Repatriation of Prisoners Act 1984

1984 CHAPTER 47

[F1 Supplementary and general provisions]

5 Operation of warrant and retaking prisoners.

(1) Where a warrant has been issued **[**F1 under section 1**]** the following provisions of this section **[**F2 (apart from subsection (9))**]** shall have effect for the purposes of the warrant, except (without prejudice to section 3(4) above or any enactment contained otherwise than in this Act) in relation to any time when the prisoner is required to be detained in accordance with provisions contained in the warrant by virtue of section 3(1)(c) above.

(2) The prisoner shall be deemed to be in the legal custody of the **[**F3 relevant Minister**]** at any time when, being in the United Kingdom or on board a British ship, a British aircraft or a British hovercraft, he is being taken under the warrant to or from any place, or being kept in custody under the warrant.

(3) The **[**F3 relevant Minister**]** may, from time to time, designate any person as a person who is for the time being authorised for the purposes of the warrant to take the prisoner to or from any place under the warrant, or to keep the prisoner in custody under the warrant.

(4) A person authorised by or for the purposes of the warrant to take the prisoner to or from any place or to keep the prisoner in custody shall have all the powers, authority, protection and privileges—

(a) of a constable in any part of the United Kingdom in which that person is for the time being; or

(b) if he is outside the United Kingdom, of a constable in the part of the United Kingdom to or from which the prisoner is to be taken under the warrant.

(5) If the prisoner escapes or is unlawfully at large, he may be arrested without warrant by a constable and taken to any place to which he may be taken under the warrant under this Act.

(6) In subsection (2) above—

"British aircraft" means a British-controlled aircraft within the meaning of section 92 of the M1 Civil Aviation Act 1982 (application of criminal law to aircraft), or one of Her Majesty's aircraft;

Changes to legislation: *There are currently no known outstanding effects for the Repatriation of Prisoners Act 1984, Section 5. (See end of Document for details)*

"British hovercraft" means a British-controlled hovercraft within the meaning of the said section 92 as applied in relation to hovercraft by virtue of provision made under the [M2]Hovercraft Act 1968, or one of Her Majesty's hovercraft; and

"British ship" means a British ship within the meaning of the [M3]**[**[F4]Merchant Shipping Act 1995**]**, or one of Her Majesty's ships;

and in this subsection reference to Her Majesty's aircraft, hovercraft or ships are references to the aircraft, hovercraft or, as the case may be, ships which belong to, or are exclusively employed in the service of, Her Majesty in right of the government of the United Kingdom.

(7) In subsection (5) above "constable", in relation to any part of the United Kingdom, means any person who is a constable in that or any other part of the United Kingdom or any person who, at the place in question has, under any enactment (including subsection (4) above), the powers of a constable in that or any other part of the United Kingdom.

[[F5](8) In this section "relevant Minister" means–

(a) the Scottish Ministers where the warrant provides for the transfer of a prisoner to or from Scotland; [F6]...

[[F7](aa) the Department of Justice in Northern Ireland where the warrant provides for the transfer of a prisoner to or from Northern Ireland; and**]**

(b) the Secretary of State in any other case.**]**

[[F8](9) Where—

(a) a warrant under section 4A has been issued, and

(b) the relevant person is a person to whom subsection (3) of that section applies,

subsections (2) to (8) above apply for the purposes of that warrant (but with the modifications contained in subsection (10)), except (without prejudice to section 4C(4) or any enactment contained otherwise than in this Act) in relation to any time when the relevant person is required to be detained in accordance with provisions contained in the warrant by virtue of section 4C(1)(b).

(10) In their application for the purposes of a warrant under section 4A those subsections shall have effect as if—

(a) any reference to the warrant under section 1 (however expressed) were a reference to the warrant under section 4A;

(b) any reference to the prisoner were a reference to the relevant person;

(c) in subsection (4)—

(i) in paragraph (a) for "that person" there were substituted " the authorised person "; and

(ii) paragraph (b) were omitted; [F9]...

(d) in subsection (8)(a) for "transfer of a prisoner to or from Scotland" there were substituted " transfer of responsibility for the detention and release of the relevant person to the Scottish Ministers" **[**[F10]; and**]**

[[F10](e) in subsection (8)(aa) for "transfer of a prisoner to or from Northern Ireland" there were substituted "transfer of responsibility for the detention and release of the relevant person to the Department of Justice**]]**

Textual Amendments

F1 Words in s. 5(1) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 16(2)(a)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

F2 Words in s. 5(1) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 16(2)(b)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

F3 Words in s. 5(2)(3) inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 75(6)(a)**

F4 S. 5(6): words in definition of "British ship"substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 73** (with s. 312(1))

F5 S. 5(8) inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 75(6)(b)**

F6 Word in s. 5(8)(a) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 10(2)(a)** (with arts. 28-31)

F7 S. 5(8)(aa) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 10(2)(b)** (with arts. 28-31)

F8 S. 5(9)(10) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 16(3)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

F9 Word in s. 5(10) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 10(3)** (with arts. 28-31)

F10 S. 5(10)(e) and preceding word inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 10(3)** (with arts. 28-31)

Modifications etc. (not altering text)

C1 Ss. 1-8: certain functions made exercisable in or as regards Scotland (30.6.1999) by S.I. 1999/1748, arts. 4(1), 8(1), **Sch. 2 para. 1(1)-(10)**

Marginal Citations

M1 1982 c. 16.

M2 1968 c. 59.

M3 1995 c. 21.

Changes to legislation:
There are currently no known outstanding effects for the Repatriation of Prisoners Act 1984, Section 5.