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## CHAPTER 89.

## FUGITIVE CRIMINALS SURRENDER.

19 of 1906.  
29 of 1907.**An Ordinance to Provide for the Surrender of Fugitive Criminals.**

[17TH OCTOBER, 1906.]

Preamble.

\*

WHEREAS it is expedient to provide for the mutual surrender of fugitive criminals between the Protectorate of the Colony of Sierra Leone and foreign states and protectorates.

Short title  
and  
application.

1. This Ordinance may be cited as the Fugitive Criminals Surrender Ordinance, and shall apply to the Protectorate.

Interpreta-  
tion.

2. In this Ordinance, unless the context otherwise requires—

“crime in respect of which surrender may be granted” means a crime which would be punishable by the law of the Protectorate, if committed in the Protectorate, and which would (by whatever name designated by the law of the Protectorate) be one of the crimes described in the first schedule to this Ordinance:

Provided that every person who is accused or convicted of having counselled, procured, commanded, aided or abetted the commission of any crime or of being accessory before or after the fact of any such crime, shall be deemed for the purpose of this Ordinance to be accused or convicted of having committed such crime, and shall be apprehended and surrendered accordingly;

“conviction” and “convicted” do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term “accused person” includes a person so convicted for contumacy;

“fugitive criminal” means any person accused or convicted of a crime, in respect of which surrender may be granted, committed within the jurisdiction of any foreign state who is in, or is suspected of being in, or on the way to some part of the Protectorate;

\* *The Extradition Act, 1870, and the Acts amending the same apply to the Colony.*

*For the surrender of fugitive offenders from other parts of Her Majesty's dominions cf. Fugitive Offenders Act, 1881, and the West African (Fugitive Offenders) Order in Council, 1923.*

“fugitive criminal of a foreign State” means a fugitive criminal accused or convicted of a crime in respect of which surrender may be granted, committed within the jurisdiction of that state;

“diplomatic representative of a foreign State” includes any person recognised by the Governor as a consul-general, consul, vice-consul, or as the officer administering the Government of any Possession, Dependency or Protectorate of that state;

“warrant” in the case of any foreign State, includes any judicial document authorising the arrest of a person accused or convicted of crime.

3. (1) Where an arrangement has been made between Her Majesty the Queen and the ruler of a foreign State under which the Protectorate is to surrender to that State or to its Protectorates any fugitive criminals, the Governor may by Order direct that this Ordinance shall apply in the case of that State during the continuance of the arrangement, and after such Order has been published in the *Gazette*, this Ordinance shall, subject to the terms of the arrangement, apply accordingly.

Ordinance to apply where arrangement for surrender of criminals made.

(2) No such notice shall remain in force for any longer period than the arrangement, and the Governor may by the same or any subsequent notice, limit the application of this Ordinance or render the operation thereof subject to such conditions, exceptions and qualifications as may be deemed expedient.

Duration of notice.

4. The following restrictions shall be observed with respect to the surrender of fugitive criminals—

Restrictions on surrender of fugitive criminals.

(a) a fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he proves to the satisfaction of a Judge of the Supreme Court or the Court before whom he is brought on *habeas corpus*, or to the Governor, 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;

(b) a fugitive criminal shall not be surrendered to a foreign State, unless provision is made by the law of that State, or by arrangement, that the fugitive criminal shall not, until he has been restored, or had an opportunity of returning to the Protectorate, be detained or tried in that foreign State for any offence committed prior to his surrender other than the crime proved by the facts on which the surrender is grounded;

(c) a fugitive criminal who has been accused of some offence within Her Majesty's jurisdiction, not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the Protectorate, shall not be surrendered until after he has been discharged, whether by acquittal or expiration of his sentence or otherwise;

(d) 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.

Liability of fugitive criminal to surrender.

5. Where this Ordinance applies in the case of any foreign State, every fugitive criminal of that State who is in or suspected of being in any part of the Protectorate shall be liable to be apprehended and surrendered in manner provided by this Ordinance whether the crime in respect of which the surrender is sought was committed before or after the coming into operation of this Ordinance, and whether there is or is not any concurrent jurisdiction in any Court of Her Majesty's dominions or of the Protectorate over that crime.

Order of Governor for issue of warrant in Protectorate if crime is not of a political character.  
Form 1.

6. (1) A requisition for the surrender of a fugitive criminal of any foreign State, who is in, or suspected of being in, the Protectorate, shall be made to the Governor by some person recognised by the Governor as a diplomatic representative of that foreign State. The Governor may, by order under his hand, signify to a Magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

Governor may refuse order.

(2) If the Governor is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

Issue of warrant by Magistrate, etc.

Form 2.

7. (1) A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in, or suspected of being in, or on the way to, the Protectorate may be issued—

(a) by a Magistrate on the receipt of the said order of the Governor 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 the Protectorate; and

Form 3.

(b) by a Judge of the Supreme Court or a Magistrate in any part of the Protectorate, on such charge on oath and such evidence, or after such proceedings, as would in the opinion of the person issuing the warrant justify the issue of a warrant,

if the crime had been committed or the criminal convicted in that part of the Protectorate in which he exercises jurisdiction.

(2) Any person issuing a warrant under this section without an order from the Governor shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint, or certified copies thereof, to the Governor, who may, if he think fit, order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged.

Report to  
Governor.

(3) A fugitive criminal, when apprehended on a warrant issued without the order of the Governor, shall be brought before some person having power to issue a warrant under this section, who shall by warrant order him to be brought, and the prisoner shall accordingly be brought, before a Judge of the Supreme Court. A fugitive criminal apprehended on a warrant issued without the order of the Governor shall be discharged by the Judge of the Supreme Court, unless the Judge within such reasonable time, as with reference to the circumstances of the case he may fix, receives from the Governor an order signifying that a requisition has been made for the surrender of such criminal.

Procedure on  
apprehension.  
Form 4.

8. When a fugitive criminal is brought before a Judge of the Supreme Court, the Judge shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in the Protectorate.

Hearing of  
case and  
evidence of  
political  
character of  
crime.

The Judge 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 a crime in respect of which his surrender may be granted.

9. (1) In the case of a fugitive criminal accused of a crime in respect of which his surrender may be granted if the foreign warrant authorising the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Ordinance) would, according to the law of the Protectorate, justify the committal for trial of the prisoner, if the crime of which he is accused had been committed in the Protectorate, the Judge of the Supreme Court shall commit him to prison, but otherwise shall order him to be discharged.

Committal or  
discharge of  
prisoner.

(2) In the case of a fugitive criminal alleged to have been convicted of a crime in respect of which his surrender may

be granted if such evidence is produced as (subject to the provisions of this Ordinance) would according to the law of the Protectorate prove that the prisoner was convicted of such crime, the Judge of the Supreme Court shall commit him to prison, but otherwise shall order him to be discharged.

Form 5.

(3) If he commits such criminal to prison he shall commit him to a prison or other place of safe custody in the Protectorate there to await the warrant of the Governor for his surrender, and shall forthwith send to the Governor a certificate of the committal and such report upon the case as he may think fit.

Surrender of  
fugitive  
criminal to  
foreign State  
by warrant of  
Governor.

10. (1) If the Judge of the Supreme Court commits a fugitive criminal to prison, he shall inform such criminal that he will not be surrendered until after the expiration of such a period not being less than fifteen days as the Governor may determine, and that he has a right to apply for a writ of *habeas corpus*.

Application for a writ of *habeas corpus* shall be made to the Chief Justice of the Supreme Court.

Form 6.

(2) Upon the expiration of the said period or, if a writ of *habeas corpus* is issued, after the decision of the Court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by the Governor, it shall be lawful for the Governor, by warrant under his hand and seal, to order the fugitive criminal (if not delivered on the decision of the Court) to be surrendered to such person as may in his opinion be duly authorised to receive the fugitive criminal, by the foreign State from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

(3) It shall be lawful for any person to whom such warrant is directed and for the person so authorised as aforesaid to receive, hold in custody and convey within the jurisdiction of such foreign State 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, such warrant, it shall be lawful to re-take him in the same manner as any person accused of any crime against the laws of the Protectorate may be re-taken upon an escape.

Discharge of  
persons  
apprehended  
if not con-  
veyed out of  
the Protec-  
torate within  
two months.

11. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the Protectorate within two months after such committal, or, if a writ of *habeas corpus* is issued, after the decision of the Court upon the return to the writ, it shall be lawful for a Judge of the Supreme Court, upon application made to him by, or on behalf of, the criminal,

and upon proof that reasonable notice of the intention to make such application has been given to the Governor, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

12. The warrant of a Judge of the Supreme Court or Magistrate issued in pursuance of this Ordinance may be executed in any part of the Protectorate in the same manner as if the same had been originally issued or subsequently indorsed by a Magistrate having jurisdiction in the place where the same is executed.

Execution of warrants.

13. Depositions or statements on oath taken in a foreign State, and copies of such original depositions or statements, and foreign certificates of, or judicial documents stating the fact of, conviction, may, if duly authenticated, be received in evidence in proceedings under this Ordinance.

Depositions to be evidence.

14. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of, or judicial documents stating the fact of, a conviction, shall be deemed duly authenticated for the purposes of this Ordinance, if authenticated in manner provided for the time being by law or authenticated as follows—

Authentication of depositions and warrants.

(a) if the warrant purports to be signed by a Judge, Magistrate or officer of the foreign State where the same was issued;

(b) if the depositions or statements, or the copies thereof, purport to be certified, under the hand of a Judge, Magistrate or officer of the foreign State where the same were taken, 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, conviction purports to be certified by a Judge, Magistrate or officer of the foreign State where the conviction took place; and

(d) if in every case the warrants, depositions, statements, copies, certificates and judicial documents (as the case may be) are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State. And all Courts of Justice shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

## CRIMES COMMITTED AT SEA.

Jurisdiction  
as to crimes  
committed at  
sea.

15. Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of the Protectorate, the following provisions shall have effect—

(a) the criminal may be committed to any prison or other place of detention to which the person committing him has power to commit persons accused of the like crime;

(b) if the fugitive criminal is apprehended on a warrant issued without the order of the Governor, he shall be brought before the Magistrate who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port and shall thereafter be brought before the Judge of the Supreme Court in the manner provided by section 7 of this Ordinance.

## GENERAL PROVISIONS.

Fugitive  
criminal sur-  
rendered by  
foreign State  
not triable  
for previous  
crime.

16. Where, in pursuance of any arrangement with a foreign State, any person accused or convicted of any crime which, if committed in the Protectorate, would be (by whatever name designated by the law of the Protectorate) one of the crimes described in the first schedule to this Ordinance, is surrendered by that foreign State, such person shall not, until he has been restored or had an opportunity of returning to such foreign State, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's Dominions or Protectorates other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

As to the use  
of forms in  
second  
schedule.

17. The forms set forth in the second schedule to this Ordinance, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and when used shall be deemed to be valid and sufficient in law.

Power of  
foreign State  
to obtain  
evidence in  
Protectorate.  
19 and 20,  
Vict., c. 113.

18. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in a foreign State in like manner as it may be obtained in relation to any civil matter under the Act entitled "An Act to provide for taking evidence in Her Majesty's Dominions in relation to civil and commercial matters pending before foreign tribunals," which Act shall for these purposes apply to, and be in force within, the Protectorate, and all the provisions of that Act shall



be construed as if the term " Colony or Possession " included a Protectorate, and as if the term " civil matter " included a criminal matter, and the term " cause " included a proceeding against a criminal:

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

19. (1) The Governor may by order under his hand and seal require a Magistrate to take evidence for the purposes of any criminal matter pending in any Court or tribunal in any foreign State; and the Magistrate, upon receipt of such order, shall take evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence, and shall certify at the foot of the depositions so taken that such evidence was taken before him, and shall transmit the same to the Governor. Such evidence may be taken in the presence or absence of the persons charged, if any, and the fact of such presence or absence shall be stated in such deposition.

Power to take evidence in Protectorate for foreign criminal matters.

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

Witness may be compelled to attend.

(3) Every person who wilfully gives false evidence before a Magistrate under this section shall be guilty of perjury.

False evidence.

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

When section does not apply.

20. For the purposes of this Ordinance every constituent part of a foreign State and every Colony, Dependency or Protectorate of and every vessel of that State shall be deemed to be within the jurisdiction of, and to be part of, such foreign State.

Foreign State includes dependencies.

FIRST SCHEDULE.

LIST OF CRIMES.

Secs. 2 and 16.

Murder and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money and uttering counterfeit or altered money.

Forgery, counterfeiting and altering and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretences.

Offences by bankrupts against bankruptcy law or any indictable offence under the laws relating to bankruptcy.

Fraudulent misappropriations and frauds by a bailee made criminal by any Act of Parliament or Ordinance for the time being in force.

Rape.

Abduction.

Child stealing.

Burglary and housebreaking.

Arson.

Robbery with violence.

Bribery.

Threats by letter or otherwise with intent to extort.

Piracy by 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 sea 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. Offences against the Slave Trade Act, 1873, or otherwise in connection with the slave trade, committed on the high seas or on land, or partly on the high seas and partly on land.

Kidnapping and false imprisonment.

Perjury and subornation of perjury.

Any offence not before mentioned, being an indictable offence under the following Acts of Parliament of 1861, or any of them, or under any Act amending or substituted for the same—

24 and 25 Victoria c.	93 Larceny.*
„	„ 97 Malicious injuries to property.
„	„ 98 Forgery.†
„	„ 99 False coining.‡
„	„ 100 Murder and other offences against the person.§

Any other crime from time to time added by Act of Parliament to the list of crimes in the first schedule to the Extradition Act, 1870.||

\* cf. the Larceny Act, 1913.

† cf. infra.

‡ Repealed and replaced by the Coinage Offences Act, 1936.

§ cf. the Criminal Law (Amendment) Acts, 1885 and 1922.

|| The following have been added—

Offences against any enactment for the time being in force relating to dangerous drugs and attempts to commit such offences (added by section 1 of the Extradition Act, 1932).

Attempts to forge bank notes, attempts to utter forged bank notes, and attempts to commit in relation to bank notes any indictable offence under the Forgery Act, 1913, or any Act amending or substituted for the same, heretofore included (added by section 4 of the Counterfeit Currency (Convention) Act, 1935).

Attempts to counterfeit or alter money, attempts to utter counterfeit or altered money, and attempts to commit any indictable offence under the Coinage Offences Act, 1861, or any Act amending or substituted for the same (added by section 4 of the Counterfeit Currency (Convention) Act, 1935). The Coinage Offences Act, 1861, has been repealed and replaced by the Coinage Offences Act, 1936.

SECOND SCHEDULE.

Sec. 17.

FORM 1.

ORDER TO THE MAGISTRATE.

Sec. 6.

To the Magistrate at.....

Whereas, in pursuance of an arrangement with....., referred to in a notice in the *Gazette* dated the.....day of....., a requisition has been made to me, .....the Governor of Sierra Leone, by.....the Diplomatic representative of.....for the surrender of....., late of....., accused (or convicted) of the commission of the crime of.....within the jurisdiction of.....:

Now I hereby, by this my Order under my hand, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of the Fugitive Criminals Surrender Ordinance, relating to the issue of such warrant, are in your judgment complied with.

Given under the hand of the undersigned Governor of Sierra Leone this.....day of.....19.....

.....  
*Governor.*

FORM 2.

WARRANT OF APPREHENSION BY ORDER OF GOVERNOR.

Sec. 7 (1) (a).

To\*.....

Whereas the Governor of Sierra Leone, by Order under his hand, hath signified to me that requisition hath been duly made to him for the surrender of.....late of....., accused (or convicted) of the commission of the crime of....., within the jurisdiction of.....

This is therefore to command you in Her Majesty's name forthwith to apprehend the said.....pursuant to the Fugitive Criminals Surrender Ordinance, wherever he may be found in the Protectorate of Sierra Leone, and to bring him before me to show cause why he should not be surrendered in pursuance of the said Ordinance, for which this shall be your warrant.

Given under my hand and seal at.....this.....day of.....19.....

.....  
*Magistrate.*

\* Insert name and designation of the person who is to execute the warrant.

FORM 3.

Sec. 7 (1) (b). WARRANT OF APPREHENSION WITHOUT ORDER OF GOVERNOR.

To\*.....

Whereas it has been shown to the undersigned, Magistrate for..... (or Judge of the Supreme Court), that....., late of....., is accused (or convicted) of the commission of the crime of..... within the jurisdiction of.....

This is therefore to command you in Her Majesty's name forthwith to apprehend the said.....and to bring him before me or some other.....to be further dealt with according to law, for which this shall be your warrant.

Given under my hand and seal at.....in.....the.....day of.....19.....

.....  
Magistrate.  
(or Judge of the Supreme Court).

\* Insert name and designation of the person who is to execute the warrant.

FORM 4.

Sec. 7 (3). WARRANT FOR BRINGING PRISONER BEFORE A JUDGE OF THE SUPREME COURT.

To\*.....

Whereas....., late of....., accused (or alleged to be convicted of) of the commission of the crime of.....within the jurisdiction of.....has been apprehended and brought before the undersigned.....of.....:

And whereas by the Fugitive Criminals Surrender Ordinance, he is required to be brought before a Judge of the Supreme Court. This is therefore to command you the said.....in Her Majesty's name forthwith to take and convey the said.....to.....and there carry him before a Judge of the Supreme Court, sitting in the said....., to show cause why he should not be surrendered in pursuance of the said Ordinance and otherwise to be dealt with in accordance with law, for which this shall be your warrant.

Given under my hand and seal at.....the.....day of.....19.....

.....  
Magistrate.

\* Insert name and designation of the person who is to execute the warrant.

FORM 5.

WARRANT OF COMMITTAL.

To\*.....and to the Keeper of the Prison at.....

Be it remembered that on the.....day of.....in the year of Our Lord, one thousand nine hundred and.....late of....., is brought before me, a Judge of the Supreme Court....., to show cause why he should not be surrendered in pursuance of the Fugitive Criminals Surrender Ordinance, on the ground of his being accused (or convicted) of the commission of the crime of.....within the jurisdiction of.....and forasmuch as no sufficient cause has been shown to me why he should not be surrendered in pursuance of the said Ordinance.

This is therefore to command you the said.....in Her Majesty's name forthwith to convey and deliver the body of the said.....into the custody of the said keeper of the.....at.....and you the said keeper to receive the said.....into your custody, and him there safely to keep until he is thence delivered pursuant to the provisions of the said Ordinance, for which this shall be your warrant.

Given under my hand and seal this.....day of.....in the year of Our Lord one thousand nine hundred and.....

.....  
*Judge of the Supreme Court.*

*\* Insert name and designation of the person in whose custody the prisoner is to be conveyed to the Keeper of the prison.*

FORM 6.

WARRANT OF GOVERNOR FOR SURRENDER OF FUGITIVE.

Sec. 10 (2).

To the Keeper of the Prison at.....and to\*.....

Whereas....., late of....., accused (or convicted) of the commission of the crime of.....within the jurisdiction of.....was delivered into the custody of you.....the keeper of.....by warrant dated....., pursuant to the Fugitive Criminals Surrender Ordinance.

Now I do hereby, in pursuance of the said Ordinance, order you the said keeper to deliver the body of the said.....into the custody of the said\*.....and I command you the said.....to receive the said.....into your custody, and to convey him within the jurisdiction of the said.....and there place him in the custody of any person or persons appointed by the said.....to receive him, for which this shall be your warrant.

Given under the hand and seal of the undersigned Governor of Sierra Leone this.....day of.....in the year of Our Lord one thousand nine hundred and.....

.....  
*Governor.*

*\* Insert here name and designation of the person authorised by the foreign State to receive the fugitive criminal.*