

F.N. 11017/23/2002-PR
Government of India/ Bharat Sarkar
Ministry of Home Affairs/ Grih Mantralya
CS Division

New Delhi, the 10th August 2015

To

The Principal Secretary (Prisons)/ (Home-in charge of prisons)
All States/ Union Territories

**Subject: Repatriation of prisoners from India to a foreign country
or vice versa under the Repatriation of Prisoners Act,
2003 – Issue of guidelines -regarding**

Sir/Madam,

As you are aware, the Repatriation of Prisoners Act, 2003 was enacted by the Government of India with a view to help the foreign prisoners imprisoned in a jail in India or vice versa to be transferred to their native countries for serving the remaining part of their sentence near to their families so as to help them in the process of their social rehabilitation.

Consequent upon the enactment of the said Act, the Agreements on Transfer of Sentenced Persons are being negotiated with interested countries. At present we have operational agreements with the following 35 countries:

United Kingdom, Mauritius, Bulgaria, France, Egypt, Sri Lanka, Cambodia, South Korea, Saudi Arabia, Iran, Bangladesh, Israel, UAE, Italy, Turkey, Maldives, Thailand, Russian Federation and Kuwait, Belize, Brazil, Canada, Chile, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Venezuela, Paraguay, United States, Uruguay, Panama and Czech Republic.

The prisoners of these countries in India and Indian prisoners in these countries can apply for repatriation in terms of the enclosed guidelines for processing requests of such prisoners.

Encl: As above

Yours faithfully



Rajnish Kwatra

Under Secretary(Prison Reforms)

Tel: 011-23438185

**GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
CS DIVISION**

**GUIDELINES FOR THE TRANSFER OF SENTENCED PERSONS
UNDER THE REPATRIATION OF PRISONERS ACT, 2003**

Consequent upon the enactment of the Repatriation of Prisoners Act, 2003, the agreements on Transfer of Sentenced Persons are negotiated with the interested countries on the basis of their response on the Indian standard draft agreement. our agreements are operational with the following 35 countries; **United Kingdom, Mauritius, Bulgaria, France, Egypt, Sri Lanka, Cambodia, South Korea, Saudi Arabia, Iran, Bangladesh, Israel, UAE, Italy, Turkey, Maldives, Thailand, Russian Federation and Kuwait, Belize, Brazil, Canada, Chile, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Venezuela, Paraguay, United States, Uruguay, Panama and Czech Republic.**

The prisoners of these countries in India and Indian prisoners in these countries can apply for repatriation in terms of these guidelines for processing requests of such prisoners.

For processing the cases of request of such prisoners, following procedure needs to be followed for their repatriation from India to the foreign country or vice versa:

**A. REPATRIATION OF INDIAN PRISONER IMPRISONED IN
FOREIGN JAILS TO INDIA**

- (a) **Application:** Prisoner may submit application for repatriation to the Prison Authorities or Indian Mission in that country giving all details in the application format given in Form 1 of Repatriation of Prisoners Rules 2004 which is enclosed as **Annexure I**
- (b) **Forwarding of the request:** The request for repatriation of a prisoner should be forwarded by the Indian Mission accompanied with all necessary documentary evidence to establish the identity of the person concerned like passport , photographs, fingerprints etc. A copy of the judgment (in English) detailing the offence for which the prisoner was imprisoned , including the details of number of years for which convicted, sentence undergone, and sentence pending)and is undergoing the sentence in the foreign country . The Indian Mission in the country where the prisoner is incarcerated should ensure that complete and correct details are collected and provided to the Ministry of Home Affairs.. Till

all the aforementioned details are received the case should not be taken up for processing at all in the Ministry.

- (c) As a rule, **permission will not be granted to habitual/repeat offenders** or members of any international/ national organized crime gangs as the probability of their social rehabilitation is doubtful and their presence in India (even in prisons) can be detrimental to the larger interest of the country. The Mission forwarding the request should prima facie satisfy itself on the basis of its intelligence inputs before forwarding the request for repatriation.
- (d) Generally, permission would be denied in cases of persons charged with heinous crimes like multiple murders/ serial killings, terrorism, pedophiles etc.
- (e) For ensuring that only applications accompanied by all the relevant information and documents are forwarded by the Indian Mission, a detailed check list is enclosed as **Annexure II**
- (f) **Nationality Verification:** Upon receipt of a request and related documents from the prisoner claiming to be an Indian national imprisoned in the foreign country who seeks repatriation, first nationality of the prisoner will be verified. In case the prisoner has produced details of Indian passport issued to him/her in the past by the Government of India, the correctness of such details will be verified with the Chief Passport Officer, MEA for the purpose of nationality verification. In case the passport details are found to be correct, the prisoner will be considered to be an Indian national and no further verification from the State Government will be required. However, in case there is any ambiguity in establishing Indian nationality through this process, the case will be referred to the respective state Government/UT Administration for verification.
- (g) **Verification of the Criminal records:** The State Government concerned will be advised to ascertain that the said prisoner has no other criminal record in India.
- (h) **Identification of a jail:** The State Government should also be advised to identify a suitable jail where the prisoner could be lodged in case he is repatriated to India. Since the spirit of such International Agreement is to allow the transferred person to stay close to his/her family, the State Government/UT administration should preferably lodge the prisoner close to the place where the prisoner wants to be located or where the near relatives are staying.
- (i) **Sentence adaptability:** In view of the provisions of the agreement that the sentence awarded to the prisoner has to be adapted to a punishment or measure as is prescribed by the Indian law for a similar offence, a reference may be made to the Ministry of Law/Narcotics Control Bureau/Customs and other concerned Ministries, based on the offence convicted for, seeking their comments as to the maximum quantum of sentence which the prisoner is liable to serve in India had that offence been committed in India and whether the sentence would require to

be adapted in conformity with Indian law. If so, what is the adaptation that would be required.

- a. In case the prisoner was convicted on the charge of drug trafficking, a reference would be made to the **Narcotics Control Bureau (NCB)** seeking their comments on the proposed repatriation with specific comments as to the probability of the prisoner indulging in similar offences on his release as also the track record of the prisoner as per their database. The NCB may also be asked regarding the quantum of the sentence if similar crimes had been committed in India by the prisoner.
- b. **Before granting permission for repatriation**, the prisoner should be informed about the total quantum of sentence, the prisoner will have to undergo in India and repatriation should be allowed only if the prisoners gives his consent in writing.
- (j) **IB Report:** A report from the Intelligence Bureau (IB) on the possible connections of the prisoner with any International/ National gangs of organized crime should be obtained.
- (k) Upon the receipt of above reports, the case would be processed for granting permission for repatriation or otherwise, in the light of the provisions of the agreement with that country.
- (l) **Repatriation Cost:** Where the relatives/friends of the prisoner staying in India request for his repatriation, the Government may explore the possibility of recovering all or part of the costs of transfer from them. This would include the return airfare for the prisoner, while the travel cost for the escort officers would be reimbursed to the concerned State Government/UT Administration by the Ministry of Home Affairs.
- (m) **Escorting during transportation:** Each prisoner will be escorted back from the foreign jail by at least two police officers of the State where he is to be lodged, unless that country agrees to escort him back to India under their own arrangements.
- (n) **Time line for each activity:** To process the cases expeditiously after receipt of the request with all documentation for repatriation from or on behalf of the prisoner the following timelines will be followed-

Sl no	Activity	To be completed	Time line
1	Nationality verification	MEA/MHA/State Govt	10 days
2	Comments from NCB/MOL other stakeholders	MHA	10 days
3	Comments from security agencies	MHA	10 days
4	Adaptability of sentence as per Indian Law	MHA	5 days
5	Approval of the competent authority for repatriation	MHA	1 week
6	Communication to the other country of the repatriation schedule and suggested handover date after approval	MHA	2 days
7	Repatriation back to India after confirmation of the travel schedule	MHA in tandem with other stakeholders	As per schedule decided

- (o) **Monitoring Committee** - A committee headed by JS(CS) would meet once a month to review the status of such cases and to take up pendency issues with other agencies like MEA (the concerned territorial division), Narcotics Control Board, MOL in a time bound manner as per the timelines laid down above. It would be the endeavour of the committee to finalize a case within one month on receipt of complete documentation alongwith the repatriation request.

B. REPATRIATION OF A FOREIGN NATIONAL FROM A PRISON IN INDIA TO THE FOREIGN COUNTRY

- (a) The **report of the State Government** concerned along with their “no objection” for such repatriation shall be obtained essentially. While conveying their “no objection”, the State Government should specifically state that no inquiry, trial, criminal proceeding, appeal or revision is pending against the prisoner in any court in India.
- (b) A report may also be sought from the Intelligence Bureau seeking information as to whether his repatriation shall in any way be against the national interest of India and whether there are any chances of his pursuing anti- India activities on his return to his native country.
- (c) In case the person sentenced was involved in a crime relating to narcotics, comments will be obtained from the NCB or the arresting authority, as the case may be. In case he was involved in a crime relating to Customs laws, comments will be obtained from the Custom authorities; in the case of any other crime, comments will be sought from the agency or authority that arrested the person.
- (d) A report may be obtained from the accepting country on the question whether his sentence would require adaptation in that country. If yes, then what kind of adaptation would be required? Will it make any material difference to the duration/ nature of sentence? The baseline is that the sentence cannot be aggravated in its duration or intensity.
- (e) On receipt of such reports, the case should be processed for granting permission for repatriation or otherwise in the light of the provisions of the agreement.
- (f) A **Coordination meeting** would be taken by JS(CS) with all stakeholders at least a week before the actual transfer with BCAS, CISF, FFRO, Police, Prison authorities and foreigners Division of MHA to roll out and clearly mark responsibilities for the transfer. Embassy officials of the concerned prisoner would also be associated for them to understand the process and to take up getting exit visa from the office of FRRO
- (g) Once the foreign country to which the prisoner belongs conveys its willingness to accept the transfer of the prisoner, the date of repatriation may be fixed in consultation with the State Government concerned, Embassy of that country and MHA. In case the prisoner is imprisoned outside Delhi, he would first be

transferred to a Central Jail in the city from where flight for the destination country is scheduled for better coordination amongst all the agencies involved in the repatriation of the prisoner. The prisoner would be escorted to the Airport by the Police from the jail as per procedure with all documentation and clear photo identification of the escort officers of the foreign country who are to escort the prisoner out –these would be provided by the embassy concerned well in advance alongwith all other ID details and names and designations.

- (h) On the stipulated date, the prisoner shall be handed over to the authorized representative/ security personnel of that country by the officials of Central jail at the IGI airport after Immigration alongwith all the documents and belongings of the prisoner. The officials of Central jail shall send a copy of all the documents exchanged to MHA for information.

Repatriation of Prisoners Act 2003

REGISTERED No.DL-(N)04/0007/2003-05

THE GAZETTE OF INDIA

EXTRAORDINARY

PART II-Section I

PUBLISHED BY AUTHORITY

No.32) NEW DELHI, TUESDAY, SEPTEMBER 30, 2003/ASVINA 8, 1925

Separate paging is given to this Part in other that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 30TH September 30/Asvina 8, 1925 (Saka)

The following Act of Parliament received the assent of the President on the 28th September 2003, and is hereby published for general information:-

THE REPATRIATION OF PRISONERS ACT 2003.

No. 49 of 2003

[28th September 2003]

An Act to provide for the transfer of certain prisoners from India to country or place outside India and reception in India of certain prisoners from country or place outside India.

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows :-

1. (1) This Act may be called the Repatriation of Prisoners Act, 2003. Short title and
commence-
ment
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires, -- Definitions
 - (a) "contracting State" means a Government of any country or place outside India in respect of which arrangement has been made by the Central Government with the Government of such country or place through a treaty or otherwise for transfer of prisoners from India to such

country or place and *vice versa* and includes any other Government of such country or place specified by the Central Government, by notification in the Official Gazette, under sub-section (1) of section 3;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "prisoner" means a person undergoing a sentence of imprisonment under an order passed by a criminal court including the courts established under the law for the time being in force in contracting States;

(d) "warrant" means a warrant issued under sub-section (1) of section 7 or sub-section (2) of section 12, as the case may be;

(e) words and expressions used herein and not defined but defined in the Code of Criminal Procedure, 1973 have the meanings respectively assigned to them in that Code.

2 of 1974

Application of
Act

3. (1) The Central Government may, by notification in the Official Gazette, direct that the provisions of this Act shall apply to a country or place outside India as may be specified in the notification.

(2) If the notification under sub-section (1) relates to a country or place outside India with which a treaty has been entered into by India for the transfer of prisoners between that country and India, then, such notification shall also set out the full text of the said treaty and shall in no case remain in force longer than the period of the said treaty.

(3) If the Central Government is of the opinion that, with respect to a country or place outside India, provisions of this Act require to be modified to give effect to a treaty in relation to such country, it may, by notification in the Official Gazette, direct that the application of this Act to such country shall be subject to such conditions, exceptions and modifications specified in the notification.

Application
for transfer
By a prisoner

4. Any prisoner who is a citizen of a contracting State may make an application to the Central Government for transfer of his custody from India to that contracting State :

Provided that if a prisoner is not able to make an application himself because of his ill health, mental condition, old age or being a minor, then, the application may be made by any other person entitled to act on his behalf.

Consideration
of request by
Central
Government

5. (1) On receipt of the application under section 4, the Central Government shall direct the officer incharge of the prison, where the prisoner is confined, to furnish such information which in the opinion of that Government is relevant for the purpose of transfer.

(2) On receipt of the information under sub-section (1), if the Central Government is satisfied that –

(a) no inquiry, trial or any other proceeding is pending against the prisoner;

(b) death penalty has not been awarded to the prisoner;

(c) the prisoner has not been convicted for an offence under the martial law; and

(d) transfer of custody of the prisoner to the contracting State shall not be prejudicial to the sovereignty, security or any other interest of India,

it shall pass an order for forwarding the application of the prisoner to the contracting State

6. (1) The application of the prisoner shall be forwarded by the Central Government through prescribed means to the Government of the contracting State to deal with such application along with the following information, namely :- Comments of contracting State

- (a) a copy of the judgment and a copy of the relevant provisions of the law under which the sentence has been passed against the prisoner;
- (b) the nature, duration and date of commencement of the sentence of the prisoner;
- (c) medical report or any other report regarding the antecedents and character of the prisoner, where it is relevant for the disposal of his application or for deciding the nature of his confinement; and
- (d) any other information which the Central Government may consider necessary.

(2) Where any application of a prisoner forwarded by the Central Government has been accepted by the contracting State, the Central Government may seek from such contracting State, all or any of the following information or documents before taking decision to transfer the prisoner to the contracting State, namely :-

- (a) a statement or document indicating that the prisoner is a citizen of the contracting State;
- (b) a copy of the relevant law of the contracting State constituting the act or omission as the offence, on account of which the sentence has been passed in India, as if such act or omission was an offence under the law of that State;
- (c) a statement of the fact or any law or regulation relating to the duration and enforcement of the sentence of the prisoner in the contracting State upon his transfer;
- (d) the willingness of the contracting State to accept the transfer of the prisoner and an undertaking to administer the remaining part of the sentence of the prisoner;
- (e) an undertaking to comply with the conditions, if any, specified by the Central Government; and
- (f) any other information or document which the Central Government may consider necessary.

7. (1) If the Central Government, on receipt of a communication from the concerned contracting State, - Consideration of request by Central Government

- (a) expressing its willingness to accept the transfer of the prisoner; and
- (b) undertaking to comply with the conditions specified in the warrant,

is satisfied that the prisoner should be transferred to the said State, the Central Government may, notwithstanding anything contained in any other law for the time being in force, issue a warrant in accordance with the provisions of section 8 in such form as may be prescribed.

(2) Where a warrant is issued under sub-section (1), the Central Government shall inform the contracting State accordingly and request that State to specify the person to whom and the place within India where custody of the prisoner shall be delivered.

Provision to
issue warrant
for transfer

8. (1) The Central Government shall authorise an officer not below the rank of a Joint Secretary to a State Government, within the limits of whose jurisdiction the place of imprisonment of the prisoner is situated, to issue a warrant on behalf of the Central Government under sub-section (1) of section 7 directing the officer incharge of the prison therein to deliver the custody of the prisoner to the person authorised by the contracting State to which the prisoner is to be transferred, presenting such person a copy of the warrant together with all the records relating to the prisoner and the personal effects taken from the prisoner at the time of his admission in the prison.

(2) Upon the presentation of a warrant referred to in sub-section (1), the officer incharge of the prison shall forthwith comply with the warrant and obtain thereon the signature of the person to whom delivery of the prisoner, records and the personal effects relating to the prisoner to be removed from the prison is given.

(3) After delivery of the prisoner to the person authorised by the contracting State under sub-section (2), the officer incharge of the prison transferring the prisoner shall forward a copy of the warrant to the court which committed the prisoner to the prison, along with a statement that the prisoner has been delivered to the person authorised by the contracting State under sub-section (1).

(4) The delivery of the prisoner in compliance of the warrant issued under sub-section (1) shall discharge the officer incharge of the prison from the responsibility of keeping the prisoner in his custody.

Operation of
warrant and
retaking
prisoner

9. It shall be lawful for the person authorised by the contracting State to whom the custody of a prisoner is delivered under the provisions of sub-section (2) of section 8 to receive and hold in custody such prisoner and to convey him out of India and if the prisoner escapes from such custody within India, the prisoner may be arrested without warrant by any person who shall without undue delay deliver such prisoner to the officer incharge of the nearest police station and the prisoner so arrested shall be liable for committing an offence under section 224 of the Indian Penal Code and shall also be liable for such sentence of imprisonment in India which he would have to undergo if the delivery of custody of such prisoner had not been made under section 8.

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Transfer of
record

10. Where a prisoner is or is to be transferred to a contracting State under the provisions of this Act, the Central Government may requisition the records of any proceeding, including judicial proceedings relating to that prisoner from any court or office, and may direct that such records shall be sent to the Government of the contracting State.

Power of Court
and Central
Government
Shall not be
affected
Transfer into
India

11. The transfer of a prisoner from India to a contracting State shall not affect the power of the court which passed the judgment to review its judgment and power of the Central Government or State Government to suspend, remit or commute the sentence in accordance with any law for the time being in force.

12. (1) The Central Government may accept the transfer of a prisoner, who is a citizen of India, from a contracting State wherein he is undergoing any sentence of imprisonment subject to such terms and conditions as may be agreed to between India and that State.

(2) If the Central Government accepts the request for a transfer under sub-section (1), then, notwithstanding anything contained in any other law for the time being in force, it may issue a warrant to detain the prisoner in prison in accordance with the provisions of section 13 in such form as may be prescribed.

13. (1) The Central Government shall, in consultation with a State Government, determine the prison situated within the jurisdiction of such State Government where the prisoner with respect to whom a warrant has been issued under sub-section (2) of section 12, shall be lodged and the officer who shall receive and hold him in custody.

Determination of prison and issue of warrant for receiving transfer in India

(2) The Central Government shall authorise any officer not below the rank of a Joint Secretary to that Government to issue a warrant under sub-section (2) of section 12 and to direct the officer referred to in sub-section (1) to receive and hold the prisoner, with respect to whom the warrant is issued, in custody.

(3) It shall be lawful for the officer referred to in sub-section (1) to receive and hold in custody any prisoner delivered to him under the direction made in the warrant issued under sub-section (2) of section 12 and to convey such prisoner to any prison determined under sub-section (1) for being dealt with in accordance with the said warrant and if the prisoner escapes from such custody, the prisoner may be arrested without warrant by any person who shall without undue delay deliver such prisoner to the officer in charge of the nearest police station and the prisoner so arrested shall be liable for committing an offence under section 224 of the Indian Penal Code and shall also be liable to be dealt with in accordance with the said warrant.

45 of 1860

(4) A warrant under sub-section (2) of section 12 shall provide for --

- (a) the bringing of the prisoner into India from a contracting State or a place outside India;
- (b) the taking of such prisoner in any part of India being a place at which effect may be given to the provisions contained in the warrant;
- (c) the nature and duration of imprisonment of the prisoner in accordance with the terms and conditions referred in sub-section (1) of section 12 and the imprisonment of such prisoner in India in such manner as may be contained in the warrant; and
- (d) any other matter which may be prescribed.

(5) Notwithstanding anything contained in any other law for the time being in force, the imprisonment of a prisoner in compliance with a warrant issued under sub-section (2) of section 12 shall be deemed to be imprisonment under a sentence of a court competent to pass such a sentence of imprisonment in India.

(6) If the sentence of imprisonment passed against the prisoner in the contracting State is incompatible with the Indian law as to its nature, duration or both, the Central Government may, by order, adapt the sentence of such punishment as to the nature, duration or both, as the case may be, as is compatible to the sentence of imprisonment provided for a similar offence had that offence been committed in India:

Provided that the sentence so adapted shall, as far as possible, correspond with the sentence imposed by the judgment of the contracting State to the prisoner and such adapted sentence shall not aggravate the punishment, by its nature, duration or both in relating to the sentence imposed in the contracting State.

14. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- (a) the means through which an application may be forwarded under sub-section (1) of section 6;

- (b) the form in which a warrant may be issued under sub-section (1) of section 7;
- (c) the form in which a warrant may be issued under sub-section (2) of section 12; and
- (d) any other matter which may be prescribed under clause (d) of sub-section (4) of section 13.

Laying of
rules, etc.

15. Every notification issued under sub-sections (1) and (3) of section 3 and every rule made under section 14 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or rule or both Houses agree that the notification or rule should not be made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be: so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

Power to
remove
difficulties

16. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made before each House of Parliament.

SUBHASH C. JAIN,
Secy. to the Govt. of India

REPATRIATION OF PRISONERS RULES 2004

THE GAZETTE OF INDIA

EXTRAORDINARY

PART II-Section 3-sub-section (i)

PUBLISHED BY AUTHORITY

No.333) NEW DELHI, MONDAY, AUGUST 9, 2004/SRAVANA 18, 1926

MINISTRY OF HOME AFFAIRS
NOTIFICATION

New Delhi, the 9th August, 2004

G.S.R505 (E)- In exercise of the powers conferred by section 14 of the Repatriation of Prisoners Act, 2003 (49 of 2003), the Central Government hereby makes the following rules, namely:-

1. **Short title and commencement:** (1) These rules may be called the Repatriation of Prisoners Rule, 2004.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions-** In these rules, unless the context otherwise required:-

(a) "Act" means the Repatriation of Prisoners Act, 2003 (49 of 2003);

(b) "Application" means an application made under section 4 of the Act;

(c) "diplomatic channel" means through the missions of the respective countries;

(d) "section" means a section of the Act;

(e) All other words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in that Act.

3. **Form of application:-** An application under section 4 of the Act shall be made by a prisoner for his transfer on a plain paper and in Form 1 appended to these rules and in accordance with the procedure and instructions set out in that form.

4. **Means of forwarding the application:-** The application of the prisoner along with other informations as required under sub-section (1) of section 6, shall be forwarded

by the Central Government to the Government of the contracting State either directly or through the diplomatic channel.

5. **Form of warrants:-** (1) A warrant under sub-section (1) of section 7 of the Act shall be issued in Form 2 appended to these rules and in accordance with the procedure and instructions set out in that form.

(2) A warrant under sub-section (2) of section 12 of the Act shall be issued in Form 3 appended to these rules and in accordance with the procedure and instructions set out in that form.

Form 1

**APPLICATION FOR TRANSFER OF SENTENCED PERSON
(under rule 3)**

(Particulars are to be furnished in respect of the sentenced person)

To

Joint Secretary (CS)
Government of India
Ministry of Home Affairs
North Block
New Delhi

Sir,

I request that I may be transferred to serve remaining period of my sentence in a prison situated in _____, the country of my nationality (name of the contracting State). I hereby furnish the following information for consideration of my application:-

1. Name in BLOCK LETTERS and nationality
2. Name of father/husband
3. Full address in the contracting State
4. Date of birth/age
5. Offence(s) under which convicted
6. Name of the Court which convicted
7. Date of judgment
8. The nature, duration and date of commencement of the sentence
9. Name of the prison, where undergoing sentence :

I, _____, (name in full alongwith nationality and in block letters), son/daughter of Mr./Ms. _____ declare that the information furnished by me as above is correct, complete and true to the best of my knowledge and belief. I may be held liable for any action, if any information furnished by me is found incorrect.

Address (in case signatory is other than the prisoner):

(signature of the applicant or of the person entitled to act on behalf of the prisoner in case of his ill health, mental condition, old age or being minor)

(Please see instructions overleaf).

Instructions

1. The application in original should be sent to Joint Secretary (CS), Government of India, Ministry of Home Affairs, North Block, New Delhi by; ordinary/registered post.
2. A copy of the application may be delivered to the officer-in-charge of the jail where the prisoner is undergoing the sentence.
3. Following documents may be attached with the application:-
 - (a) A copy of the judgment passed against the prisoner;
 - (b) Document indicating that the prisoner is a citizen of the contracting State.
4. In case the application is being made by the person entitled to act on behalf of the prisoner, he/she should write his/her full name alongwith nationality & address below his/her signature.

Form 2

[See rule 5(1)]

Form of Warrant

(under sub-section (1) of section 7 of the Repatriation of Prisoners Act, 2003)

Mr/Ms..... the Jail Superintendent/Jailor (or the officer's designation who is in charge of the prison where the prisoner is imprisoned)
(Name of the Jail with full address) is hereby directed to deliver the custody of

Address.....
.....

Copy to: (i) Joint Secretary (CS), Ministry of Home Affairs, Government of India

(ii) Joint Secretary (CPV), Ministry of External Affairs, Government of India

(iii) Secretary, Department of Prison, Government of(State in which imprisoned)

(iv) Charge-de-Affairs, Embassy (Name of the contracting State)
Address (official).....

(v) Mr./Ms.....(Name and address of the Authorized person (official) of the contracting State).

Form 3
[See rule 5(2)]

Form of Warrant

(under sub-section (2) of section 12 of the Repatriation of Prisoners Act, 2003)

Mr./Ms..... Designation..... Address
(official).....is hereby directed to receive the custody of
Mr./Ms.....(Name and nationality of the prisoner)
Address.....(as it appears in the letter of the contracting State) at
.....(Place of receiving of the prisoner outside India by the authorized
official) and to hold the prisoner for bringing him to India from the place of receiving.
The custody of the said prisoner shall be handed over by the receiving officer to the
officer-in-charge of (Name and Address of the prison) where
the prisoner has to serve his/her remaining part of the sentence in India as per the existing
law for the offence committed by him/her in the contracting State.

(Authorized Officer of the State Government)
Not below the rank of a Joint Secretary

To

Sh./Smt.....
.....(Designation)

Address.....
.....

Copy to :

- (i) Joint Secretary (CS), Ministry of Home Affairs, Government of India
- (ii) Joint Secretary (CPV), Ministry of External Affairs, Government of India
- (iii) Secretary, Department of Prison, (Government of(State in which the prisoner is to be imprisoned).
- (iv) Charge-de-Affairs, Embassy.....(Name of the State)
Address (official)
- (v) Mr./Ms.....(Name and address of the Authorised person (official) of the contracting State).

[F.N.VII-11017/23/2002-PR]

A.K. SRIVASTAVA,
JOINT SECRETARY (CS)

Annexure I

Form 1
APPLICATION FOR TRANSFER OF SENTENCED PERSON
(under rule 3)
(Particulars are to be furnished in respect of the sentenced person)

To
Joint Secretary (CS)
Government of India
Ministry of Home Affairs
NDCC-II Building, Jai Singh Road
New Delhi – 110 001
(Fax - +91-011-23438097)

Sir,

I request that I may be transferred to serve remaining period of my sentence in a prison situated in _____, the country of my nationality (name of the contracting State). I hereby furnish the following information for consideration of my application:-

1. Name in BLOCK LETTERS and nationality
2. Name of father/husband
3. Full address in the contracting State
4. Date of birth/age
5. Offence(s) under which convicted
6. Name of the Court which convicted
7. Date of judgment
8. The nature, duration and date of commencement of the sentence
9. Name of the prison, where undergoing sentence :

I, _____, (name in full alongwith nationality and in block letters), son/daughter of Mr./Ms. _____ declare that the information furnished by me as above is correct, complete and true to the best of my knowledge and belief. I may be held liable for any action, if any information furnished by me is found incorrect.

Address (in case signatory is other than the prisoner):

(signature of the applicant or of the person entitled to act on behalf of the prisoner in case of his ill health, mental condition, old age or being a minor)

(Please see instructions overleaf).

Instructions

1. The application in original should be sent to Joint Secretary (CS), Government of India, Ministry of Home Affairs, NDCC.II Building, Jai Singh Road, New Delhi by ordinary/registered post.
2. A copy of the application may be delivered to the officer-in-charge of the jail where the prisoner is undergoing the sentence.
3. Following documents may be attached with the application:-
 - (a) A copy of the judgment passed against the prisoner;
 - (b) Document indicating that the prisoner is a citizen of the contracting State.
4. In case the application is being made by the person entitled to act on behalf of the prisoner, he/she should write his/her full name along with nationality & address below his/her signature.

Annexure II**Checklist of documents to be furnished alongwith the repatriation request of the prisoner**

S.No.	Documents	Status	Yes/No
1	Signed consent request for repatriation –this is given in Form 1 of Repatriation of prisoner Rules 2004 (pages 15 and 16 of the guidelines refer)- to be signed by the prisoner or on his behalf.		
2	Copy of judgment, translated in English if in any other language. This should also be accompanied by a summary statement of the conviction and the offences for which convicted under the relevant laws of the country in which convicted.		
3	Copies of identification documents like passport etc		
4	(a) Nominal roll from the jail lodged in (b) presently routed through the jail authorities listing out (i) the start date of conviction/sentence (ii) period undergone and (iii) the balance remaining as on date of application.		
5	A record of his health and mental condition (Certificate from a Medical Doctor)		
6	(i) A recent photograph in profile and (ii) front view with other details		
7	A certified confirmation that no other case is pending in any other court in the country of incarceration- (<i>this would be done through the jail authorities and home department</i>)		
8	A confirmation that no appeal is pending against his present conviction in any court of law/tribunal		
9	An undertaking (as per Annexure III) by the prisoner that he/she will not challenge the conviction of the court once repatriated to his own country by way of an attempt to get a lower sentence as the repatriation process is not intended to subvert the judicial process for getting lesser sentences in own countries.		
10	Whether the prisoner, or his relatives etc are ready to bear his cost of transportation		

Annexure III

Undertaking to be given by the prisoner applying for his/her repatriation to India

1. I.....S/o/D/O/W/o presently lodged in ..(name of jail and the city/country) since(start date of sentence)for the offence of.....(list offence(s) under sections/articles/clausesof the(Acts/Rules etc of the country where sentenced) do hereby undertake of my own volition not to agitate/challenge the sentence adaptability order issued under the terms of the Agreement on Transfer of Sentenced persons once I am repatriated back to India in any court of law as I agree, while making a request for transfer to abide by the terms and conditions of the Agreement/Treaty on transfer of sentenced persons between India and(name of the country/Multilateral Convention)

2. I also confirm that there is no other case pending against me at the time of making the request for repatriation and further , that there is no appeal pending in the case under which I have been convicted by a court of law in the country of incarceration.

Signature of the prisoner

Place.....

Date.....

Witness thereto

Place.....

Date.....