

2002 No. 517

HIGH COURT OF JUSTICIARY

SHERIFF COURT

**Act of Adjournal (Criminal Procedure Rules Amendment
No 4) (Extradition) 2002**

Made

21st November 2002

Coming into force

1st December 2002

The Lord Justice General, the Lord Justice Clerk and the Lords Commissioners of Justiciary, under and by virtue of the powers conferred upon them by section 14A(6) of the Extradition Act 1989(a), section 305 of the Criminal Procedure (Scotland) Act 1995(b) and of all other powers enabling them in that behalf, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment No. 4) (Extradition) 2002 and shall come into force on 1st December 2002.

(2) This Act of Adjournal shall be inserted in the Books of Adjournal.

Amendment of the Act of Adjournal (Criminal Procedure Rules) 1996

2.—(1) The Act of Adjournal (Criminal Procedure Rules) 1996(c) shall be amended in accordance with this paragraph.

(2) In rule 34.1 (interpretation of chapter on extradition) at the end there shall be inserted—
“the 1995 Convention” means the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on Simplified Extradition Procedures between the Member States of the European Union;
“party to the 1995 Convention” means a state in respect of which the 1995 Convention is in force either generally or between it and the United Kingdom.”.

(3) After rule 34.5 (notices of waiver of rights and consent) there shall be inserted—

“Notices of consent to return to the foreign state

34.6.—(1) This rule applies as between the United Kingdom and states other than the Republic of Ireland that are parties to the 1995 Convention, in relation to which section 14A of the Act of 1989 applies by virtue of section 34A of, and Schedule 1A to, the Act of 1989.

(2) A notice of consent for the purposes of section 14A(3) of the Act of 1989 shall be in Form 34.6 and shall be signed in the presence of the sheriff.”.

(a) 1989 c.33: section 14A(6) was inserted by paragraph 5 of Schedule 9 to the European Union Extradition Regulations 2002 (S.I. 2002/419).
(b) 1995 c.46.
(c) 1996/513.

(4) In the Appendix, after Form 34.5 (form for notice of waiver of rights and consent), there shall be inserted the form set out in the Schedule to this Act of Adjournal.

Edinburgh
21st November 2002

W Douglas Cullen
Lord President I.P.D.

SCHEDULE

Form 34.6

Rule 34.6

Notice of consent to return to foreign state under section 14A(3) of the Extradition Act 1989

WHEREAS on *(date)*, I was arrested in pursuance of a warrant under section 8 of the Extradition Act 1989 with a view to my committal to await the Secretary of State's decision as to my return to *(insert name of foreign state)* which has requested my extradition:

WHEREAS I understand that, unless I consent to my committal, I shall have the right: to make representations at committal proceedings as to the matters of which the court of committal is to be satisfied before making an order of committal, and

- (a) to make representations at committal proceedings as to the matters of which the court of committal is to be satisfied before making an order of committal;
- (b) thereafter, if such an order is made, to make an application for review of the order of committal; and
- (c) not to be returned for so long as proceedings on any application for review of the order of committal are pending and in any case within 15 days of the order of committal:

WHEREAS I understand that any consent to return agreed to and confirmed in this form is irrevocable;

WHEREAS I understand that by consenting I lose the speciality protection which would have been given to me under the rules laid down in Article 14 of the European Convention on Extradition (which entered into force for the United Kingdom on 14th May 1991 (rule of speciality), and Article 15 of that Convention (re-extradition to a third state));

NOW, THEREFORE, I give notice that I consent to an order of committal being made against me by the sheriff and to my earlier return before the said period of 15 days has expired.

(Signed)

This notice was served by the above-named person in my presence on *(date)*.

(Signed)

Sheriff

EXPLANATORY NOTE

(This note is not part of the order)

This Act of Adjournal amends the Act of Adjournal (Criminal Procedure Rules) 1996, to provide a form of notice to consent for committal for return to be used for the purposes of section 14A(3) of the Extradition Act 1989.

Section 14A of the Act was inserted by Schedule 9 to the European Union Extradition Regulations 2002. Those Regulations implement the provisions of the 1995 Convention and the provisions of the Convention relating to extradition between the Member States of the European Union (which was opened for signature on 27th September 1996) (“the 1996 Convention”). The amendments made to the Act by Schedule 9 to the Regulations apply in relation to the United Kingdom and states other than the Republic of Ireland that are parties to the 1995 Convention or the 1996 Convention, as appropriate.

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