

CHAPTER 117

THE EXTRADITION ACT.

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CHAPTER 117

THE EXTRADITION ACT.

Commencement: 20 July, 1964.

An Act to consolidate the law relating to the extradition of persons accused or convicted of crimes committed within the jurisdiction of other countries.

PART I—GENERAL.

Preliminary.

1. Interpretation.

In this Act, unless the contrary intention requires—

- (a) “accused person” includes a person convicted for contumacy;
- (b) “conviction” and “convicted” do not include or refer to a conviction which under foreign law is a conviction for contumacy;
- (c) “fugitive criminal” means any person accused or convicted of an extradition crime committed within the jurisdiction of any other country who is in or is suspected of being in Uganda;
- (d) “magistrate” means a chief magistrate and a magistrate grade I;
- (e) “warrant”, in the case of any country, includes any judicial document authorising the arrest of a person accused or convicted of a crime.

2. Arrangements for surrender of criminals.

(1) Where an arrangement has been made with any country with respect to the surrender to that country of any fugitive criminal, the Minister may, by statutory instrument, order that this Part of this Act shall apply in the case of that country subject to such conditions, exceptions and qualifications as may be specified in the order, and this Part shall apply accordingly.

(2) An order made under subsection (1) shall recite or embody the terms of the arrangement and shall not remain in force for any longer period than the arrangement.

(3) Every order made under this section shall be laid before Parliament.

3. Restrictions on surrender of criminals.

The following provisions shall be observed with respect to the surrender of fugitive criminals—

- (a) a fugitive criminal shall not be surrendered if the offence in respect of which his or her surrender is demanded is one of a political character or if it appears to a court or the Minister that the requisition for his or her surrender has in fact been made with a view to try or punish him or her for an offence of a political character;
- (b) a fugitive criminal shall not be surrendered to any country unless provision is made by the law of that country, or by arrangement, that the fugitive criminal shall not, unless he or she has been restored or had an opportunity of returning to Uganda, be detained or tried in that country for any offence committed prior to his or her surrender other than the extradition crime proved by the facts on which the surrender is grounded;
- (c) a fugitive criminal who has been accused of some offence within the jurisdiction of Uganda, not being the offence for which his or her surrender is asked, or is undergoing sentence under any conviction in Uganda, shall not be surrendered until after he or she has been discharged, whether by acquittal or on the expiration of his or her sentence or otherwise;
- (d) a fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his or her being committed to prison to await his or her surrender.

Continuance of existing provisions.

4. Application to Commonwealth countries.

(1) A country to which Part I of the Fugitive Offenders Act, 1881, of the United Kingdom applied immediately before the commencement of this Act shall be a country to which this Part of this Act applies.

(2) A country with which an arrangement, in force immediately before the commencement of this Act, was made under the Fugitive Criminals Surrender Ordinance shall be a country to which this Part of this

Act applies.

(3) The Minister may, by statutory instrument, declare, as respects any country—

- (a) that it is a country to which, by virtue of subsection (1), this Part of this Act applies; or
- (b) that an arrangement to which subsection (2) applies and which is recited or embodied in the declaration is in force,

and the declaration shall be conclusive as to the matters to which it relates.

(4) For the avoidance of doubt, it is declared that the purpose of a declaration under subsection (3) is to facilitate the ascertainment of the matters to which it relates, and the fact that a declaration has not been made as respects any country shall not affect the question whether, by virtue of subsection (1) or (2), this Part of this Act applies to that country.

5. Discontinuance.

Whenever it appears to the Minister that the law of a country to which section 4(1) applies no longer contains reciprocal provisions or that an arrangement with any country referred to in section 4(2) is no longer in force, the Minister may, by statutory instrument, discontinue the application of this Part of this Act to that country.

Surrender of criminals.

6. Liability of criminal to surrender.

Where this Part of this Act applies in the case of any country, every fugitive criminal of that country who is in or suspected of being in Uganda shall be liable to be apprehended and surrendered in the manner provided by this Part of this Act—

- (a) whether the crime in respect of which the surrender is sought was committed before or after the commencement of this Act or the application of this Part of this Act to that country; and
- (b) whether there is or is not any concurrent jurisdiction in a court of Uganda over that crime.

7. Liability of accessories to be surrendered.

Every person who is accused or convicted of having counselled, procured,

commanded, aided or abetted the commission of an extradition crime or of being an accessory before or after the fact to any extradition crime shall be deemed, for the purposes of this Part of this Act, to be accused or convicted of having committed that crime and shall be liable to be apprehended and surrendered accordingly.

8. Registration for surrender of a fugitive criminal.

(1) A requisition for the surrender of a fugitive criminal of any country who is in or suspected of being in Uganda shall be made to the Minister by a diplomatic representative or consular officer of that country.

(2) The Minister may, upon a requisition being made under subsection (1), signify in writing to a magistrate that a requisition has been made and require the magistrate to issue his or her warrant for the apprehension of the fugitive criminal.

(3) Where the Minister is of the opinion that the offence is one of a political character, he or she may refuse to make an order and may also at any time order a fugitive criminal accused or convicted of the offence to be discharged from custody.

9. Issue of warrant and appearance of fugitive criminal before magistrate.

(1) The warrant for the apprehension of a fugitive criminal, whether accused or convicted of a crime, who is in or suspected of being in Uganda, may be issued by a magistrate—

- (a) on the receipt of the order by the Minister and on such evidence as would in his or her opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in Uganda; or
- (b) on such information or complaint and such evidence or after such proceedings as would, in the opinion of the magistrate issuing the warrant, justify the issue of a warrant if the crime had been committed or the criminal convicted in the district or area in which he or she exercises his or her jurisdiction.

(2) A magistrate issuing a warrant under this section without an order from the Minister shall forthwith send a report of the fact of the issue, together with the evidence and information or complaint or certified copies

of the warrant, to the Minister who may order the warrant to be cancelled and the person who has been apprehended on the warrant to be discharged.

(3) A fugitive criminal when apprehended on a warrant under this section shall be brought before a magistrate within the next twenty-four hours.

(4) A fugitive criminal apprehended on a warrant issued without the order of the Minister shall be discharged by the magistrate unless the magistrate, within such reasonable time as, with reference to the circumstances of the case, he or she may fix, receives from the Minister an order signifying that a requisition has been made for the surrender of the criminal.

10. Hearing of case and evidence.

(1) When a fugitive criminal is brought before a magistrate, the magistrate shall hear the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as he or she has in the exercise of criminal jurisdiction.

(2) The magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

11. Committal or discharge of prisoner.

(1) In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorising the arrest of the criminal is duly authenticated, and such evidence is produced as, subject to this Act, would according to the law of Uganda justify the committal for trial of the prisoner if the crime of which he or she is accused was committed in Uganda, the magistrate shall commit him or her to prison.

(2) In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as, subject to this Act, would according to the law of Uganda prove that the prisoner was convicted of the crime, the magistrate shall commit him or her to prison.

(3) The order of the magistrate under subsection (1) or (2) shall be to

commit the fugitive criminal to prison to await the warrant of the Minister for his or her surrender; and the magistrate shall forthwith send to the Minister a certificate of the committal and such report on the case as he or she may think fit.

(4) When the fugitive criminal is committed to prison to await his or her surrender, the committing magistrate, if of the opinion that it will be dangerous to the life or prejudicial to the health of the prisoner to remove him or her to prison, may order him or her to be held in custody at the place in which he or she for the time being is or any other place named in the order to which the magistrate thinks he or she can be moved without danger to his or her life or prejudice to his or her health.

(5) A fugitive criminal held in custody under the provisions of subsection (4) shall be deemed to be in legal custody, and this Act shall apply to him or her as if he or she were in the prison to which he or she was committed.

(6) Where the magistrate is not satisfied with the evidence mentioned in subsection (1) or (2), he or she shall order the prisoner to be discharged.

12. Order of habeas corpus; surrender of fugitive by warrant of Minister.

(1) Whenever a magistrate commits a fugitive criminal to prison, he or she shall inform the criminal that he or she will not be surrendered until after the expiration of fifteen days and that he or she has a right to apply for an order of habeas corpus.

(2) Upon the expiration of the fifteen days, or if an order of habeas corpus is issued, after the decision of the court upon the return to the order, as the case may be, or after such further period as may be allowed in either case by the Minister, the Minister may by warrant order the fugitive criminal, if not delivered on the decision of the court, to be surrendered to such person as is in his or her opinion duly authorised to receive the fugitive criminal by the country from which the requisition for the surrender proceeded, and the fugitive criminal shall be surrendered accordingly.

(3) A person to whom the warrant is directed, and the person so authorised, may receive, hold in custody and convey into the jurisdiction of that country the criminal mentioned in the warrant.

(4) Where a criminal mentioned in a warrant issued under this section escapes out of any custody to which he or she may be delivered on or in pursuance of the warrant, he or she may be retaken in the same manner as any person accused of any crime against the laws of Uganda may be retaken upon an escape.

13. Discharge of persons apprehended.

Whenever a fugitive criminal who has been committed to prison is not surrendered and conveyed out of Uganda within two months after the committal, or if an order of habeas corpus is issued, after the decision of the court upon the return to the order, any judge of the High Court may—

- (a) upon application made to him or her by or on behalf of the criminal; and
- (b) upon proof that reasonable notice of the intention to make the application has been given to the Minister,

order the criminal to be discharged out of custody unless sufficient cause is shown to the contrary.

14. Execution of warrant.

The warrant of a magistrate issued in pursuance of this Part of this Act may be executed in any part of Uganda in the same manner as if it had been originally issued or subsequently endorsed by a magistrate having jurisdiction in the place where it is executed.

General.

15. Trial of criminal surrendered by another country.

Where in pursuance of an arrangement with another country any person accused or convicted of any crime described in the Schedule to this Act is surrendered by that country, that person shall not, until he or she has been restored or had an opportunity of returning to that country, be triable or tried for any offence committed prior to the surrender in Uganda other than such of the crimes as may be proved by the facts on which the surrender is grounded.

PART II—RECIPROCAL BACKING OF WARRANTS.

16. Application of Part II.

This Part of this Act shall apply to any country in respect of which the Minister, having regard to reciprocal provisions under the law of that country, by statutory instrument so orders and subject to such conditions, exceptions and qualifications as may be specified in the order.

17. Backing of warrant issued in another country.

(1) Where in a country to which this Part of this Act applies a warrant has been issued for the apprehension of a person accused of an offence punishable by law in that country and he or she is or is suspected of being in or on the way to Uganda, a magistrate, if satisfied that the warrant was issued by a person having lawful authority to issue it, may, subject to sections 22 and 23, endorse the warrant in accordance with subsection (4).

(2) A warrant endorsed under subsection (1) shall be sufficient authority to apprehend, within the jurisdiction of the endorsing magistrate, the person named in the warrant and bring him or her before the endorsing magistrate or some other magistrate.

(3) This Part of this Act shall apply whatever the date of the warrant and whether the offence is alleged to have been committed before or after the commencement of this Act or the application of this Part of this Act to that country.

(4) An endorsement of a warrant shall be signed by the magistrate and shall authorise all or any of the persons named in the endorsement and of the persons to whom the warrant was originally directed and every police officer to execute the warrant by apprehending the person named in it and bringing him or her before that magistrate or any other magistrate.

18. Return of prisoner.

(1) A magistrate before whom a person so apprehended is brought, if he or she is satisfied—

- (a) that the warrant is duly authenticated as directed by this Act and was issued by a person having lawful authority to issue it; and
- (b) on oath that the prisoner is the person named or otherwise

described in the warrant,
may, subject to section 23, order the prisoner to be returned to the country in which the warrant was issued, and for that purpose to be delivered into the custody of the persons to whom the warrant is directed or any one or more of them and be held in custody and conveyed into that country.

(2) A person to whom the warrant is directed and the person so authorised may receive, hold in custody and convey into the jurisdiction of that country the prisoner mentioned in the warrant.

(3) If any such prisoner escapes out of the custody to which he or she may be delivered on or in pursuance of the warrant, he or she may be retaken in the same manner as any person accused of any crime against the laws of Uganda may be retaken upon an escape.

(4) A magistrate shall, so far as is requisite for the exercise of the powers of this section, have the same powers, including the power to remand and admit to bail a prisoner, as he or she has in the case of a person apprehended under a warrant issued by him or her.

19. Provisional warrant.

(1) A magistrate, before the endorsement in pursuance of this Part of this Act of a warrant for the apprehension of any person, may issue a provisional warrant for his or her apprehension on such information and under such circumstances as would, in his or her opinion, justify the issue of a warrant if the offence of which that person is accused were an offence punishable by the law of Uganda and had been committed within his or her jurisdiction; and the warrant may be backed and executed accordingly.

(2) A person arrested under a provisional warrant shall be discharged unless the original warrant is produced and endorsed within such time as the magistrate thinks reasonable in the circumstances.

20. Discharge of prisoner not returned.

(1) Whenever a prisoner whose return is authorised in pursuance of this Part of the Act is not conveyed out of Uganda within one month after the date of the warrant ordering his or her return, a magistrate—

- (a) upon application by or on behalf of the prisoner; and
- (b) upon proof that reasonable notice of the intention to make the

application has been given to the person holding the warrant and the Inspector General of Police or chief officer of the police of the city, town or area where the prisoner is in custody, may, unless sufficient cause is shown to the contrary, order the prisoner to be discharged out of custody.

(2) Any order or refusal to make an order of discharge under this section shall be subject to appeal to the High Court.

21. Refusal to return prisoner.

(1) Where the return of a prisoner is sought or arranged under this Part of this Act, and it appears to a magistrate that by reason of—

- (a) the trivial nature of the case; or
- (b) the application for the return of the prisoner not being made in good faith in the interests of justice or otherwise,

it would, having regard to the distance, to the facilities of communication and to all the circumstances of the case, be unjust or oppressive or too severe a punishment to return the prisoner either at all or until the expiration of a certain period, the magistrate may discharge the prisoner either absolutely or on bail or order that he or she shall not be returned until after the expiration of the period named in the order or may make such other order in the matter as the magistrate thinks proper.

(2) An order or refusal to make an order of discharge under this section shall be subject to appeal to the High Court.

(3) For the purposes of subsection (2) and of section 20(2), the Chief Justice may, by statutory instrument, make rules for appeals to the High Court.

22. Procedure.

A requisition for the endorsement of a warrant under this Part of this Act shall be made in the first instance by a diplomatic representative, consular officer or other appropriate authority of the country concerned to the Minister who may transmit it to a magistrate to proceed in accordance with this Part of this Act.

23. Exclusion of political offences.

The Minister shall not transmit a requisition under section 22 and a warrant shall not be endorsed under this Part of this Act for the apprehension of any person if the offence is one of a political character or it appears to the Minister or a court that the requisition has in fact been made with a view to try or punish him or her for an offence of a political character.

PART III—MISCELLANEOUS PROVISIONS.

Proof of warrants, depositions, etc.

24. Foreign depositions, statements and documents to be evidence.

Depositions or statements on oath or affirmations taken in the country concerned and copies of the original depositions or statements or affirmations and foreign certificates of or judicial documents stating the fact of conviction may, if duly authenticated, be received in evidence in any proceedings under this Act.

25. Authentication and judicial notice of certain warrants, depositions and documents.

(1) Warrants and depositions or statements on oath or affirmations and copies of them and certificates of or judicial documents stating the fact of a conviction shall be deemed duly authenticated for the purposes of this Act if authenticated in the manner provided for the time being by law or—

- (a) if the warrant purports to be signed by a judge, magistrate or officer of the country where it was issued;
- (b) if the depositions or statements or affirmations or the copies of them purport to be certified under the hand of a judge, magistrate or officer of the country where they were taken to be the original depositions or statements or to be true copies of them, as the case may require; and
- (c) if the certificate of or judicial document stating the fact of conviction purports to be certified by a judge, magistrate or officer of the country where the conviction took place, and

if in every case the warrants, depositions, statements, affirmations, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by being sealed with the official seal of the Minister of Justice or some other Minister of State.

(2) All courts and magistrates shall take judicial notice of the official seal referred to in subsection (1) and shall admit any such document so authenticated to be received in evidence without further proof.

Taking of evidence for foreign trials.

26. Obtaining evidence in Uganda.

(1) The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in any country in like manner as it may be obtained in relation to any civil matter under any rules of court or any enactment for the time being in force in Uganda for the taking of evidence in relation to civil and commercial matters pending before foreign tribunals.

(2) Nothing in this section shall apply in the case of any criminal matter of a political nature.

27. Taking evidence in Uganda for foreign criminal matters.

(1) The Minister may by order require a magistrate to take evidence for the purpose of any criminal matter pending in any court or tribunal in any other country.

(2) A magistrate, upon the receipt of an order made under subsection (1), shall take down in writing the evidence of every witness appearing before him or her for the purpose and shall certify at the foot of the deposition so taken that the evidence was taken before him or her, and shall transmit it to the Minister.

(3) The evidence may be taken in the presence or absence of the person charged, if any, and the fact of the presence or absence shall be stated in the deposition.

(4) Any person may, after payment or tender to him or her of a reasonable sum for his or her costs and expenses in this behalf, be compelled for the purposes of this section to attend and give evidence and answer questions and produce documents in like manner and subject to like conditions as he or she may in the case of a trial for an offence.

Supplementary.

28. Extradition crimes.

(1) For the purposes of this Act, “extradition crime” means a crime which, if committed within the jurisdiction of Uganda, would be an indictable offence described in the Schedule to this Act.

(2) The Minister may, by statutory instrument, amend the Schedule to this Act by the insertion of further offences, the deletion of any offence or the alteration of any description of any offence.

Schedule.

s. 28.

Extradition crimes.

Criminal homicide and similar offences—

 Murder and attempt and conspiracy to murder

 Manslaughter

Injury to persons not amounting to homicide—

 Wounding or inflicting grievous bodily harm

 Assault occasioning actual bodily harm

 Assault

Abduction, rape and similar offences—

 Rape, defilement, carnal knowledge

 Indecent assault

 Abortion and offences relating to abortion

 Child-stealing

 Kidnapping and false imprisonment

 Bigamy and procuration

Narcotics and dangerous drugs—

 Offences relating to narcotics

 Offences relating to traffic in dangerous drugs

Damage to property—

 Malicious damage to property including aircraft

 Malicious damage to property including aircraft endangering safety of
 life

Falsification of currency and similar offences—

 Counterfeiting and altering money, and uttering counterfeit or altered

money
Offences relating to counterfeiting
Forgery and similar offences—
 Forgery, counterfeiting and altering, and uttering what is forged or
 counterfeited or altered
Misappropriation, fraud and similar offences—
 Embezzlement and larceny, and offences relating to embezzlement and
 larceny
 Fraudulent conversion
 Arson, burglary and housebreaking, robbery, robbery with violence
 Threats by letter or otherwise with intent to extort; intimidation
 Obtaining money or goods by false pretences
 Perjury and subornation of perjury
 Bribery
 Offences by bankrupts against bankruptcy law, or any indictable
 offence under the laws relating to bankruptcy
 Fraudulent misappropriations and fraud
Piracy and similar offences—
 Piracy by law of nations
 Sinking or destroying a vessel at sea or an aircraft in the air, or
 attempting or conspiring to do so
 Assault on board a ship on the high seas or an aircraft in the air 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 or an aircraft in the air against the authority of
 the master, or captain of the aircraft
Slave dealings—
 Offences against the Slave Trade Act, 1873, of the United Kingdom,
 or otherwise in connection with the slave trade, committed on
 the high seas or on land, or partly on the high seas and partly on
 land

History: Cap. 114; S.I. 135/1968.

Cross References

Fugitive Criminals Surrender Ordinance, 1951 Revision, Cap. 26.
Fugitive Offenders Act, 1881, of the United Kingdom.
Slave Trade Act, 1873, of the United Kingdom.

