



Backing of Warrants (Republic of Ireland) Act 1965

CHAPTER 45

ARRANGEMENT OF SECTIONS

Section

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SCHEDULE—Supplementary Provisions as to Proceedings
under Section 2.

ELIZABETH II



1965 CHAPTER 45

An Act to make fresh provision for the execution in the United Kingdom, the Channel Islands and the Isle of Man of warrants of arrest issued in the Republic of Ireland; and to amend sections 27 and 29 of the Petty Sessions (Ireland) Act 1851 with respect to the endorsement in Ireland of warrants to which those sections apply. [5th August 1965]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Where—

- (a) a warrant has been issued by a judicial authority in the Republic of Ireland (in this Act referred to as the Republic) for the arrest of a person accused or convicted of an offence against the laws of the Republic, being an indictable offence or an offence punishable on summary conviction with imprisonment for six months; and
- (b) an application for the endorsement of the warrant is made to a justice of the peace in the United Kingdom by a constable who produces the warrant and states on oath that he has reason to believe the person named or described therein to be within the area for which the justice acts;

Endorsement
of warrants
issued in
Republic of
Ireland.

then, subject to the provisions of this section, the justice shall endorse the warrant in the prescribed form for execution within the part of the United Kingdom comprising the area for which he acts.

(2) A warrant for the arrest of a person accused of an offence which under the laws of the Republic is not an indictable offence but is punishable on summary conviction with imprisonment for six months shall not be endorsed under this section unless—

- (a) he has failed to appear in answer to a summons issued by or on behalf of a court in the Republic requiring his presence before the court for the trial of the offence and, not less than fourteen days before the date named in the summons for his appearance, the summons was served on him personally in the Republic or a notice of the issue of the summons, together with a copy of the summons, was served on him personally in the United Kingdom ; or
- (b) having entered into a recognizance for his appearance before a court in the Republic for the trial of the offence, he has failed to appear in pursuance of the recognizance ; or
- (c) having appeared before a court in the Republic for the trial of the offence, he has subsequently failed to appear on any date to which the proceedings were adjourned.

(3) A warrant for the arrest of a person convicted of any offence against the laws of the Republic shall not be endorsed under this section unless the purpose of the arrest is to enable him—

- (a) to be brought before a court in the Republic for sentence in respect of the conviction ; or
- (b) to be taken to a place where he is to undergo imprisonment under such a sentence, not being imprisonment in default of the payment of a fine or other sum.

(4) The endorsement of a warrant under this section by a justice of the peace in any part of the United Kingdom shall be treated for the purposes of any enactment or rule of law relating to warrants of arrest as if it were the issue by him of the warrant, and the warrant were for the arrest of a person charged with an offence committed in that part.

Proceedings
before
magistrates'
court.

2.—(1) So soon as is practicable after a person is arrested under a warrant endorsed in accordance with section 1 of this Act, he shall be brought before a magistrates' court and the court shall, subject to the following provisions of this section, order him to be delivered at some convenient point of departure from the United Kingdom into the custody of a member of the police force (Garda Síochána) of the Republic, and remand him until so delivered.

(2) An order shall not be made under subsection (1) of this section if it appears to the court that the offence specified in the warrant does not correspond with any offence under the law of the part of the United Kingdom in which the court acts which is an indictable offence or is punishable on summary conviction with imprisonment for six months; nor shall such an order be made if it is shown to the satisfaction of the court—

- (a) that the offence specified in the warrant is an offence of a political character, or an offence under military law which is not also an offence under the general criminal law, or an offence under an enactment relating to taxes, duties or exchange control; or
- (b) that there are substantial grounds for believing that the person named or described in the warrant will, if taken to the Republic, be prosecuted or detained for another offence, being an offence of a political character or an offence under military law which is not also an offence under the general criminal law.

(3) In any case where the court does not make an order under subsection (1) of this section, the court shall order the person named or described in the warrant to be discharged.

(4) The provisions of the Schedule to this Act shall apply in relation to proceedings under this section.

3.—(1) Where an order is made by a magistrates' court under section 2(1) of this Act in respect of any person—

Review of
orders of
magistrates'
courts.

- (a) he shall not be delivered up under the order until the expiration of the period of fifteen days beginning with the date on which the order is made, unless he gives notice in the prescribed manner that he consents to his earlier removal;
- (b) if within that period an application is made by him or on his behalf for a writ of habeas corpus ad subjiciendum or, in the case of an order made in Scotland, an application for review is made by him under subsection (2) of this section, he shall not be so delivered up while proceedings on the application are pending;

and the magistrates' court shall inform him that he will not be delivered up under the order during the said period of fifteen days unless he gives notice as aforesaid, and that he has the right to apply for a writ of habeas corpus ad subjiciendum or, as the case may be, to make an application for review under subsection (2) of this section.

(2) An order made under section 2(1) of this Act by a court in Scotland may be reviewed by the High Court of Justiciary, in the same manner as an appeal against a summary conviction.

(3) For the purposes of this section proceedings on an application for a writ of habeas corpus ad subjiciendum shall be treated as pending until any appeal in those proceedings is disposed of; and an appeal shall be treated as disposed of at the expiration of the time within which the appeal may be brought or, where leave to appeal is required, within which the application for leave may be made, if not brought or made within that time.

Provisional
warrants.

4.—(1) A justice of the peace in the United Kingdom, on the application of a constable who states on oath—

- (a) that he has reason to believe that a warrant has been issued by a judicial authority in the Republic for the arrest of a person accused or convicted of an indictable offence against the laws of the Republic, but that the warrant is not yet in his possession; and
- (b) that he has received a request made on grounds of urgency by a member of the police force of the Republic holding the rank of inspector or above for the issue in the United Kingdom of a warrant for the arrest of that person; and
- (c) that he has reason to believe that person to be within the area for which the justice acts;

may issue a warrant in the prescribed form (in this section referred to as a provisional warrant) for the arrest of that person:

Provided that where the warrant issued in the Republic was for the arrest of a convicted person, a provisional warrant shall not be issued unless the applicant states on oath that he has reason to believe the requirements of section 1(3) of this Act to be satisfied.

(2) A provisional warrant issued in any part of the United Kingdom shall be treated for the purposes of any enactment or rule of law relating to warrants of arrest as if it were a warrant for the arrest of a person charged with an offence committed in that part, but the warrant shall not be authority for the making of an arrest more than five days after the date of its issue.

(3) So soon as is practicable after a person is arrested under a provisional warrant he shall be brought before a magistrates' court, and—

- (a) if there is produced to the court the warrant issued in respect of him in the Republic, endorsed in accordance with section 1 of this Act, the court shall proceed as if he had been arrested under that warrant;
- (b) in any other case the court may remand him for not more than three days.

(4) Where at any time there is produced to a constable having custody of a person remanded under this section the warrant issued in respect of that person in the Republic, endorsed in accordance with section 1 of this Act, the period of the remand shall determine, and he shall thereafter be treated as if arrested at that time under that warrant.

(5) If the period of a remand under this section is not determined under subsection (4) thereof the person remanded shall be discharged at the end of the period.

(6) As respects Scotland subsections (4) and (5) of this section shall not apply, but if a warrant issued and endorsed as aforesaid in respect of a person remanded under this section is not produced within the period of the remand to the court which remanded him, he shall be discharged.

5.—(1) Where under section 2(1) or 4(3) of this Act a Remand.
magistrates' court has power to remand a person, the court may—

- (a) remand him in custody, that is to say, commit him for the period of the remand to prison or, in the case of a remand under section 4(3) of this Act, to the custody of a constable; or
- (b) remand him on bail, that is to say, take from him a recognizance, with or without sureties, conditioned as provided in subsection (2) of this section;

and may, instead of taking a recognizance in accordance with paragraph (b) of this subsection, fix the amount of the recognizance with a view to its being taken subsequently, and meanwhile commit him to the custody of a constable.

(2) A recognizance taken from a person under this section shall be conditioned for his surrender to the officer in charge of a specified police station at the time mentioned in a notice in writing to be served on him by or on behalf of that officer, but the time mentioned in a notice so served shall not be more than twenty-four hours before the time at which it appears to the officer in charge of the police station that the period of remand is likely to end.

(3) During the period between the surrender of a person as aforesaid and the end of the period of remand he shall be treated as if committed to the custody of a constable, but where it appears to the officer to whom he surrenders that the end of the period of remand will be unexpectedly delayed the officer shall release him on his entering into a recognizance, with or without sureties, conditioned as provided in subsection (2) of this section.

(4) If, in breach of a recognizance taken from him under this section, a person fails to surrender as aforesaid, the court by which he was remanded may, without prejudice to the enforcement of the recognizance, issue a warrant in the prescribed form for his arrest; and on his arrest under the warrant subsection (3) of this section shall apply as if he had surrendered to the officer in charge of the police station specified in the recognizance, but that officer shall not release him as provided by that subsection unless he is satisfied that it is proper to do so.

A warrant issued under this subsection in any part of the United Kingdom shall be treated for the purposes of any enactment or rule of law relating to warrants of arrest as if it were a warrant for the arrest of a person charged with an offence committed in that part.

(5) The foregoing provisions of this section shall not apply to Scotland, but the following provisions shall apply—

- (a) where under section 2(1) or section 4(3) of this Act a court has power to remand a person, the court may remand him either in custody or on bail, and if remanded on bail under the said section 2(1) it shall be made a condition of the bail bond that the person remanded shall surrender to the officer in charge of a specified police station at the time mentioned in a notice in writing to be served on him by or on behalf of that officer, but the time mentioned in a notice so served shall not be more than twenty-four hours before the time at which it appears to that officer that the period of remand is likely to end;
- (b) where it appears to the officer to whom a person surrenders as aforesaid that the end of the period of remand under the said section 2(1) will be unexpectedly delayed he shall release that person on continued bail conditioned as provided in the foregoing paragraph;
- (c) if a person remanded on bail fails to comply with the terms of the bail bond, the bail may be forfeited and the court which remanded him may grant warrant for his arrest, and a warrant so granted shall be treated for the purposes of any enactment or rule of law relating to warrants of arrest as if it were a warrant for the arrest of a person charged with an offence.

6.—(1) If the person in respect of whom an order has been made by a magistrates' court under section 2(1) of this Act is not delivered up under the order within one month after it was made, a Superior Court exercising jurisdiction in the part of the United Kingdom within which it was made, upon application by or on behalf of that person, may, unless reasonable cause is shown for the delay, order him to be discharged.

In this subsection "Superior Court" means the High Court, the High Court of Justiciary in Scotland or the High Court of Northern Ireland.

(2) If, in the case of a person in respect of whom an order has been made under section 2(1) of this Act, it appears to a justice of the peace acting for the same area as that of the court by which the order was made, or in Scotland to the sheriff, that for any reason the police force of the Republic no longer require the delivery of that person into their custody he shall order him to be discharged.

7. For the purposes of this Act—

- (a) a document purporting to be a warrant issued by a judicial authority in the Republic or a copy of a summons issued by or on behalf of a court in the Republic, if verified in the prescribed manner, may be taken to be such a warrant or, as the case may be, a copy of such a summons, and the warrant or summons shall be taken to have been duly issued;
- (b) evidence with respect to the laws of the Republic may be given by affidavit or other written statement on oath, but a certificate purporting to be issued by or on behalf of the judicial authority in the Republic by whom a warrant was issued, or another judicial authority acting for the same area, and certifying that the offence specified in the warrant can be dealt with under the laws of the Republic in the manner described in the certificate shall be sufficient evidence of matters so certified;
- (c) a deposition purporting to have been made in the Republic, or affidavit or written statement purporting to have been sworn therein, may be admitted if verified in the prescribed manner.

Evidence as to
matters
originating in
Republic.

8.—(1) Matters falling to be prescribed under this Act shall be prescribed by rules, being—

Rules of
Court.

- (a) in England and Wales, magistrates' courts rules made under section 15 of the Justices of the Peace Act 1949 c. 101. 1949;
- (b) in Scotland, rules made by Act of Adjournal under section 76 of the Summary Jurisdiction (Scotland) Act 1954 c. 48. 1954;
- (c) in Northern Ireland, magistrates' courts rules within the meaning of section 23 of the Magistrates' Courts Act (Northern Ireland) 1965. (N.I.)

(2) The power to make such rules as are mentioned in paragraphs (a) to (c) of subsection (1) of this section shall include power to make rules for any of the purposes of this Act, and accordingly in section 76(1)(a) of the Summary Jurisdiction (Scotland) Act 1954 after the words "this Act" there shall be inserted the words "or of the Backing of Warrants (Republic of Ireland) Act 1965".

1954 c. 48.

Existing enactments relating to backing of warrants.

1848 c. 42.

1868 c. 107.

1851 c. 93.

1851 c. 90.

9.—(1) The following enactments relating to the backing of warrants, that is to say—

(a) sections 12, 14 and 15 of the Indictable Offences Act 1848 ;

(b) section 4 of the Indictable Offences Act Amendment Act 1868 ;

(c) section 27 and 29 of the Petty Sessions (Ireland) Act 1851 ; and

(d) section 4 of the Fines Act (Ireland) 1851,

shall cease to have effect in relation to the Republic and accordingly references in those enactments to Ireland shall be construed as references to Northern Ireland only.

(2) The foregoing subsection shall not affect the application of any enactment therein mentioned in relation to a warrant issued in the Republic and duly endorsed in the United Kingdom before the date on which that subsection comes into force.

(3) Sections 27 and 29 of the Petty Sessions (Ireland) Act 1851 shall have effect in relation to Northern Ireland, and shall be deemed to have had effect at all material times both in relation to Northern Ireland and in relation to the Republic or the Irish Free State, as if references to the inspector general and deputy inspectors general of the constabulary included references to any officer of police who, under the law for the time being in force in Northern Ireland, or in the Republic or the Irish Free State, as the case may be, exercises or exercised functions corresponding to the functions of the said inspector general and deputy inspectors general, and as if references to a form contained in that Act included any form prescribed or otherwise authorised by or under that law.

Interpretation.

10.—(1) In this Act—

“imprisonment” includes any form of detention ;

“indictable offence” does not include an offence which is triable on indictment only at the instance or with the consent of the accused ;

“judicial authority” means a court, judge or justice of a court, or peace commissioner ;

“prescribed” means prescribed in accordance with section 8 of this Act ;

“the Republic” means the Republic of Ireland.

(2) Subject to section 12(1) of this Act, references in this Act to a part of the United Kingdom are references to England and Wales, to Scotland, or to Northern Ireland.

(3) In the application of this Act to Scotland, “justice of the peace”, except in section 6(2), includes a sheriff and a magistrate, and references to a magistrates’ court shall be construed as references to the sheriff court.

(4) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment.

11. Notwithstanding any limitation imposed on the powers of the Parliament of Northern Ireland by the Government of Ireland Act 1920, that Parliament may, by any Act re-enacting (with or without modifications) or amending the law in force in Northern Ireland with respect to magistrates’ courts, make such amendments of the provisions of this Act, so far as those provisions extend to Northern Ireland, as may be necessary for the purpose of bringing those provisions into conformity with the provisions of that Act.

Legislative powers of Parliament of Northern Ireland. 1920 c. 67.

12.—(1) Subject to the provisions of this section, this Act shall extend to the Channel Islands and the Isle of Man (in this section collectively referred to as the Islands) and shall have effect as if each of them were a part of the United Kingdom.

Application to Channel Islands and Isle of Man.

(2) Her Majesty may by Order in Council direct that this Act shall, in its application to any of the Islands, have effect subject to such exceptions, adaptations and modifications as may be specified in the Order.

(3) An Order in Council under this section may be varied or revoked by a subsequent Order in Council thereunder.

13.—(1) This Act may be cited as the Backing of Warrants (Republic of Ireland) Act 1965.

Short title and commencement.

(2) Section 9(3) of this Act and this section shall come into force on the passing of this Act, and the remaining provisions shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint.

(3) Except in cases provided for by section 9(2) of this Act, this Act shall apply in relation to an offence notwithstanding that the offence was committed, or is alleged to have been committed, before the date appointed under subsection (2) of this section.

Section 2.

SCHEDULE**SUPPLEMENTARY PROVISIONS AS TO PROCEEDINGS UNDER
SECTION 2***Proceedings in England or Wales*

1. Paragraphs 2 to 4 of this Schedule shall apply to proceedings in England or Wales under section 2 of this Act.

2. The court shall consist of at least two justices and shall sit in open court in a petty-sessional court-house or an occasional court-house :

1952 c. 55.

Provided that section 121 of the Magistrates' Courts Act 1952 (sittings of stipendiary and other magistrates) shall apply as if the foregoing provisions of this paragraph were contained in that Act.

3. Subject to paragraph 2 of this Schedule, the court shall have the like powers, including power to adjourn the case and meanwhile to remand the person arrested under the warrant either in custody or on bail, and the proceedings shall be conducted as nearly as may be in the like manner, as if the court were acting as examining justices inquiring into an indictable offence alleged to have been committed by that person.

1952 c. 48.

4. Without prejudice to the generality of paragraph 3 of this Schedule, section 5 of the Costs in Criminal Cases Act 1952 (award of costs by examining justices out of local funds) and section 2 of the Poor Prisoners Defence Act 1930 (legal aid before examining justices) shall apply in relation to the proceedings as if the person arrested under the warrant were charged with an indictable offence on the prosecution of the constable on whose application the warrant was endorsed and, where the court discharges that person, as if it had determined not to commit for trial.

1930 c. 32.

Proceedings in Scotland

5. Paragraph 6 of this Schedule shall apply to proceedings in Scotland under section 2 of this Act.

6. The court shall have the like powers, including power to adjourn the case and meanwhile to remand the person arrested under the warrant either in custody or on bail, and the proceedings shall be conducted as nearly as may be in the like manner, as if the proceedings were summary proceedings in respect of an offence alleged to have been committed by that person ; and the provisions of the Legal Aid and Solicitors (Scotland) Act 1949 as respects such proceedings or any appellate proceedings following thereon shall apply accordingly to that person.

1949 c. 63.

Proceedings in Northern Ireland

7. Paragraphs 8 to 10 of this Schedule shall apply to proceedings in Northern Ireland under section 2 of this Act.

8. The court shall consist of a resident magistrate sitting, in or out of petty sessions, in open court.

9. Subject to paragraph 8 of this Schedule, the court shall have the like powers, including power to adjourn the case and meanwhile to remand the person arrested under the warrant either in custody or on bail, and the proceedings shall be conducted as nearly as may be in the like manner, as if the court were conducting the preliminary investigation of an indictable offence alleged to have been committed by that person.

SCH. 1

10. Without prejudice to the generality of paragraph 9 of this Schedule, section 42 of the Criminal Justice Act (Northern Ireland) 1945 (legal aid before courts of summary jurisdiction), or any enactment re-enacting that section with or without modifications, shall apply in relation to the proceedings as if the person arrested under the warrant were charged with an indictable offence on the prosecution of the constable on whose application the warrant was endorsed. ^{1945 c. 15.} (N.I.)

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