

# Extradition (Amendment) Act, 1994



*Number 6 of 1994*

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## EXTRADITION (AMENDMENT) ACT, 1994

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**EXTRADITION (AMENDMENT) ACT, 1994**

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AN ACT TO AMEND AND EXTEND THE EXTRADITION ACTS, 1965 TO 1987. [5th April, 1994]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act “*the Principal Act*” means the [Extradition Act, 1965](#) .

(2) The amendments effected by this Act apply, 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, other than an offence committed or alleged to have been committed before the commencement of [sections 2](#) and [3](#) of this Act by a person in whose case a court has found that the offence was a political offence or an offence connected with a political offence.

(3) The amendments effected by [sections 2](#) and [3 \(a\)](#) of this Act and the repeal of [section 4](#) of the [Extradition \(European Convention on the Suppression of Terrorism\) Act, 1987](#) , by [section 16](#) of and the [Second Schedule](#) to this Act shall not have effect—

- (a) for the purposes of Part II of the Principal Act in relation to any request for the surrender of a person made before the commencement of [sections 2](#) and [3](#) of this Act by a country to which that Part applies,
- (b) for the purposes of Part III of the Principal Act in relation to any warrant for the arrest of a person issued before such commencement in a place to which that Part applies, or
- (c) for the purposes of section 24 of the Extradition Act, 1870, and of section 5 of the Extradition Act, 1873, in relation to the obtaining of evidence in the State for use in criminal proceedings instituted outside the State before such commencement.

Amendment of Extradition (European Convention on the Suppression of Terrorism) Act, 1987.

2.—Section 3 (certain offences not to be regarded as political offences) of the [Extradition \(European Convention on the Suppression of Terrorism\) Act, 1987](#) , shall be amended—

(a) in subsection (3) (a), by the substitution of the following subparagraphs for subparagraph (vi):

“(vi) any serious offence (other than an offence to which subparagraphs (i) to (v) apply)—

(I) involving an act of violence against the life, physical integrity or liberty of a person, or

(II) involving an act against property if the act created a collective danger for persons,

and

(vii) any offence of attempting or conspiring to commit any of the foregoing offences.”,

and

(b) by the insertion of the following subsection after subsection (3):

“(3A) Without prejudice to subsection (3), this section applies to any offence which, if the act constituting the offence took place in the State, would be an offence specified in the First Schedule to the *Extradition (Amendment) Act, 1994*.”.

Amendment of section 3 of Principal Act.

3.—Section 3 (interpretation) of the Principal Act shall be amended—

(a) by the substitution of the following definitions for the definitions of “*political offence*” and “*revenue offence*”:

“‘*political offence*’ does not include the taking or attempted taking of the life of a Head of State or a member of his family or an offence within the scope of Article 3 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances done at Vienna on the 20th day of December, 1988;

‘*revenue offence*’, in relation to any country or place outside the State, means an offence in connection with taxes, duties or exchange control but does not include an offence involving the use or threat of force or perjury or the forging of a document issued under statutory authority or an offence alleged to have been committed by an officer of the revenue of that country or place in his capacity as such officer or an offence within the scope of Article 3 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances done at Vienna on the 20th day of December 1988;”

and

(b) by the insertion of the following definition before the definition of “*the Minister*”:

“‘judge of the District Court assigned to the Dublin Metropolitan District’ means the President of the District Court and any other judge of the District Court assigned to the Dublin Metropolitan District nominated for the purposes of this Act by the President of the District Court;”.

Proceedings before judge of District Court assigned to Dublin Metropolitan District.

4.—(1) For the purpose of requiring certain proceedings under the Principal Act to be heard before a judge of the District Court assigned to the Dublin Metropolitan District, the Principal Act shall be amended as follows:

(a) the following section shall be substituted for section 31:

“Lapse of time before surrender.

31. A person committed under section 29 shall not be surrendered, except with his consent, given before a judge of the District Court assigned to the Dublin Metropolitan District, to the requesting country until the expiration of 15 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.”,

(b) in section 45 (execution of warrants), the following subsection shall be substituted for subsection (2).

“(2) The person named or described in the warrant shall on arrest be brought as soon as may be before a judge of the District Court assigned to the Dublin Metropolitan District.”,

(c) in section 48 (lapse of time before delivery of arrested person), the following subsection shall be substituted for subsection (1):

“(1) A person to whom an order under section 47 relates shall not, except with his consent given before a judge of the District Court assigned to the Dublin Metropolitan District, be delivered up under the order until the expiration of 15 days from the date of the order.”,

(d) in section 49 (provisional warrants), the following subsection shall be substituted for subsection (3):

“(3) The person named or described in the provisional warrant shall on arrest be brought as soon as may be before a judge of the District Court assigned to the Dublin Metropolitan District.”,

and

(e) in section 53 (discharge of persons not taken outside State), the following subsection shall be substituted for subsection (2):

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

(2) In any proceedings under the Principal Act that are required to be heard by a judge of the District Court assigned to the Dublin Metropolitan District, and in any proceedings in relation to any such proceedings as aforesaid, it shall be presumed, unless the contrary is proved, that the judge of the District Court who is hearing or, as the case may be, who heard the proceedings concerned was nominated for the purpose of that Act by the President of the District Court.

Admission to bail by High Court.

**5.**—The Principal Act shall be amended by the insertion of the following section after section 7:

“7A.—A person arrested under Part II or III of this Act shall not be admitted to bail except by order of the High Court.”.

Execution of certain warrants by members of Garda Síochána not in possession of the warrants.

**6.**—For the purpose of enabling certain warrants issued or endorsed under the Principal Act to be executed by a member of the Garda Síochána notwithstanding that he is not in possession of the warrants, the Principal Act shall be amended as follows:

(a) in section 26 (warrant of arrest), the following subsection shall be substituted for subsection (2):

“(2) A warrant issued under this section may be executed by any member of the Garda Síochána in any part of the State and may be so executed notwithstanding that it is not in the possession of the member at the time; and the warrant shall be shown to, and a copy of same given to, the person arrested at the time of such arrest or, if the warrant is not then in the possession of the member, within 24 hours thereafter.”,

(b) in section 27 (provisional arrest), the following subsection shall be substituted for subsection (4):

“(4) A warrant issued under this section may be executed by any member of the Garda Síochána in any part of the State and may be so executed notwithstanding that it is not in the possession of the member at the time; and the warrant shall be shown to, and a copy of same given to, the person arrested at the time of such arrest or, if the warrant is not then in the possession of the member, within 24 hours thereafter.”,

and

(c) in section 45 (execution of warrants), the following subsection shall be substituted for subsection (1):

“(1) A warrant endorsed under section 43 may be executed by any member of the Garda Síochána in any part of the State and may be so executed notwithstanding that it is not in the possession of the member at the time; and the warrant shall be shown to, and a copy of same given to, the person arrested at the time of such arrest or, if the warrant is not then in the possession of the member, within 24 hours thereafter.”.

Amendment of section 26 of Principal Act.

7.—Section 26 (warrant of arrest) of the Principal Act shall be amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) (a) 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, certify that the request has been made.

(b) On production to a judge of the District Court assigned to the Dublin Metropolitan District of a certificate of the Minister under paragraph (a) stating that a request referred to in that paragraph has been made, the judge shall issue a warrant for the arrest of the person concerned unless a warrant for his arrest has been issued under section 27.”,

and

(b) by the substitution of the following subsections for subsection (5):

“(5) A person arrested under a warrant issued under this section shall be brought as soon as may be before a judge of the District Court assigned to the Dublin Metropolitan District.

(6) Where a person has been arrested under a warrant issued under this section, then, in any proceedings it shall be presumed, unless the contrary is proved, that a request for the extradition of the person has been duly made and has been duly received by the Minister.”.

**8.**—Section 27 (provisional arrest) of the Principal Act shall be amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) A judge of the District Court may, without a certificate of the Minister under section 26 (1) (a), 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.”,

(b) by the substitution of the following subsections for subsections (6) and (7):

“(6) A person arrested under a warrant issued under this section shall, unless the warrant is cancelled under subsection (5), be brought as soon as may be before a judge of the District Court assigned to the Dublin Metropolitan District and the judge shall remand the said person in custody pending the production of a certificate of the Minister under section 26 (1) (a) stating that the request for extradition has been duly made or the release of that person under section 35, and for this purpose, subject to section 7A (inserted by the *Extradition (Amendment) Act, 1994*), the judge 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 18 days after such person's arrest, no such certificate is produced, he shall be released.”,

and

(c) by the insertion of the following subsections after subsection (8):

“(9) A warrant for the arrest of a person may be issued under subsection (1) notwithstanding that, previously—

(a) a warrant for the arrest of that person has been issued, or

(b) the issue of such a warrant has been refused.

(10) Where an information is sworn by a member of the Garda Síochána not below the rank of inspector before a judge of the District Court stating that a request for the provisional arrest of a person has been made, on the ground of urgency, on behalf of a country in relation to which this Part applies, then, in any proceedings it shall be presumed, unless the contrary is proved, that a request for the provisional arrest of the person has been made on the ground of urgency on behalf of a country in relation to which this Part applies.

(11) Where a person has been arrested under a warrant issued under this section and a certificate of the Minister under section 26 (1) (a) stating that a request for the extradition of the person has been duly made, has been produced to a judge of the District Court assigned to the Dublin Metropolitan District, then, in any proceedings it shall be presumed, unless the contrary is proved, that a request in accordance with this Part for the extradition of the person has been duly made and has been duly received by the Minister.”.

**9.**—Section 29 (committal or discharge of a person whose extradition is requested) is hereby amended by the substitution of the following subsection for subsection (2):

“(2) Subject to section 7A (inserted by the *Extradition (Amendment) Act, 1994*), the Court shall have the same powers of adjournment and remand as if the person concerned were brought before the court charged with an indictable offence.”.

Amendment of section 43 of Principal Act. **10.**—Section 43 (endorsement of warrants) of the Principal Act shall be amended by the substitution of the following paragraph for paragraph (b) of subsection (1):

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

Amendment of section 44C of Principal Act. **11.**—Section 44C (presumption in relation to direction of Attorney General) (inserted by the [Extradition \(Amendment\) Act, 1987](#)) of the Principal Act shall be amended by the substitution of the following subsection for subsection (3):

“(3) In any proceedings in which, but for this section, proof would be required of the fact that, in relation to a warrant issued by a judicial authority in a place in relation to which this Part applies or the person named or described in such a warrant, a direction of the Minister under this Part was not given, it shall be presumed, until the contrary is proved, that such a direction was, in accordance with this Part, not given and not required to be given in relation to the warrant or, as the case may be, the person.”.

Amendment of section 47 of Principal Act. **12.**—Section 47 (proceedings before District Court) shall be amended—

(a) by the substitution of the following subsections for subsection (1):

“(1) Where a person named or described in a warrant is before the District Court in pursuance of this Part, that Court shall, subject to the provisions of this Part, make an order for his delivery into the custody of a member of a police force of the place in which the warrant was issued, for conveyance to that place, and remand him until so delivered.

(1A) Subject to the provisions of this Part, a person in whose case an order is made under subsection (1) shall be brought by the Garda Síochána as soon as may be to a point of departure from the State and there delivered into the custody of a member of the police force of the place in which the warrant concerned was issued for conveyance to that place.”.

and

(b) by the substitution of the following subsection for subsection (4):

“(4) Subject to section 7A (inserted by the *Extradition (Amendment) Act, 1994*), the Court shall have the same powers of adjournment and remand as if the person concerned were brought before the Court charged with an indictable offence.”.

Amendment of section 49 of Principal Act. **13.**—Section 49 (provisional warrants) of the Principal Act shall be amended as follows:

(a) the following paragraph shall be substituted for paragraph (c) of subsection (1):

“(c) that he has reason to believe that the person may be found in the State or may intend to enter the State,”.

and

(b) the following subsections shall be substituted for subsections (5), (6) and (8):

“(5) If there is produced to the judge of the District Court assigned to the Dublin Metropolitan District the warrant issued for his arrest in a place in relation to which this Part applies, endorsed in accordance with section 43, the judge shall proceed as if he had been arrested at that time under that warrant.

(6) In any other case, the judge of the District Court assigned to the Dublin Metropolitan District may remand him in custody for not more than 7 days.

(8) (a) A provisional warrant may be executed by any member of the Garda Síochána in any part of the State and may be so executed notwithstanding that it is not in the possession of the member at the time; and the warrant shall be shown to, and a copy of same given to, the person arrested at the time of such arrest or, if the warrant is not then in the possession of the member, within 24 hours thereafter.

(b) A provisional warrant shall not be authority for the making of an arrest more than 7 days after the date of its issue.”.

Amendment of section 55 of Principal Act.

**14.**—Section 55 (evidence in proceedings) of the Principal Act shall be amended by the substitution of the following subsection for subsection (3) (inserted by the [Extradition \(Amendment\) Act, 1987](#)):

“(3) In any proceedings in the District Court in relation to a warrant issued by a judicial authority in a place in relation to which this Part applies, it shall not be necessary to prove that—

(a) a direction of the Attorney General was, in accordance with sections 44A and 44B, not given or not required to be given under section 44A in relation to the warrant, or

(b) a direction of the Attorney General under section 44A was revoked by him or that the revocation was in accordance with subsection (2) of that section, or

(c) a direction of the Minister was, in accordance with this Part, not given or not required to be given in relation to the warrant or the person named or described in the warrant.”.

Time for making reports under section 6 Extradition (Amendment) Act, 1987.

**15.**—The report under [section 6](#) of the [Extradition \(Amendment\) Act, 1987](#), in relation to any year beginning with the year 1993 shall be made not later than the 31st day of December in the following year.

Repeals.

**16.**—The enactments specified in the [Second Schedule](#) to this Act are hereby repealed to the extent specified in *column (3)* of that Schedule.

Short title, collective citation, construction and commencement.

**17.**—(1) This Act may be cited as the Extradition (Amendment) Act, 1994.

(2) The Extradition Acts, 1965 to 1987, and this Act may be cited together as the Extradition Acts, 1965 to 1994.

(3) The Extradition Acts, 1965 to 1987, and this Act shall be construed together as one.

(4) This Act shall come into operation on such day or days as, by order or orders made by the Minister for Justice under this section, may be fixed therefor either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes and

different provisions (including the application of [section 16](#) to different enactments specified in the [Second Schedule](#) to this Act).

## FIRST SCHEDULE

Offences to which section 3 of Extradition (European Convention on the Suppression of Terrorism) Act, 1987, applies

[Section 2](#).

### *Common law offences*

1. Murder.
2. Manslaughter.
3. Kidnapping.
4. False imprisonment.
5. Assault occasioning actual bodily harm.

### *Offences against the person*

6. Any offence under the following provisions of the Offences against the Person Act, 1861—
  - (a) section 18 (wounding with intent to cause grievous bodily harm);
  - (b) section 20 (causing grievous bodily harm).

### *Explosives*

7. Any offence under the following provisions of the Explosive Substances Act, 1883—
  - (a) section 2 (causing explosion likely to endanger life or damage property);
  - (b) section 3 (possession etc. of explosive substances);
  - (c) section 4 (making or possessing explosives in suspicious circumstances).

### *Firearms*

8. Any offence under section 15 of the Firearms Act, 1925 (possessing firearm or ammunition with intent to endanger life or cause serious injury to property).
9. Any offence under the following provisions of the Firearms Act, 1964—
  - (a) section 26 (possession of firearm while taking vehicle without authority);
  - (b) section 27 (use of firearm to resist arrest or aid escape);
  - (c) section 27B (carrying firearm with criminal intent).

### *Robbery and burglary*

10. Any offence under the following provisions of the Larceny Act, 1916—

(a) section 23 (robbery);

(b) section 23B (aggravated burglary).

*Criminal damage*

11. Any offence under section 2 (2) (damaging property with intent to endanger life or being reckless as to danger to life) of the Criminal Damage Act, 1991.

*Offences in relation to aircraft and vehicles*

12. Any offence under section 11 of the Air Navigation and Transport Act, 1973 (unlawful seizure of aircraft).

13. Any offence under section 3 of the Air Navigation and Transport Act, 1975 (unlawful acts against the safety of aviation).

14. Any offence under section 10 of the Criminal Law (Jurisdiction) Act, 1976 (unlawful seizure of vehicles).

*Accomplices*

15. References in this Schedule to an offence include references to participation as an accomplice of a person who commits the offence.

*Attempts and conspiracy*

16. An offence of attempting or conspiring to commit any offence mentioned in a preceding paragraph of this Schedule.

SECOND SCHEDULE

Enactments Repealed

Number and Year	Short Title	Extent of Repeal
(1)	(2)	(3)
No. 17 of 1965.	<a href="#">Extradition Act, 1965.</a>	<a href="#">Section 28</a> ; Subsection (3) of <a href="#">section 45</a> ;  Section 46; Subsection (4) of section 49;  Subsections (2), (2A) (inserted by the Criminal Procedure Act, 1967), (3), (4) and (5) of section 52.
No. 1 of 1987.	<a href="#">Extradition (European Convention on the Suppression of Terrorism) Act, 1987</a> .	In <a href="#">section 3</a> (3) (a) (v), the word “and”; <a href="#">Section 4</a> ;  In section 11, the words “or section 4”.

Acts Referred to

Extradition Act, 1870	1870, c.52
Extradition Act, 1873	1873, c.60
<a href="#">Extradition Act, 1965</a>	1965, No. 17
<a href="#">Extradition (Amendment) Act, 1987</a>	1987, No. 25
<a href="#">Extradition (European Convention on the Suppression of Terrorism) Act, 1987</a>	1987, No. 1

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