



AN BILLE UM EISEACHADADH, 1963
EXTRADITION BILL, 1963

Mar a tugadh isteach
As introduced

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Commencement.
3. Interpretation.
4. Laying of orders before Houses of Oireachtas.
5. Expenses.
6. Repeals.
7. Transitory provisions.

PART II

EXTRADITION GENERALLY

8. Application of *Part II*.
9. Obligation to extradite.
10. Extraditable offences.
11. Political offences.
12. Military offences.
13. Fiscal offences.
14. Irish citizens.
15. Place of commission.
16. Pending proceedings for the same offence.
17. *Non bis in idem*.
18. Lapse of time.
19. Capital punishment.
20. Rule of specialty.
21. Re-extradition to a third country.
22. Request for extradition.
23. Conflicting requests.
24. Documents to support request.
25. Warrant of arrest.
26. Provisional arrest.
27. Exercise of jurisdiction of District Court.
28. Committal or discharge of person whose extradition is requested.
29. Removal of committed person to hospital or other place.
30. Lapse of time before surrender.
31. Postponement of surrender.

Section

32. Surrender of prisoner under order of Minister.
33. Discharge of prisoner if not conveyed out of State.
34. General power of Minister to release.
35. Seizure and handing over of property.
36. Evidence of documents.
37. Offences committed abroad by Irish citizens.
38. Rule of specialty as applied by the State.
39. Transit.

PART III

ENDORSEMENT AND EXECUTION OF WARRANTS

40. Places in relation to which this Part applies.
41. Definitions.
42. Endorsement of warrants.
43. Execution of warrants.
44. Detention of persons arrested.
45. Restrictions on endorsement.
46. Special provisions for summary offences.
47. Release of persons arrested.
48. Verification of warrant and nature of offence.
49. Evidence.

SCHEDULE

REPEALS

MARGINAL ABBREVIATION

Art. -- = Article -- of the European Convention on Extradition.



AN BILLE UM EISEACHADADH, 1963

EXTRADITION BILL, 1963

BILL

entitled

5 AN ACT TO AMEND THE LAW RELATING TO EXTRADITION.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I

PRELIMINARY

10 1.—This Act may be cited as the Extradition Act, 1963.

Short title.

2.—This Act shall come into operation on such day as the Minister by order appoints.

Commencement.

3.—(1) In this Act—

Interpretation.

“act” includes omission;

15 “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;

20 “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;

25 “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;

30 “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;

5

"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;

1960, No. 27

"remand institution" means an institution (other than a prison) within the meaning of the Criminal Justice Act, 1960;

10

"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;

15

"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.

20

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.

25

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.

30

Repeals.

6.—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.

Transitory
provisions.
1870, c. 52.

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.

35

(2) An order to which subsection (1) applies shall, if not sooner revoked under section 8, expire on the 1st day of January, 1968.

40

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

45

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.

5 (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.

10 (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.

15 (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.

20 (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.

25 (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.

30 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. Obligation to extradite.
[Art. 1]

35 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. Extraditable offences.
[Art. 2]

40 (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.

45 (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.

50 11.—(1) Extradition shall not be granted for an offence which is a political offence or an offence connected with a political offence. Political offences.
[Art. 3]

(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 5 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.

Fiscal offences.
[Art. 5]

13.—Extradition shall not be granted for offences contrary to the laws relating to taxes, duties, customs and exchange. 10

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 15 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.
[Art. 9]

17.—(1) Extradition shall not be granted if final judgment has 20 been passed in the State or in a third country upon the person claimed in respect of the offence for which extradition is requested.

(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 proceed- 25 ings 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. 30

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 35 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, 40 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— 45

(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, accompanied by the documents mentioned in section 24 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.

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—

Re-extradition
to a third
country.
[Art. 15]

(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 24.

(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.

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

Request for
extradition.
[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.
[Art. 17]

23.—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.

Documents to support request.
[Art. 12.2]

24.—A request for extradition shall be accompanied by the following documents—

- (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, and
- (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.

Warrant of arrest.

25.—(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 in any part of the State and it shall not be necessary to have it endorsed by a justice exercising jurisdiction in the place where it is to be executed.

(3) If the Minister is of opinion that the information communicated to him in pursuance of *section 24* 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 27* direct.

Provisional arrest.
[Art. 16]

26.—(1) A justice of the District Court, if he so thinks proper, may, without an order of the Minister under *section 25*, 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—

- 5 (a) state that one of the documents mentioned in *paragraph*
(a) of *section 24* 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
10 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.

- 15 (4) A warrant issued under this section may be executed in any
part of the State and it shall not be necessary to have it endorsed
by a justice exercising jurisdiction in the place where it is to be
executed.

- 20 (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.

- 25 (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 27* 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
30 has been duly received or the release of that person under *section*
34, 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.

- 35 (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.

- 40 27.—Where a person has been arrested in pursuance of a
warrant issued under *section 25* or *26* and the Minister, on repre-
sentation made by or on behalf of the person arrested, is of opinion
that his removal for the purpose of his case being heard by a
justice assigned to the Dublin Metropolitan District would be
prejudicial to his health, the Minister may by order direct that
the case be heard before a justice assigned to the district named
45 in the order and, in that case, the person arrested shall be brought
before such justice.

Exercise of
jurisdiction of
District Court.

28.—(1) Where a person is before the District Court under
section 25 or *26* and the Court is satisfied that—

- 50 (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

Committal or
discharge of
person whose
extradition
is requested.

(d) the documents required to accompany a request for extradition under *section 24* 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. 5

(2) The Court may, if of opinion that the information communicated under *section 24* 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. 10

(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 eight 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 15 20

(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. 25

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

1960, No. 27.

(6) Sections 10 and 11 of the Criminal Justice Act, 1960, shall apply to a person committed to a remand institution under this section. 30

Removal of committed person to hospital or other place.

29.—The Minister may by order cause a person committed under *section 28* 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. 35

Lapse of time before surrender.

30.—A person committed under *section 28* shall not be surrendered, except with his consent, given before a justice of the District Court, to the requesting country until the expiration of eight 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. 40

Postponement of surrender.
[Art. 19.1]

31.—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. 45

Surrender of prisoner under order of Minister.

32.—(1) Subject to *sections 30* and *31*, 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. 50

(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 55

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.

- 5 (3) The Minister shall not make an order under *subsection (1)* [Art. 21.6] 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
10 opinion.

33.—(1) Subject to *section 31* and to *subsection (2)* of this section, if any person awaiting his surrender under this Part is not surrendered and conveyed out of the State within thirty days after the committal, or within thirty days after the conclusion of *habeas corpus* proceedings brought by him or on his behalf, whichever is
15 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.

Discharge of prisoner if not conveyed out of State.

- 20 (2) Where, on application to the High Court under *sub-section (1)*, the Court is satisfied— [Art. 18, in pt.]

- (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
25 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
30 period.

34.—(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
35 Minister may at any time refuse extradition.

General power of Minister to release.

(2) In any such case, or 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.

- 40 35.—(1) A member of the Garda Síochána executing a warrant under *section 25* or *26* may seize and retain any property—

Seizure and handing over of property.

- (a) which appears to him to be reasonably required as evidence for the purpose of proving the offence alleged,
or

[Art. 20]

- 45 (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.

50 (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 32* 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.

36.—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.
[cf. Art. 6.2]

37.—(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.

(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 22* 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.

[Art. 14]

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

(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.

39.—(1) Transit through the State of a person being conveyed in custody from one country to another on his surrender pursuant to an agreement in the nature of an extradition agreement may be granted by the Minister following a request to that effect made in the manner provided for in *section 22* by the country to which he is being conveyed. Transit.
[Art. 21]

(2) A person who is in custody during such transit shall be in lawful custody.

PART III

10 ENDORSEMENT AND EXECUTION OF WARRANTS

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

41.—In this Part—

Definitions.

15 “Commissioner of the Garda Síochána” and “Commissioner” include a Deputy Commissioner and an Assistant Commissioner; “offence” means an act which under the law of a place in relation to which this Part applies is punishable by imprisonment for a maximum period of at least three months or by a more
20 severe penalty;

“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.

42.—(1) Where a warrant for the arrest of a person accused or convicted of an offence under the law of a place in relation to which this Part applies has been issued, whether before or after the passing of this Act, in such place and it appears to the Commissioner of the Garda Síochána that he may be found in the State, the Commissioner shall, subject to the provisions of this Part, endorse upon the warrant an authorisation to execute it anywhere
30 in the State. Endorsement of
warrants.

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

35 “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 _____”

40 (3) This section does not apply to a warrant for imprisonment in default of payment of any sum of money, whether by way of fine or otherwise.

43.—(1) A warrant endorsed under *section 42* may be executed by any member of the Garda Síochána by arresting the person named or described in the warrant and by delivering him, at some
45 convenient point of departure from the State, into the custody of any person to whom the warrant is addressed, or any member of a police force of the place in which the warrant has been issued, for conveyance to that place. Such custody shall be lawful custody.

Execution of
warrants.

50 (2) A person so arrested shall on arrest be given a reasonable opportunity of consulting a solicitor if he desires to do so.

44.—(1) Pending delivery into custody under *section 43*, the person arrested may, subject to *subsection (2)*, 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
55 from the time of arrest, in a Garda Síochána station. Detention of
persons
arrested.

(2) A person may be detained under *subsection (1)*—

(a) pending—

(i) the conclusion of *habeas corpus* proceedings instituted by or on behalf of that person, or

(ii) the consideration by the Minister of representations made by or on behalf of that person for his release on any of the grounds set out in *section 45* or the conclusion of proceedings on a reference to the court under *section 47*,

and, in any such case, for a reasonable time thereafter, and

(b) in any other case, for a period not exceeding seven days from the date of his arrest.

(3) A warrant endorsed under *section 42* shall be sufficient authority for the detention of the person arrested in a prison or remand institution and a copy of the said warrant, certified by a member of the Garda Síochána not below the rank of inspector, shall be delivered to and retained by the Governor or other person in charge thereof.

1960, No. 27.

(4) Sections 10 and 11 of the Criminal Justice Act, 1960, shall apply to a person detained in a remand institution under this section.

Restrictions on endorsement.

45.—(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) an offence contrary to the laws relating to taxes, duties, customs or exchange,

or that there are substantial reasons for believing that the person to whom the warrant relates will be prosecuted for a political offence or an offence connected with a political offence or an offence against military law which is not an offence under ordinary criminal law.

Special provisions for summary offences.

46.—(1) In this section “summary offence” means an offence which under the law of the place concerned is a summary offence, whether or not it is also an indictable offence.

(2) A warrant issued in a place in relation to which this Part applies for the arrest of a person accused of a summary offence shall not be endorsed for execution under this Part unless—

(a) the warrant is a warrant for his arrest for failure to appear before a court in that place in pursuance of a recognizance entered into by him, or

(b) a summons has been issued in that place requiring him to appear before a court to answer to the accusation, and either—

(i) the summons has been served personally upon him in a place in relation to which this Part applies, or

(ii) he has duly appeared in answer to the summons, or

- (c) a notice of issue of such a summons has been served personally upon him by a member of the Garda Síochána at least fourteen days before the date named in the summons for his appearance.
- 5 (3) (a) A notice under *subsection (2)* shall contain a copy of the summons and 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.
- 10 (c) A statutory declaration of service, endorsed upon the back of the original notice, shall be evidence of service.
- (4) A document appearing to be a copy of a summons to which *paragraph (b) of subsection (2)* relates and to be certified by the authority by which it was issued or by the clerk or other officer of
- 15 that authority, a document appearing to be a copy of an affidavit or other declaration of service of any such summons and a certificate appearing to be given by the court or by the clerk or other officer of the court before which a person is required to appear in answer to any such summons, that that person has duly appeared may, with-
- 20 out further evidence, be accepted by the Commissioner as evidence of such summons, service and appearance, respectively.

47.—(1) A person arrested under this Part shall be released if the Minister or the High Court so directs in accordance with this section on any of the grounds specified in *section 45*. Release of persons arrested.

- 25 (2) A direction of the Court under this section may be given either in *habeas corpus* proceedings brought by or on behalf of the person concerned or upon the question being referred to the Court by the Minister.

- 30 48.—(1) Where the Commissioner receives a document appearing to be a warrant issued 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
- 35 warrant and as having been duly signed and issued 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. Verification of warrant and nature of offence.

- 40 (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, as to the punishment provided for the offence to which it relates by the law of the place concerned or as to whether or not it is a summary offence may, without further evidence, be accepted
- 45 by the Commissioner as evidence of the matters so certified.

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

- (a) a document appearing to be a warrant issued 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 48*, be admitted in evidence as such warrant and as having been duly signed and issued in accordance with the law of that place;
- 50
- 55 (b) a document appearing to be a copy of a summons to which *paragraph (b) of subsection (2) of section 46* relates and to be certified in accordance with *subsection (4) of*

that section 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 (4) of section 46 or subsection (2) of section 48 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 so 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 48.

Section 6

SCHEDULE

REPEALS

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.
14 & 15 Vict. c. 93.	Petty Sessions (Ir.) Act, 1851.	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.

BILLE

(mar a tugadh isteach)
dá ngairtear

Acht do leasú an dlí a bhaineann le
heiseachadadh.

An tAire Dlí agus Cirt a thug isteach

Ordaitodh ag Dáil Éireann a chlobhualadh,
11 Iúil, 1963

BAILE ATHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Díolta Foilseachán Rialtais,
An Stuara, Árd Oifig an Phoist, Baile Átha Cliath, nó trí
aon díoltóir leabhar.

Cló-bhuailte ag CAHILL & Co., LTD.

[Luach : Dhá Scilling Glan.]

Wt. G37429/G/12—625. 12/63. C.&Co. (4098). G.16.

BILL

(as introduced)
entitled

An Act to amend the law relating to
extradition.

Introduced by the Minister for Justice

Ordered by Dáil Éireann to be printed,
11th July, 1963

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE.

To be purchased through any bookseller, or directly
from the Government Publications Sale Office
G.P.O. Arcade, Dublin.

Printed by CAHILL & Co., LTD.

[Price : Two Shillings Net.]