CHAPTER 21

PRISONERS ON BOARD MERCHANT SHIPS ORDINANCE

To amend the law relating to prisoners on board merchant ships.

(25th April, 1882)*

Enacted by ORDINANCE III of 1882 as amended by Legal Notice 46 of 1965 and Acts: LVIII of 1974, XIII of 1983 and Legal Notice 407 of 2007.

1. This Ordinance may be cited as the Prisoners on Board Merchant Ships Ordinance.

Short title.

2. Where the Commissioner of Police has reason to believe that any person is being kept in custody on board any merchant ship in consequence of a sentence of a foreign tribunal, or in order to be tried in a foreign country, he shall forthwith give notice of the fact to a magistrate, who shall, without delay, inquire into the circumstances of the case, and make a report thereon to the President of Malta for the purposes of the provisions contained in the following articles.

Commissioner of Police to give notice of prisoners on board merchant ships to magistrate.
Amended by: L.N. 46 of 1965; LVIII.1974.68.

3. (1) If the magistrate finds that the person aforesaid is being kept in custody under a written order made by the competent authority of a foreign State for any offence (other than a political offence), including mutiny, desertion from military service, or any other offence against military discipline, it shall be lawful for the President of Malta to direct that such person be left on board the ship, for the continuation of the voyage to the place of his destination or, according to circumstances, that the said person be conveyed to a public prison, there to be kept until, at the request of the consul, or other person exercising the functions of consul of the said State, he may be taken back to the same or to another ship for the continuation of the said voyage.

Where magistrate finds that prisoner is in custody under written order of competent authority.
Powers of President of Malta.
Amended by: L.N. 46 of 1965; LVIII.1974.68.

(2) The magistrate shall receive any evidence which may be tendered to show that the offence for which the said person is in custody, is a political offence; but, until the contrary is proved, it shall be presumed that the nature of the offence is correctly stated in the order under which such person is in custody.

Evidence to be heard by magistrate.

4. Where, upon a declaration on oath made before him by the master of the ship or by any other person, the magistrate is satisfied that the order of the foreign authority mentioned in the last preceding article existed but has been lost or inadvertently left in some place outside Malta, the magistrate may grant a time, not exceeding two months, for the production of the order, or of an authentic copy thereof, provided the master shall enter into a recognizance, with sufficient security, up to the sum of four hundred and sixty-five euros and eighty-seven cents (465.87), to pay any damages which may, according to law, be due to the person

Power of magistrate to grant time for the production of the order.
Amended by: XIII.1983.5; L.N. 407 of 2007.

**See* Proclamation No. III of 1882.

detained in respect of such detention.

Where person is in custody for an offence committed at sea.
Amended by: L.N. 46 of 1965; LVIII.1974.68.

5. (1) If the prisoner is being kept in custody on board a foreign merchant ship, not under a written order of a public authority, but for the purpose of being conveyed to a port in the State of his or the ship's nationality, there to be tried for an offence committed on board the same ship during the voyage, it shall also be lawful for the President of Malta, at the request of the consul, or any other person exercising the function of consul of the State to which the ship belongs, to direct that such prisoner be left on board the ship, or, according to circumstances, that he be kept in a public prison until he may be taken back to the same or to another ship, in order to be conveyed to the said port, provided however the magistrate, after hearing the prisoner and the evidence adduced, finds -

(*a*) that, according to such evidence, if the offence had been committed within the jurisdiction of Malta, there would be sufficient reasons for committing the accused for trial;

(*b*) that the offence is an extradition offence under any law relating to extradition in force in Malta, even though such law may not apply to fugitive criminals of the said State.

(2) The provisions of this article shall not apply in any case in which the accused may, according to law, be tried in Malta.

Magistrate may order person kept in custody to be taken to a public prison.
Amended by: L.N. 46 of 1965; LVIII.1974.68.

6. It shall also be lawful for the magistrate, at any time until he forwards his report to the President of Malta, to direct that the person kept in custody on board a ship, be conveyed to a public prison.

Maintenance of person in prison.

7. The maintenance of any person conveyed to a public prison in any of the cases mentioned in the foregoing articles, shall be at the charge of the master of the ship on board of which such person was brought to Malta.

Period for which person may be kept in custody.

8. In no case shall any such person be kept in custody in Malta, whether on board any ship, or in a public prison for more than two months to be reckoned from the day on which he was brought to Malta.

Discharge of person kept in custody.
Amended by: L.N. 46 of 1965; LVIII.1974.68.

9. If it appears from the magistrate's report that the circumstances are not such as to justify the making of an order by the President of Malta under articles 3 and 5, the President of Malta shall order the person in custody to be discharged.

Escape of person kept in custody.
Amended by: L.N. 46 of 1965; LVIII.1974.68.

10. Where the person aforesaid, before an order is made by the President of Malta for his discharge, escapes from the ship or from the prison in which he is kept in custody, he may be arrested by the Police in any place in which he may be found and taken back to the ship or the prison, as the case may be.