

Power to make rules.

3. (1) The President of the Union may make rules¹ requiring that persons entering the Union of Burma shall be in possession of passports, and for all matters ancillary or incidental to that purpose.

(2) Without prejudice to the generality of the foregoing power such rules may—

- (a) prohibit the entry into the Union of Burma or any part thereof of any person who has not in his possession a passport issued to him;
- (b) prescribe the authorities by whom passports must have been issued or renewed, and the conditions with which they must comply, for the purposes of this Act; and
- (c) provide for the exemption, either absolutely or on any condition, of any person or class of persons from any provision of such rules.

(3) Rules made under this section may provide that any contravention thereof or of any order issued under the authority of any such rule shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both.

(4) All rules made under this section shall be published in the Gazette, and shall thereupon have effect as if enacted in this Act.

Power of arrest.

4. (1) Any officer of police, not below the rank of a sub-inspector, and any officer of the Customs Department empowered by a general or special order of the President of the Union in this behalf may arrest without warrant any person who has contravened or against whom a reasonable suspicion exists that he has contravened any rule or order made under section 3.

(2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest police-station, and the provisions of section 61 of the Code of Criminal Procedure shall, so far as may be, apply in the case of any such arrest.

Power of removal

5. The President of the Union may, by general or special order, direct the removal of any person from the Union of Burma who, in contravention of any rule made under section 3 prohibiting entry into the Union of Burma without a passport, has entered therein, and thereupon any officer of Government shall have all reasonable powers necessary to enforce such direction.

THE BURMA EXTRADITION ACT.

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¹ For such rules, see *Burma Gazette*, 1948 Part I, p. 169.

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THE FIRST SCHEDULE.—EXTRADITION OFFENCES.

THE BURMA EXTRADITION ACT.

[INDIA ACT XV, 1903.] (1st June, 1903.)

CHAPTER I.

PRELIMINARY.

1. *

Definitions

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

CHAPTER II.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

Requisition
for sur-
render.

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

¹ Clauses (a), (e) and (g) were omitted and clauses (b), (c) and (f) were re-lettered as clauses (a), (b) and (c); clause (b) as re-lettered was substituted and clause (c) inserted by the Union of Burma (Adaptation of Laws) Order, 1948.

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

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition offence. Inquiry by Magistrate.

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

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

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

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

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

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of the Union of Burma may be re-taken upon an escape. Lawfulness of custody and re-taking under warrant for surrender.

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

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

Issue of warrant to be reported forthwith.

Person arrested not to be detained unless order received.

Bail.

Power of President to refuse to issue order under section 3 when crime of political character.

Power of President to discharge any person in custody at any time.

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

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

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

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

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

16. *

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES AND INDIA OR PAKISTAN.

17—10. *

Surrender of person accused of, or undergoing sentence for, offence in the Union of Burma.

Suspension of sentence

11. (1) A person accused of an offence committed in the Union of Burma, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in the Union of Burma, shall not be surrendered in compliance with a [requisition made by or on behalf of a Foreign State,]¹ except on the condition that such person be re-surrendered to the President of the Union on the termination of his trial for the offence for which his surrender has been asked :

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

(2) On the surrender of a person undergoing sentence under a conviction in the Union of Burma, his sentence shall be deemed to be suspended until the date

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted by the same Order.

of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender. on surrend-

12. The provisions of this Act² with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any Foreign State, has escaped into or is in the Union of Burma before his sentence has expired. Application of Act to convicted persons.

13. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Act,¹ to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly. Abetment and attempt.

* 14—16 * * * *

17 (1) In any proceedings under this Act,² exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence. Receipt in evidence of exhibits, depositions and other documents. Authentication of the same.

(2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside the Union of Burma, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated,—

(a) if the warrant purports to be signed by a Judge, Magistrate, or officer of the State where the same was issued or acting in or for such State:

(b) if the depositions or statements or copies thereof purport to be certified under the hand of a Judge, Magistrate or officer of the State where the same were taken, or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require:

(c) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State:

(d) if the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official : e.g. of a minister of the State where the same were respectively issued, taken or given.

(3) For the purposes of this section, "warrant" includes¹ [a requisition and any other judicial document requiring] the arrest of any person accused or convicted of an offence. Definition of "warrant".

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies, and the provisions of this Act shall be modified accordingly. Chapter not to derogate from treaties.

CHAPTER IV.

* 19. * * * *

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted by the same Order.

CHAPTER V.

OFFENCES COMMITTED AT SEA.

Requisition
for surrender
in case of
offence com-
mitted at sea.

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

CHAPTER VI.

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE THE UNION OF BURMA.

Execution of
commissions
issued by
Criminal
Courts
in Foreign
States.

21. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in ¹ [any Foreign State] in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding :

¹ Provided that this section shall not apply when the evidence is required in respect of an offence of a political character.

CHAPTER VII.

SUPPLEMENTAL.

Power to
make rules.

22. (1) The President of the Union may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the removal of prisoners accused or in custody under this Act and their control and maintenance until such time as they are handed over to the persons named in the warrant as are entitled to receive them ;
- (b) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies ;
- (c) the pursuit and arrest in the Union of Burma by officers of the Government or other persons authorized in this behalf of persons accused of offences committed elsewhere ; and
- (d) the procedure and practice to be observed in extradition proceedings.

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

Detention of
persons
arrested un-
der section
54, clause
seventhly.
Code of
Criminal
Procedure.

23. Notwithstanding anything in the Code of Criminal Procedure, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 4².

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.
² Substituted for the figure "10" by the same Order.

THE FIRST SCHEDULE.**EXTRADITION OFFENCES.**

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

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

Frauds upon creditors (section 206).
Resistance to arrest (section 224).
Offences relating to coin and stamps (sections 230 to 263A).
Culpable homicide (sections 299 to 304).
Attempt to murder (section 307).
Thagi (sections 310, 311).
Causing miscarriage, and abandonment of child (sections 312 to 317).
Causing hurt (sections 323 to 333).
Wrongful confinement (sections 347, 348).
Kidnapping and slavery (sections 360 to 373).
Rape and unnatural offences (sections 375 to 377).
Theft, extortion, robbery, etc. (sections 378 to 414).
Cheating (sections 415 to 420).
Fraudulent deeds, etc. (sections 421 to 424).
Mischief (sections 425 to 440).
Lurking house-trespass (sections 443, 444).
Forgery, using forged documents, etc. (sections 463 to 477A).

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Piracy by the law of nations.

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

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

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

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

THE FOREIGN RELATIONS ACT.

[INDIA ACT XII, 1932.] (8th April, 1932.)

WHEREAS it is expedient to provide against the publication of statements likely to prejudice the maintenance of friendly relations between the Government and the Governments of certain foreign States ; it is hereby enacted as follows :—

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¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

Power of President to prosecute in certain cases of defamation.

2. Where an offence falling under Chapter XXI of the Penal Code is committed against a Ruler of a State¹ [adjoining Burma] or against the consort or son or principal Minister of such Ruler, the President of the Union may make, or authorize any person to make, a complaint in writing of such offence, and, notwithstanding anything contained in section 198 of the Code of Criminal Procedure, any Court competent in other respects to take cognizance of such offence may take cognizance thereof on such complaint.

Power to forfeit certain publications or to detain them in the course of transmission through post.

3. The provisions of sections 99A to 99G of the Code of Criminal Procedure, and of sections 27B to 27D of the Burma Post Office Act, shall apply in the case of any book, newspaper or other document containing matter which is defamatory of a Ruler of a State¹ [adjoining Burma] or of the consort or son or principal Minister of such Ruler and tends to prejudice the maintenance of friendly relations between the Government and the Government of such State, in like manner as they apply in the case of a book, newspaper or document containing seditious matter within the meaning of those sections.

Proof of status of persons defamed.

4. Where, in any trial of an offence upon a complaint under section 2, or in any proceeding before the High Court arising out of section 3, there is a question whether any person is a Ruler of any State, or is the consort or son or principal Minister of such Ruler, a certificate of the President of the Union that such person is such Ruler, consort, son or principal Minister shall be conclusive proof of that fact.

THE FOREIGN RECRUITING ACT.

[INDIA ACT IV, 1874.] (24th February, 1874.)

1. * * * * *

"Foreign State" defined.

2. In this Act—

"Foreign State" includes any person or persons exercising or assuming to exercise the powers of Government in or over any country, colony, province or people beyond the limits of the Union of Burma.

Power to prohibit or permit recruiting.

3. If any person is, within the limits of the Union of Burma, obtaining or attempting to obtain recruits for the service of any Foreign State in any capacity, the President of the Union may either prohibit such person from so doing, or permit him to do so subject to any conditions which the President of the Union thinks fit to impose.

Power to impose conditions.

4. The President of the Union may, from time to time, by general order notified in the Gazette, either prohibit recruiting for the service of any Foreign State, or impose upon such recruiting any conditions which he thinks fit.

Power to rescind or vary orders.

5. The President of the Union may rescind or vary any order made under this Act in such manner as he thinks fit.

¹ Substituted for the words "outside India and Burma but adjoining India or Burma" by the Union of Burma (Adaptation of Laws) Order, 1948.