the requesting country and sought by the other country for an offence

committed before his surrender to the requesting country, except in the following cases—

(a) with the consent of the Minister, or

(b) where that person, having had an opportunity to leave the territory of that country, has not done so within forty-five days of his final discharge in respect of the offence for which he was extradited or has returned to the territory of that country after leaving it.

(2) Before acceding to a request for consent to the extradition of a person to whom subsection (1) applies, the Minister may request the production of the documents mentioned in section 25.

(3) A person who has been surrendered to the State by a requested country shall not be surrendered to a third country for an offence committed before his surrender, except in the following cases—

(a) with the consent of the requested country signified under the seal of a minister of state of that country, which seal shall be judicially noticed, or

(b) where that person, having had an opportunity to leave the State, has not done so within forty-five days of his final discharge in respect of the offence for which he was surrendered to the State or has returned to the State after leaving it.

Evidence of
commission of
offence by
person claimed.

22.—Where the relevant extradition provisions require the production by the requesting country of evidence as to the commission by the person claimed of the offence for which extradition is requested, extradition shall not be granted unless sufficient evidence is produced to satisfy the requirement.

Request for
extradition.

23.—A request for the extradition of any person shall be made in writing and shall be communicated by—

[Art. 12.1]

(a) a diplomatic agent of the requesting country, accredited to the State, or

(b) any other means provided in the relevant extradition provisions.

Conflicting
requests.

24.—If extradition is requested concurrently by more than one country, either for the same offence or for different offences, the Minister shall decide which, if any, of the requests is to be proceeded with under this Part, having regard to all the circumstances and especially the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality of the person claimed and the possibility of subsequent surrender to another country.

[Art. 17]

Documents to
support request.

25.—A request for extradition shall be supported by the following documents—

[Art. 12.2]

(a) the original or an authenticated copy of the conviction and sentence or detention order immediately enforceable or, as the case may be, of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of the requesting country;

- (b) a statement of each offence for which extradition is requested specifying, as accurately as possible, the time and place of commission, its legal description and a reference to the relevant provisions of the law of the requesting country;
- (c) a copy of the relevant enactments of the requesting country or, where this is not possible, a statement of the relevant law;
- (d) as accurate a description as possible of the person claimed, together with any other information which will help to establish his identity and nationality, and
- (e) any other document required under the relevant extradition provisions.

Warrant of arrest.

26.—(1) If the Minister receives a request made in accordance with this Part for the extradition of any person he shall, subject to the provisions of this section, by order signify to a justice of the District Court that the request has been made and the justice shall issue a warrant for the arrest of that person.

(2) A warrant issued under this section may be executed by any member of the Garda Síochána in any part of the State.

(3) If the Minister is of opinion that the information communicated to him in pursuance of section 25 is insufficient, he may request the requesting country to furnish such further information as he thinks proper and may fix a time-limit for the receipt thereof.

(4) The Minister may refuse extradition if he is of opinion that the case is one in which extradition is prohibited under any provision of this Part or under the relevant extradition, provisions.

(5) A person arrested under a warrant issued under this section shall be brought before a justice of the District Court assigned to the Dublin Metropolitan District, or such other justice as the Minister may under section 28 direct.

Provisional arrest.

[Art. 16]

27.—(1) A justice of the District Court, if he so thinks proper, may, without an order of the Minister under section 26, issue a warrant for the arrest of any person on the sworn information of a member of the Garda Síochána not below the rank of inspector that a request for the provisional arrest of that person has been made, on the ground of urgency, on behalf of a country in relation to which this Part applies and on being satisfied that the request complies with the requirements of this section.

(2) A request for the provisional arrest of any person shall—

- (a) state that one of the documents mentioned in paragraph (a) of section 25 exists in respect of that person and that it is intended to send a request for his extradition,
- (b) specify the nature of the offence and the time at which and the place where the offence is alleged to have been committed, and
- (c) give a description of the person whose arrest is sought.

(3) A request for provisional arrest may be transmitted by post or telegraph or by any other

means affording evidence in writing.

(4) A warrant issued under this section may be executed by any member of the Garda Síochána in any part of the State.

(5) Where a justice issues a warrant under subsection (1) he shall forthwith inform the Minister of the issue of the warrant and the Minister may, if he thinks fit, order the warrant to be cancelled and the person arrested thereunder released.

(6) A person arrested under a warrant issued under this section shall, unless the warrant is cancelled under subsection (5), be brought before a justice of the District Court assigned to the Dublin Metropolitan District, or such other justice as the Minister may under section 28 direct, and the justice shall remand the said person, either in custody or on bail, pending receipt from the Minister of an order signifying that the request for extradition has been duly received or the release of that person under section 35, and for this purpose the justice shall have the same powers of remand as if that person were brought before him charged with an indictable offence.

(7) If, within the period of eighteen days after such person's arrest, no such order is received, he shall be released.

(8) The release of any person under subsection (5) or (7) shall not prejudice his re-arrest and extradition if a request for his extradition is afterwards made.

Exercise of jurisdiction of District Court.

28.—Where a person has been arrested in pursuance of a warrant issued under section 26 or 27, the Minister may by order direct that the case be heard before a justice assigned to the district named in the order and, in that case, the person arrested shall be brought before such justice.

Committal or discharge of person whose extradition is requested.

29.—(1) Where a person is before the District Court under section 26 or 27 and the Court is satisfied that—

(a) the extradition of that person has been duly requested, and

(b) this Part applies in relation to the requesting country, and

(c) extradition of the person claimed is not prohibited by this Part or by the relevant extradition provisions, and

(d) the documents required to support a request for extradition under section 25 have been produced,

the Court shall make an order committing that person to a prison (or, if he is not more than twenty-one years of age, to a remand institution) there to await the order of the Minister for his extradition.

(2) The Court may, if of opinion that the information communicated under section 25 is insufficient to enable a decision to be made, adjourn the hearing for such period as the Court thinks proper to enable further information to be produced and pending consideration of the case the Court shall have the same powers of adjournment and remand as if the person claimed were brought before it charged with an indictable offence.

(3) The Court, on making an order under subsection (1), shall—

(a) inform the person to whom it relates that he will not be surrendered, except with his consent, until after the expiration of fifteen days from the date of his committal and inform him also of the provisions of section 4.2° of Article 40 of the Constitution (which relates to the making of a complaint to the High Court by or on behalf of any person alleging that that person is unlawfully detained), and

(b) cause a certificate of the committal to be sent forthwith to the Minister.

(4) Where the person claimed is not committed under subsection (1) the Court shall order him to be discharged.

(5) No appeal shall lie to the Circuit Court against an order of the Court under this section.

(6) [Sections 10](#) and [11](#) of the [Criminal Justice Act, 1960](#) , shall apply to a person committed to a remand institution under this section.

Removal of
committed
person to
hospital or other
place.

30.—The Minister may by order cause a person committed under section 29 to be removed to a hospital or any other place if the Minister thinks it necessary so to do in the interests of his health and that person shall, while detained in that hospital or place, be in lawful custody.

Lapse of time
before
surrender.

31.—A person committed under section 29 shall not be surrendered, except with his consent, given before a justice of the District Court, to the requesting country until the expiration of fifteen days from the date of his committal or until the conclusion of any habeas corpus proceedings brought by him or on his behalf, whichever is the later.

Postponement
of surrender.

[Art. 19.1]

32.—The Minister may postpone the surrender of a person claimed in order that he may be proceeded against in the State, or (if he has already been convicted) in order that he may serve any sentence imposed on him in the State, for an offence other than that for which his extradition is requested.

Surrender of
prisoner under
order of
Minister.

33.—(1) Subject to sections 31 and 32, the Minister may, if the person committed is not discharged by the decision of the High Court in habeas corpus proceedings, by order direct the person to be surrendered to such other person as in his opinion is duly authorised by the requesting country to receive him and he shall be surrendered accordingly.

(2) Any person to whom an order under subsection (1) directs a person to be surrendered may receive, hold in custody, and convey out of the State the person so surrendered and if the person so surrendered escapes from any custody to which he has been delivered in pursuance of the said order he shall be liable to be retaken in the same manner as any person who escapes from lawful custody.

[Art. 21.6]

(3) The Minister shall not make an order under subsection (1) if he is of the opinion that the extradition of the person whose surrender is requested would involve transit through any territory where there is reason to believe that his life or his freedom may be threatened by reason of his race, religion, nationality or political opinion.

Discharge of

34.—(1) Subject to section 32 and to subsection (2) of this section, if any person awaiting his

prisoner if not surrendered under this Part is not surrendered and conveyed out of the State within one month after the committal, or within one month after the conclusion of habeas corpus proceedings brought by him or on his behalf, whichever is the later, the High Court may, on application made by or on behalf of that person and upon proof that reasonable notice of the intention to make the application has been given to the Minister, order the person to be discharged from custody.

[Art. 18, in pt.]

(2) Where, on application to the High Court under subsection (1), the Court is satisfied—

- (a) that the state of health of the person claimed or other circumstances beyond the control of the State or the requesting country have prevented the person claimed from being conveyed out of the State, and
- (b) that it is likely that within a reasonable time such circumstances will no longer prevent his removal, the Court may fix a period within which he may be surrendered and he shall be released if not conveyed out of the State within that period.

General power of Minister to release.

35.—(1) Whenever the Minister is of opinion, in relation to a person who is for the time being on remand or awaiting his surrender under this Part, that extradition is prohibited under any provision of this Part or of the relevant extradition provisions, the Minister may at any time refuse extradition and shall thereupon order the person, if in custody, to be released.

(2) In case it appears to the Minister that the request or intended request for extradition is not being proceeded with, the Minister may order that the said person, if in custody, shall be released.

Seizure and handing over of property.

36.—(1) A member of the Garda Síochána executing a warrant under section 26 or 27 may seize and retain any property—

[Art. 20]

- (a) which appears to him to be reasonably required as evidence for the purpose of proving the offence alleged, or
- (b) which appears to him to have been acquired as a result of the alleged offence and which—
 - (i) is found at the time of arrest in the possession of the person arrested under the warrant, or
 - (ii) is discovered subsequently.

(2) Subject to the provisions of this section, any property seized under subsection (1) shall, if an order is issued by the Minister under section 33 for the surrender of the person claimed, be handed over to any person who appears to the Minister to be duly authorised by the requesting country to receive it as soon as may be after the issue of the order and the said property shall be so handed over notwithstanding that the extradition in question cannot be carried out by reason of the death or escape of the person claimed.

(3) Any property so seized may, if any criminal proceedings to which the property relates are pending in the State, be retained in the State in accordance with law until the conclusion of the said proceedings or may, if the Minister so directs, be handed over on condition that the requesting

country shall return the property.

(4) Nothing in this section shall prejudice or derogate from any rights that may lawfully have been acquired by the State or any person in the State in any property to be handed over under this section and where any such rights exist the property shall not be handed over except upon condition that the requesting country shall return it as soon as may be after the trial of the person surrendered and without charge to the State or person having such rights.

Evidence of documents.

37.—A document supporting a request for extradition shall be received in evidence without further proof if it purports to be signed or certified by a judge, magistrate or officer of the requesting country and to be authenticated by the oath of some witness or by being sealed with the official seal of a minister of state of that country and judicial notice shall be taken of such official seal.

Offences committed abroad by Irish citizens.

38.—(1) Where any citizen of Ireland does any act outside the State which constitutes an offence for which he would be liable to extradition but for the fact that he is a citizen of Ireland he shall be guilty of the like offence and be liable on conviction to the like punishment as if the act were done within the State.

[cf. Art. 6.2]

(2) No proceedings for an offence under subsection (1) shall be taken except by direction of the Attorney General, given following a request to that effect made in the manner provided for in section 23 by the country within whose territory the act is alleged to have been committed.

(3) This section shall apply only to acts committed after the commencement of this Act.

(4) For the purpose of the exercise of jurisdiction, in relation to an offence to which subsection (1) applies, by any court of competent jurisdiction the act constituting the offence shall be deemed to have been committed within the area of the Dublin Metropolitan District.

Rule of specialty as applied by the State.

39.—(1) This section applies to a person who has been surrendered to the State by a requested country.

[Art. 14]

(2) He shall not be proceeded against, sentenced or imprisoned or otherwise restricted in his personal freedom for any offence committed prior to his surrender other than that for which he was surrendered, except in the following cases—

(a) with the consent of the requested country, signified under the seal of a minister of state of that country, which seal shall be judicially noticed, or

(b) where that person, having had an opportunity to leave the State, has not done so within forty-five days of his final discharge in respect of the offence for which he was surrendered or has returned to the State after leaving it.

(3) Where the description of the offence charged is altered in the course of proceedings, he shall only be proceeded against or sentenced in so far as the offence under its new description is shown by its constituent elements to be an offence for which he would be liable to be surrendered to the State.

Transit. **40.**—(1) Transit through the State of a person being conveyed from one country to another on his surrender pursuant to an agreement in the nature of an extradition agreement may, subject to any [Art. 21] relevant extradition provisions and to such conditions, if any, as the Minister thinks proper, be granted by the Minister upon a request to that effect by the country to which he is being conveyed.

(2) The Minister may arrange for the supervision of such transit by the Garda Síochána and the person concerned shall be deemed to be in the custody of any member of the Garda Síochána accompanying him pursuant to such arrangement.

PART III

Endorsement and Execution of Certain Warrants

Places in **41.**—This Part applies in relation to each of the following places, namely, Northern Ireland, relation to which England and Wales, Scotland, the Isle of Man and the Channel Islands. Part III applies.

Definitions. **42.**—In this Part—

“*Commissioner of the Garda Síochána*” and “*Commissioner*” include a Deputy Commissioner and an Assistant Commissioner;

“*district*” means a district court district;

“*indictable offence*”, in relation to an offence under the law of a place in relation to which this Part applies, does not include an offence which is triable on indictment only at the instance or with the consent of the accused;

“*summons*” includes any citation or direction to a person accused of an offence to appear before a court in any place in relation to which this Part applies to answer to the accusation.

Endorsement of **43.**—(1) Where— warrants.

(a) a warrant has been issued by a judicial authority in a place in relation to which this Part applies for the arrest of a person accused or convicted of an offence under the law of that place, being an indictable offence or an offence punishable on summary conviction by imprisonment for a maximum period of at least six months, and

(b) on production of the warrant to the Commissioner of the Garda Síochána it appears to the Commissioner that the person named or described therein may be found in the State,

the Commissioner shall, subject to the provisions of this Part, endorse the warrant for execution.

(2) The endorsement shall be in the following form:

“I, A.B., Commissioner [or Deputy or Assistant Commissioner] of the Garda Síochána, hereby authorise the execution of this warrant in the State by any member of the Garda Síochána.

Signed _____

Date _____ ”

(3) A warrant for the arrest of a person convicted of an offence under the law of a place in relation to which this Part applies shall not be endorsed under this section unless the purpose of the arrest is to enable him—

(a) to be brought before a court in that place for sentence in respect of the conviction, or

(b) to be taken to a place where he is to undergo imprisonment under such a sentence, not being imprisonment in default of the payment of a fine or other sum.

Restrictions on endorsement.

44.—(1) A warrant shall not be endorsed for execution under this Part if the Minister or the High Court, on the question being referred to the Court by the Minister, directs in accordance with this section that it shall not be so endorsed.

(2) A direction under this section may be given where the Minister or the Court, as the case may be, is of opinion that the offence to which the warrant relates is—

(a) a political offence or an offence connected with a political offence, or

(b) an offence under military law which is not an offence under ordinary criminal law, or

(c) a revenue offence,

or that there are substantial reasons for believing that the person named or described in the warrant will, if removed from the State under this Part, be prosecuted or detained for a political offence or an offence connected with a political offence or an offence under military law which is not an offence under ordinary criminal law.

Execution of warrants.

45.—(1) A warrant endorsed under section 43 may be executed by any member of the Garda Síochána in any part of the State.

(2) The person named or described in the warrant shall on arrest be brought before a justice of the District Court for the district in which he was arrested, if a justice is immediately available.

(3) If not, he shall be brought as soon as may be before a peace commissioner in that district.

Remand of arrested person to District Court.

46.—(1) A peace commissioner before whom an arrested person is brought under section 45 shall remand him, either in custody or on bail, to the earliest practicable sitting of the District Court in a district in which he acts, being a sitting to be held within eight days after the arrest.

(2) Where a person remanded on bail under subsection (1) fails to appear as required by his recognisance, the justice sitting at the court before which he was bound to appear may issue a warrant for his arrest; and on his arrest he shall be dealt with as if he had been arrested at that time under the warrant under which he was previously arrested.

Proceedings before District

47.—(1) Where a person named or described in a warrant is before the District Court in pursuance of this Part that Court shall, subject to the provisions of this Part, make an order for his

Court.

delivery at some convenient point of departure from the State into the custody of a member of a police force of the place in which the warrant has been issued, for conveyance to that place, and remand him until so delivered.

(2) An order shall not be made under subsection (1) if it appears to the Court that the offence specified in the warrant does not correspond with any offence under the law of the State which is an indictable offence or is punishable on summary conviction by imprisonment for a maximum period of at least six months.

(3) In any case where the Court does not make an order under subsection (1), the Court shall order the person named or described in the warrant to be discharged.

(4) The Court shall have the same powers of adjournment and remand as if the person concerned were brought before the Court charged with an indictable offence.

(5) No appeal shall lie to the Circuit Court against an order of the Court under this section.

Lapse of time before delivery of arrested person.

48.—(1) A person to whom an order under section 47 relates shall not, except with his consent given before a justice of the District Court or a peace commissioner, be delivered up under the order until the expiration of fifteen days from the date of the order.

(2) If within that period an application is made by him or on his behalf for an order of habeas corpus or for his release under section 50, he shall not be delivered up while the application is pending.

(3) The Court, on making an order under section 47, shall inform the person to whom it relates of his right to make such application and that he will not be delivered up during the said period of fifteen days, except with his consent, or while any such application is pending.

(4) An application made to the High Court shall be treated as pending until any appeal in the proceedings is disposed of, and an appeal shall be treated as disposed of at the expiration of the time for appeal if no appeal is brought.

Provisional warrants.

49.—(1) A justice of the District Court, on the sworn information of a member of the Garda Síochána not below the rank of inspector—

(a) that he has reason to believe that a warrant has been issued by a judicial authority in a place in relation to which this Part applies for the arrest of a person accused or convicted of an indictable offence under the law of that place, but that the warrant is not yet in his possession, and

(b) that he has received a request made on the ground of urgency by or on behalf of a police force of that place for the issue in the State of a warrant for the arrest of that person, and

(c) that he has reason to believe that that person may be found in the State,

may issue a warrant (in this section referred to as a provisional warrant) for the arrest of that person.

(2) Where the warrant issued in that place was for the arrest of a convicted person, a provisional warrant shall not be issued unless the member of the Garda Síochána states on oath that he has reason to believe that the requirements of subsection (3) of section 43 are satisfied.

(3) The person named or described in the provisional warrant shall on arrest be brought before a justice of the District Court for the district in which he was arrested, if a justice is immediately available.

(4) If not, he shall be brought as soon as may be before a peace commissioner in that district.

(5) If there is produced to the justice or peace commissioner the warrant issued for his arrest in a place in relation to which this Part applies, endorsed in accordance with section 43, the justice or peace commissioner shall proceed as if he had been arrested at that time under that warrant.

(6) In any other case, the justice or peace commissioner may remand him, either in custody or on bail, for not more than three days.

(7) Where at any time there is produced to the person having custody of a person remanded under this section the warrant issued in respect of that person in a place in relation to which this Part applies, endorsed in accordance with section 43, the period of remand shall end, and he shall thereafter be treated as if arrested at that time under that warrant.

If the warrant is not so produced during the period of remand the person remanded shall be released.

(8) A provisional warrant may be executed by any member of the Garda Síochána in any part of the State but shall not be authority for the making of an arrest more than five days after the date of its issue.

Release of
persons
arrested.

50.—(1) A person arrested under this Part shall be released if the High Court or the Minister so directs in accordance with this section.

(2) A direction under this section may be given by the High Court where the Court is of opinion that—

(a) the offence to which the warrant relates is—

(i) a political offence or an offence connected with a political offence, or

(ii) an offence under military law which is not an offence under ordinary criminal law,
or

(iii) a revenue offence, or

(b) there are substantial reasons for believing that the person named or described in the warrant will, if removed from the State under this Part, be prosecuted or detained for a political offence or an offence connected with a political offence or an offence under military law which is not an offence under ordinary criminal law, or

(c) the offence specified in the warrant does not correspond with any offence under the law of

the State which is an indictable offence or is punishable on summary conviction by imprisonment for a maximum period of at least six months.

(3) A direction of the Court under this section may be given either on application made by or on behalf of the person concerned or on the question being referred to the Court by the Minister.

(4) A direction under this section may be given by the Minister on any of the grounds set out in paragraph (a) or (b) of subsection (2).

Special provisions for summary offences.

51.—(1) A warrant for the arrest of a person accused of an offence which under the law of the place concerned is a summary offence, whether or not it is also an indictable offence, shall not be endorsed under this Part unless—

- (a) he has failed to appear in answer to a summons requiring his presence before a court in that place for the trial of the offence and, not less than fourteen days before the date named in the summons for his appearance, the summons was served on him personally in that place or a notice of the issue of the summons, together with a copy of the summons, was served on him personally by a member of the Garda Síochána, or
- (b) having entered into a recognisance or bail bond for his appearance before a court in that place for the trial of the offence, he has failed to appear in pursuance of the recognisance or bail bond, or
- (c) having appeared before a court in that place for the trial of the offence, he has subsequently failed to appear on any date to which proceedings were adjourned.

- (2) (a) A notice under paragraph (a) of subsection (1) shall be signed by a member of the Garda Síochána not below the rank of inspector.
 - (b) The notice shall be served by delivering to the accused a copy of the notice.
 - (c) A statutory declaration of service, endorsed upon the back of the original notice, shall be evidence of service.

(3) In this section, “*trial*” includes any proceedings in connection with the offence.

Remand.

52.—(1) A person remanded in custody under this Part may be detained in a prison (or, if he is not more than twenty-one years of age, in a remand institution) or, for a period not exceeding forty-eight hours, in a Garda Síochána station.

(2) Where under subsection (1) of section 47 or subsection (6) of section 49 a justice of the District Court or a peace commissioner has power to remand a person on bail he may—

- (a) take from him a recognisance, with or without sureties, conditioned as provided in subsection (3), or
- (b) fix the amount of the recognisance with a view to its being taken later, and meanwhile commit him to the custody of the member of the Garda Síochána in charge of a Garda Síochána station.

(3) A recognisance taken from a person under this section shall be conditioned for his surrender to the member of the Garda Síochána in charge of a specified Garda Síochána station at the time mentioned in a notice in writing to be served on him by or on behalf of that member, but the time mentioned in a notice so served shall not be more than twenty-four hours before the time at which it appears to that member that the period of remand is likely to end.

(4) During the period between the surrender of a person as aforesaid and the end of the period of remand he shall be treated as if committed to the custody of the member of the Garda Síochána in charge of that station but where it appears to that member that the end of the period of remand will be unexpectedly delayed he shall release him on his entering into a recognisance, with or without sureties, conditioned as provided in subsection (3).

(5) If, in breach of a recognisance taken from a person under this section, a person fails to surrender as aforesaid, then, without prejudice to the enforcement of the recognisance, a justice of the District Court may issue a warrant for his arrest; and on his arrest under the warrant subsection (4) shall apply as if he had surrendered to the member of the Garda Síochána in charge of the Garda Síochána station specified in the recognisance, but that member shall not release him as provided by that subsection unless he is satisfied that it is proper to do so.

Discharge of persons not taken out of State.

53.—(1) If the person in respect of whom an order has been made under section 47 is not delivered up under the order within one month after it was made the High Court, upon application by or on behalf of that person, may, unless reasonable cause is shown for the delay, order him to be discharged.

(2) If, in the case of a person in respect of whom an order has been made under section 47, it appears to a justice of the District Court for the district in which the order was made, that for any reason the police force of the place in which the warrant for arrest was issued no longer require the delivery of that person into their custody he shall order him to be discharged.

Acceptance of documents by Commissioner of Garda Síochána.

54.—(1) Where the Commissioner receives a document appearing to be a warrant issued by a judicial authority in a place in relation to which this Part applies, together with an affidavit verifying the signature on the warrant and appearing to be sworn before a person duly authorised to take affidavits by the law of that place, the Commissioner may, without further evidence, accept the document as being such warrant and as having been duly signed and issued by a judicial authority in accordance with the law of that place and as evidence that the offence for which the warrant is issued is an offence under the law of that place and that the affidavit has been duly sworn before a person so authorised as aforesaid.

(2) A certificate, appearing to be given by the authority or the clerk or other officer of the authority by which a warrant was issued, that the offence to which it relates is, by the law of the place concerned, an indictable offence and not also a summary offence, or that it is a summary offence punishable by a specified maximum period of imprisonment may, without further evidence, be accepted by the Commissioner as evidence of the matters so certified.

(3) A document appearing to be a copy of a summons to which paragraph (a) of subsection (1) of section 51 relates and to be certified by the authority by which it was issued or by the clerk or other officer of that authority, a document appearing to be a copy of an affidavit or other declaration of service of any such summons and an affidavit or other written statement purporting to have been sworn by the clerk or other officer of the court before which a person is required to appear, whether in answer to any such summons or in pursuance of a recognisance or on any date to which the proceedings for the trial of the offence have been adjourned, that that person has failed so to appear may, without further evidence, be accepted by the Commissioner as evidence of such summons, service and failure, respectively.

55.—(1) In any proceedings, unless the court sees good reason to the contrary—

- (a) a document appearing to be a warrant issued by a judicial authority in a place in relation to which this Part applies for the arrest of a person for an offence may, if the signature on the warrant is verified as indicated in subsection (1) of section 54, be admitted in evidence as such warrant and as having been duly signed and issued by a judicial authority in accordance with the law of that place;
- (b) a document appearing to be a copy of a summons to which paragraph (a) of subsection (1) of section 51 relates and to be certified in accordance with subsection (3) of section 54 may be admitted as evidence of such summons and a document appearing to be a copy of an affidavit or other declaration of service of the summons may be admitted as evidence of service;
- (c) a certificate appearing to be given in accordance with subsection (2) of section 54 may be admitted as evidence of the matters certified therein,

without further evidence.

(2) In any proceedings, a warrant purporting to be endorsed by the Commissioner of the Garda Síochána shall, unless the contrary is proved, be deemed to have been duly endorsed without proof of the signature of the person purporting to have endorsed it or that he is such Commissioner or that, before endorsing it, there was produced to him the affidavit referred to in subsection (1) of section 54.

SCHEDULE

Repeals

[Section 6](#) .

Session and Chapter	Short Title	Extent of Repeal
11 & 12 Vict. c. 42.	Indictable Offences Act, 1848.	Sections 12 and 15.
11 & 12 Vict. c. 43.	Summary Jurisdiction Act, 1848.	Section 3.
12 & 13 Vict. c. 69.	Indictable Offences (Ir.) Act, 1849.	Sections 12, 13, 14 and 15.
14 & 15 Vict. c. 93.	Petty Sessions (Ir.) Act, 1851.	Subsection (3) of section 27; section 29.
31 & 32 Vict. c. 107.	Indictable Offences Act Amendment Act, 1868.	The whole Act.
33 & 34 Vict. c. 52.	Extradition Act, 1870.	The whole Act, except section 24.
36 & 37 Vict. c. 60.	Extradition Act, 1873.	The whole Act, except section 5.

36 & 37 Vict. c. 88.	Slave Trade Act, 1873.	Section 27.
44 & 45 Vict. c. 69.	Fugitive Offenders Act, 1881.	The whole Act.
58 & 59 Vict. c. 33.	Extradition Act, 1895.	The whole Act.
6 Edw. 7. c. 15.	Extradition Act, 1906.	The whole Act.
5 & 6 Geo. 5 c. 39.	Fugitive Offenders (Protected States) Act, 1915.	The whole Act.

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