

EXTRADITION ACT, 1960 (ACT 22).

As amended by

EXTRADITION ACT, 1960 (AMENDMENT) DECREE, 1966 (NLCD 65)1

ARRANGEMENT OF SECTIONS

Section

PART I—EXTRADITION GENERALLY

Preliminary

1. Application of Part I.
2. Restrictions on surrender of fugitive criminals.

Continuance of Existing Provisions

3. Application to Commonwealth and other countries.
4. Discontinuance.

Surrender of Criminals

5. Liability of criminal to surrender.
6. Liability of accessories to be surrendered.
7. Order of Minister for issue of warrant in Ghana if crime not of a political character.
8. Issue of warrant by District Magistrate.
9. Hearing of case and evidence of political character of crime.
10. Committal or discharge of prisoner.
11. Surrender of fugitive by warrant of Minister.
12. Discharge of persons apprehended if not conveyed out of Ghana within two months.
13. Execution of warrant of District Magistrate.
- 13A. Seizure and handing over of property

Crimes Committed at Sea

14. Jurisdiction as to crimes committed at sea.

General

15. Criminal surrendered by another country not triable for previous crimes etc.

PART II—RECIPROCAL BACKING OF WARRANTS

16. Application of Part II.
17. Backing of warrant issued in another country.
18. Return of prisoner apprehended under backed warrant.
19. Provisional warrant.
20. Discharge of prisoner not returned within one month.
21. Refusal to return prisoner where offence too trivial.
22. Procedure.
23. Exclusion of political offences.

PART III—MISCELLANEOUS PROVISIONS

Proof of Warrants, Depositions, Etc.

24. Depositions to be evidence.
25. Authorisation of depositions and warrants.
26. Power of country to obtain evidence in Ghana.
27. Power of taking evidence in Ghana for foreign criminal matters.
28. Repeals.
29. Extradition crimes.
30. Definitions.
31. Commencement.

SCHEDULES

First Schedule—List of Crimes

Second Schedule—Repeals

THE TWENTY-SECOND

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA ENTITLED

THE EXTRADITION ACT, 1960

AN ACT to consolidate and amend the law relating to extradition of persons accused or convicted of crimes committed within the jurisdiction of other countries.

DATE OF ASSENT: 15th December, 1960

BE IT ENACTED by the President and the National Assembly in this present Parliament assembled as follows:—

PART I—EXTRADITION GENERALLY

Preliminary

Section 1—Application of Part I.

(1) Where an arrangement has been made with any country with respect to the surrender to that country of any fugitive criminals, the President by legislative instrument may order that 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 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 under this section shall be laid before the National Assembly.

Section 2—Restrictions on Surrender of Fugitive Criminals.

(1) The restrictions contained in the following provisions of this section shall be observed with respect to the surrender of fugitive criminals.

(2) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is requested is one of a political character, or if it appears to the Court or the National Liberation Council that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

(3) A fugitive criminal shall not be surrendered to any country unless provision is made by the law of that country or by arrangement:—

(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 surrender is requested except in the following cases—

(i) with the consent of the Government of Ghana; or

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

(b) that where the description of the offence charged in the country requesting the surrender of the fugitive criminal 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 his being surrendered to that country by Ghana under this part of this Act.

(4) A fugitive criminal who has been accused of some offence within the jurisdiction of Ghana, not being the offence for which his surrender is requested, or is undergoing sentence under any conviction in Ghana shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise.

(5) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

(6) Notwithstanding anything in subsection (2) of this section, the fact that the law of any country requesting the surrender of a fugitive criminal permits the taking of 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 the surrender of that person. [As substituted by the Extradition Act, 1960 (Amendment) Decree 1966 (NLCD 65), s.1]

Continuance of Existing Provisions.

Section 3—Application to Commonwealth and Other Countries.

(1) A country to which Part I of the Fugitive Offenders Act, 1881 (which provided for the return of fugitive offenders from Commonwealth countries) applied immediately before the commencement of this Act, shall be a country to which this Part applies.

(2) A country with which an arrangement, in force immediately before the commencement of this Act, was made under the Extradition Acts, 1870 to 1932, shall be a country to which this Part applies.

(3) The President may by legislative instrument declare, as respects any country, that it is a country to which, by virtue of subsection (1), this Part applies or 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) 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 applies to that country.

Section 4—Discontinuance.

If it appears to the President that the law of a country to which section 3 (1) of this Act applies no longer contains reciprocal provisions or that an arrangement with any country referred to in section 3 (2) is no longer in force, the President by legislative instrument may discontinue the application of this Part to that country.

Surrender of Criminals.

Section 5—Liability of Criminal to Surrender.

Where this Part applies in the case of any country, every fugitive criminal of that country who is in or suspected of being in Ghana shall be liable to be apprehended and surrendered in manner provided by this Part, 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 to that country, and whether there is or is not any concurrent jurisdiction in a Court of Ghana over that crime.

Section 6—Liability of Accessories to be Surrendered.

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

Section 7—Order of Minister for Issue of Warrant if Crime not of a Political Character.

(1) A requisition for the surrender of a fugitive criminal of any country, who is in or suspected of being in Ghana, shall be made to the Minister by a diplomatic representative or consular officer of that country. The Minister may by order signify to a District Magistrate that a requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

(2) If the Minister is of opinion that the offence is one of a political character, he 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.

Section 8—Issue of Warrant by District Magistrate.

(1) A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in Ghana, may be issued by a District Magistrate—

(a) on the receipt of the order of the Minister, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in Ghana, 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 in which he exercises 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 thereof, 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 District 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 District Magistrate, unless the District Magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from the Minister an order signifying that a requisition has been made for the surrender of the criminal.

Section 9—Hearing of Case and Evidence of Political Character of Crime.

(1) When a fugitive criminal is brought before the District 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 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.

Section 10—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 the provisions of this Act) would, according to the law of Ghana, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in Ghana the District Magistrate shall commit him 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 the provisions of this Act) would, according to the law of Ghana, prove that the prisoner was convicted of the crime, the District Magistrate shall commit him to prison.

(3) The order of the District Magistrate under subsection (1) or (2) shall be to commit the fugitive criminal to prison to await the warrant of the Minister for his surrender, and the Magistrate shall forthwith send to the Minister a certificate of the committal, and such report upon the case as he may think fit.

(4) When the fugitive criminal is committed to prison to await his surrender, the committing Magistrate, if of opinion that it will be dangerous to the life or prejudicial to the health of the prisoner to remove him to prison, may order him to be held in custody at the place in which he for the time being is, or any other place named in the order to which the Magistrate thinks he can be removed without danger to his life or prejudice to his health, and while so held he shall be deemed to be in legal custody, and this Act shall apply to him as if he were in the prison to which he was committed.

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

Section 11—Surrender of Fugitive by Warrant of Minister.

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

(2) Upon the expiration of 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 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; and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of the warrant, he may be retaken in the same manner as any person accused of any crime against the laws of Ghana may be retaken upon an escape.

Section 12—Discharge of Persons Apprehended if not Conveyed Out of Ghana Within Two Months.