

THE ISLAND OF NAURU.

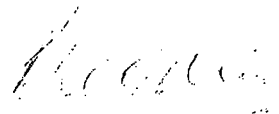
No. 7 of 1957.

A N O R D I N A N C E

Relating to the Extradition of Criminals.

I, the Administrator of the Island of Nauru, in pursuance of the powers conferred by Article I of the Agreement dated the second day of July, 1919, between the Government of the United Kingdom, the Government of the Commonwealth of Australia and the Government of New Zealand, hereby make the following Ordinance.

Dated this 4th day of December, 1957.


Administrator of the
Island of Nauru.

Extradition Ordinance 1957.

- Short title. 1. This Ordinance may be cited as the Extradition Ordinance 1957.
- Commencement. 2. This Ordinance shall come into operation on the date fixed by the Administrator under section two of the Judiciary Ordinance 1957.
- Repeal. 3. The Extradition Ordinance 1934 and the Extradition Ordinance 1937 are repealed.
- Interpretation. 4. In this Ordinance, unless the contrary intention appears -
- (a) "the Extradition Acts" means the Extradition Acts, 1870 to 1935, of the United Kingdom;
- "the United Kingdom" means the United Kingdom of Great Britain and Ireland, or of Great Britain and Northern Ireland, as the case requires;
- (b) words defined in The Extradition Act, 1870, of the United Kingdom, have the same meaning as in that Act.

Application and
modification.

5. Subject to the next four succeeding sections and to the modifications prescribed by the Schedule to this Ordinance, the provisions of the Extradition Acts apply, by force of this Ordinance, in Nauru as a law of Nauru so far as they are applicable to the circumstances of Nauru and are not repugnant to or inconsistent with any other law for the time being in force in Nauru.

Application of
Extradition
Acts.

6. Where an arrangement made by the United Kingdom or the Commonwealth, or by the Sovereign of the United Kingdom, with respect to the surrender to a foreign state of fugitive criminals has, whether before or after the commencement of this Ordinance, been extended to Nauru, the Extradition Acts, in their application in Nauru, apply in the case of that foreign state from the date of that extension or, if that date is earlier than the date of application of the Extradition Act, 1870, of the United Kingdom, or of that Act as amended at any time, in the case of that foreign state in respect of the Commonwealth, from the latter date.

References, etc.
in the
Extradition
Acts.

7. In the application in Nauru of the Extradition Acts -
- (a) a reference in those Acts to Her Majesty's dominions, the United Kingdom or England shall be read as a reference to Nauru;
 - (b) a reference in those Acts to a Secretary of State shall be read as a reference to the Administrator;
 - (c) powers vested in, and acts authorised to be done by, a police magistrate or a justice of the peace in relation to the issue of a warrant for the apprehension of a fugitive criminal shall be deemed to be vested in, and may be executed and done by, a judge or magistrate of the Central Court; and
 - (d) powers vested in, and acts authorized to be done by, a police magistrate or a justice of the peace in relation to the surrender of a fugitive criminal, not being in relation to the issue of a warrant for his apprehension, shall be deemed to be vested in, and may be exercised and done by, the Central Court.

Requisition for
the surrender
of criminal in
a foreign state.

8. Where the Extradition Acts, in their application in Nauru, apply in the case of a foreign state, a requisition for the surrender of a person accused or convicted of an extradition crime in Nauru, being a person who is, or is suspected to be, in that foreign state, may be made by the Administrator -

(a) to a Minister of that state through Her Majesty's Australian diplomatic representative in that state, or, if there is not such a representative in that state, through any diplomatic representative of Her Majesty in that state; or

(b) in such other mode as is settled by arrangement.

Surrender
of criminal
apprehended
in a foreign
state.

9. Where a person accused or convicted of an extradition crime is surrendered by a foreign state, the person may, under the warrant for his surrender issued in the foreign state, be brought into Nauru and delivered into the custody of a person authorized for that purpose by the Administrator, to be dealt with according to law.

Evidence.

10.--(1.) Evidence of an arrangement made by the United Kingdom or the Commonwealth, or by the Sovereign of the United Kingdom, with respect to the surrender to a foreign state of fugitive criminals may be given in all Courts by the production of a document purporting to be certified by the Minister of State for External Affairs of the Commonwealth, or another Minister of State of the Commonwealth on his behalf, as a true copy of the arrangement.

(2.) Evidence of the fact that such an arrangement has been extended to Nauru and of the date from which it has been so extended may be given in all Courts by the production of a certificate, purporting to be signed by the Minister of State for External Affairs of the Commonwealth, or another Minister of State of the Commonwealth on his behalf, stating that fact and date.

(3.) Evidence of the fact that The Extradition Act, 1870, of the United Kingdom, or that Act as amended at any

time, has been applied in respect of the Commonwealth in the case of a foreign state and of the date from which it has been so extended may be given in all Courts by the production of a certificate, purporting to be signed by the Minister of State for External Affairs of the Commonwealth, or another Minister of State of the Commonwealth on his behalf, stating that fact and date.

(4.) Judicial notice shall be taken of the signature of a person who holds or has held the office of Minister of State for External Affairs of the Commonwealth or any other office of Minister of State of the Commonwealth appearing on a certificate under this section and of the fact that the person by whom the certificate purports to have been signed holds or has held that office.

THE SCHEDULE.

Section 5.

Modifications to the Extradition Acts
in their Application in Nauru.

Provisions modified.	Modifications.
The Extradition Act, 1870 -	
Section 2	Omit.
Section 3	Omit from paragraph (3) "within English jurisdiction", insert "under a law of Nauru".
Section 4	Omit.
Section 5	Omit.
Section 6	Omit "any part of Her Majesty's dominions, or that part which is specified in the Order applying this Act (as the case may be)", insert "Nauru".
Section 7	Omit and insert - "7.-(1.) Subject to the next succeeding sub-section, where a fugitive criminal of a foreign

Provisions modified.

Modifications.

The Extradition Act, 1870 -
Section 7 (continued)

state is in, or is suspected of being in, Nauru, a requisition for the surrender of the fugitive criminal may be made to the Administrator by a person recognized by the Administrator as a Consul-General, Consul, Vice-Consul or consular officer of the foreign state.

"(2.) Where a fugitive criminal has escaped from a colony or a dependency of a foreign state and is in, or is suspected of being in, Nauru, a requisition for the surrender of the fugitive criminal may be made to the Administrator by a person authorized to make the requisition under the last preceding sub-section or by the person recognized by the Administrator as the Governor of the colony or dependency.

"(3.) Where a requisition for the surrender of a fugitive criminal is made to the Administrator under either of the last two preceding sub-sections, the Administrator may, by order under his hand, notify a judge or magistrate of the Central Court that the requisition has been made and require the judge or magistrate, as the case may be, to issue a warrant for the apprehension of the fugitive criminal.

Provisions modified.	Modifications.
<p>The Extradition Act, 1870 - Section 7 (continued)</p>	<p>"(4.) Where a requisition for the surrender of a fugitive criminal has been made to the Administrator under sub-section (1.) or sub-section (2.) of this section and the Administrator is of opinion that the offence in relation to which the surrender of the fugitive criminal has been requisitioned is an offence of a political character, the Administrator may -</p> <ul style="list-style-type: none"> (a) if he has not required the issue of a warrant for the apprehension of the fugitive criminal - refuse to require the issue of the warrant; (b) if a warrant for the apprehension of the fugitive criminal has been issued but the fugitive criminal has not been apprehended - withdraw the warrant; or (c) if the fugitive criminal has been apprehended under the warrant and is on bail or in custody - order the release of the fugitive criminal from bail or custody."
<p>Section 9</p>	<p>Omit and insert -</p> <p>"9.-(1.) Where a fugitive criminal is brought before the Central Court, the Court shall hear the case in the same manner, and have the</p>

Provisions modified.	Modifications.
<p>The Extradition Act, 1870 - Section 9 - continued</p> <p>Section 10</p>	<p>same jurisdiction and powers (other than the power to convict or acquit the fugitive criminal), as near as may be, as if he were brought before the Court charged with an offence committed in Nauru.</p> <p>"(2.) The Court shall receive any evidence that may be tendered to show that the crime of which the fugitive criminal is accused, or alleged to have been convicted, is an offence of a political character or is not an extradition crime.".</p> <p>Omit and insert - "10.-(1.) In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of the criminal is duly authenticated, and evidence is produced on which the fugitive criminal could, in the opinion of the Central Court, properly be convicted if the crime of which he is accused had been committed in Nauru, the Central Court shall commit him to prison, but otherwise shall order him to be discharged.</p> <p>"(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 Nauru, prove that he was convicted of that crime,</p>

Provisions modified.	Modifications.
The Extradition Act, 1870 - Section 10 - continued	the Central Court shall commit him to prison, but otherwise shall order him to be discharged. "(3.) Where the Central Court commits a fugitive criminal to prison, the Court shall commit him to a prison in Nauru, there to await the warrant of the Administrator, and shall forthwith send to the Administrator a certificate of the committal and such report upon the case as the Court thinks fit."
Section 11	Omit "of that part of Her Majesty's dominions to which he escapes", insert "of Nauru".
Section 12	Omit "any judge of one of Her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal", insert "the Central Court, upon application made to it by or on behalf of the fugitive criminal".
Section 13	Omit.
Section 15	Omit "all courts of justice, justices, and magistrates", insert "all courts, judges and magistrates of Nauru".
Section 16	Omit.
Section 17	Omit.
Section 18	Omit.
Section 20	Omit and insert - "20. The forms specified in the Second Schedule to this Act may be used, with such modifications as are

Provisions modified.	Modifications.
<p>The Extradition Act, 1870 -</p> <p>Section 20 - continued</p> <p>Section 21</p> <p>Section 22</p> <p>Section 23</p> <p>Section 26</p>	<p>necessary to adapt them to the circumstances of Nauru, in all matters to which those forms refer and when so used shall be deemed to be valid and sufficient in law."</p> <p>Omit.</p> <p>Omit.</p> <p>Omit.</p> <p>(a) Omit the definition of "Governor".</p> <p>(b) Omit from the definition of "fugitive criminal" the words "some part of Her Majesty's dominions", insert "Nauru".</p> <p>(c) Omit the definitions of "police magistrate" and "justice of the peace".</p> <p>(d) Add at the end thereof the following definition:-</p> <p style="padding-left: 40px;">"The term 'the Central Court' means the Central Court of the Island of Nauru."</p>
<p>The Extradition Act, 1873 -</p> <p>Section 2</p> <p>Section 5</p>	<p>Omit.</p> <p>Omit and insert -</p> <p style="padding-left: 40px;">"5.-(1.) The Administrator may, by order under his hand and seal, require a judge or magistrate of the Central Court to take evidence for the purposes of a criminal matter pending in a court or tribunal in a foreign state.</p>

Provisions modified.

Modifications.

The Extradition Act, 1873 -
Section 5 - continued

"(2.) Upon the receipt of the order, the judge or magistrate shall take the evidence of every person appearing before him for the purpose in the same manner as the evidence would be taken in the Central Court if the witness appeared on the hearing of a charge against an accused person in that court.

"(3.) The evidence may be taken either in the presence or the absence of the person charged (if any).

"(4.) The evidence so taken shall be taken down in writing and the judge or magistrate before whom it was taken shall -

- (a) certify at the foot of the depositions that the evidence was taken before him and whether it was taken in the presence or absence of the person charged (if any); and
- (b) transmit the depositions to the Administrator.

"(5.) A person may, after payment or tender to him of a reasonable sum for his costs and expenses, be compelled, for the purposes of this section, to attend and give evidence and answer questions and produce documents in the same manner, and subject to the same conditions, as if the hearing were the hearing of a

Provisions modified.	Modifications.
<p>Extradition Act, 1895 - Section 1 - continued</p>	<p>for the time being, held in custody".</p> <p>(c) Omit sub-section (2)</p> <p>(d) Omit from sub-section (3) "Provided that, when the fugitive criminal is committed to prison to await his surrender, the committing magistrate", insert "Where a fugitive criminal is committed to prison to await his surrender, the Central Court".</p> <p>(e) Omit from the sub-section "the magistrate", insert "the Central Court".</p>