



# Extradition Act 1989 (repealed)

## 1989 CHAPTER 33

### PART VI

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Evidence*

#### **26 Authentication of foreign documents.**

- (1) In extradition proceedings in relation to a person whose return has been requested by a foreign state foreign documents may be authenticated by the oath of a witness, but shall in any case be deemed duly authenticated—
- (a) if they purport to be signed by a judge, magistrate or officer of the foreign state where they were issued; and
  - (b) if they purport to be certified by being sealed with the official seal of the Minister of Justice, or some other Minister of State, of the foreign state.

- [<sup>F1</sup>(1A) In extradition proceedings in relation to a person whose return has been requested by or on behalf of the Government of the Hong Kong Special Administrative Region documents from that Region may be authenticated by the oath of a witness, but shall in any case be deemed duly authenticated—
- (a) if they purport to be signed by a judge, magistrate or officer of the Hong Kong Special Administrative Region; and
  - (b) if they purport to be certified by being sealed—
    - (i) with an official or public seal of the Hong Kong Special Administrative Region, or
    - (ii) by an officer of that Region.]

- (2) Judicial notice shall be taken of such certification as is mentioned in subsection (1) (b) [<sup>F2</sup>or (1A)(b)] above, and documents authenticated by such certification shall be received in evidence without further proof.

*Status: Point in time view as at 16/08/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 1989 (repealed), Part VI. (See end of Document for details)*

#### **Textual Amendments**

**F1** S. 26(1A) inserted (1.7.1997) by S.I. 1997/1178, art. 2, **Sch. para. 13(a)**.

**F2** Words in s. 26(2) inserted (1.7.1997) by S.I. 1997/1178, art. 2, **Sch. para. 13(b)**.

## **27 Evidence – Commonwealth countries and colonies.**

- (1) In any proceedings under this Act in relation to a person whose return has been requested by a designated Commonwealth country or a colony, including proceedings on an application for habeas corpus in respect of a person in custody under this Act—
- (a) a document, duly authenticated, which purports to set out evidence given on oath in a designated Commonwealth country or a colony shall be admissible as evidence of the matters stated in it;
  - (b) a document, duly authenticated, which purports to have been received in evidence, or to be a copy of a document so received, in any proceeding in any designated Commonwealth country or any colony shall be admissible in evidence;
  - (c) a document, duly authenticated, which certifies that a person was convicted on a date specified in the document of an offence against the law of, or of a part of, any such country or any colony shall be admissible as evidence of the fact and date of the conviction.
- (2) A document shall be deemed to be duly authenticated for the purposes of this section—
- (a) in the case of a document purporting to set out evidence given as mentioned in subsection (1)(a) above, if the document purports to be certified by a judge or magistrate or officer in or of the country or colony in question to be the original document containing or recording that evidence or a true copy of such a document;
  - (b) in the case of a document which purports to have been received in evidence as mentioned in subsection (1)(b) above or to be a copy of a document so received, if the document purports to be certified as mentioned in paragraph (a) above to have been, or to be a true copy of a document which has been, so received;
  - (c) in the case of a document which certifies that a person was convicted as mentioned in subsection (1)(c) above, if the document purports to be certified as mentioned in paragraph (a) above,
- and in any such case the document is authenticated either by the oath of a witness or by the official seal of a Minister of the designated Commonwealth country or of the Governor or a Minister, secretary or other officer administering a department of the government of the colony, as the case may be.
- (3) Nothing in this section shall prejudice the admission in evidence of any document which is admissible in evidence apart from this section.
- (4) In the application of this section to Scotland, for the words “admissible as evidence”, in both places where they occur, there shall be substituted the words “sufficient evidence”.

*Status: Point in time view as at 16/08/2002.*

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#### **Modifications etc. (not altering text)**

- C1** S. 27 extended (British Antarctic Territory) (with modifications) (6.7.1992) by S.I. 1992/1300, art. 2, Sch.  
S. 27 extended (16.8.2002) (with modifications) by [The Extradition \(Overseas Territories\) Order 2002](#) (S.I. 2002/1823), art. 2, Schs. 1-4 (as amended (16.8.2002) by S.I. 2002/1825, art. 2, Sch. 2)

### *Warrants and orders*

## **28 Form of warrants and orders.**

- (1) Any warrant or order to be issued or made by the Secretary of State under this Act shall be given under the hand of the Secretary of State, a Minister of State or an Under-Secretary of State.

[<sup>F3</sup>(1A) Any warrant or order to be issued or made by the Scottish Ministers under this Act shall be given under the hand of a member of the Scottish Executive.]

- (2) The Secretary of State may by regulations made by statutory instrument prescribe the form of any document required for the purposes of this Act in its application to return to foreign states (except a notice under section 14 above) and the form of any warrant or order to be issued or made under this Act in its application to return to Commonwealth countries [<sup>F4</sup>, colonies and the Hong Kong Special Administrative Region].

#### **Textual Amendments**

- F3** S. 28(1A) inserted (1.7.1999) by S.I. 1999/1750, art. 6(1), Sch. 5 para. 9(14) (with art. 7); S.I. 1998/3178, art. 3  
**F4** Words in s. 28(2) substituted (1.7.1997) by S.I. 1997/1178, art. 2, Sch. para. 14.

#### **Modifications etc. (not altering text)**

- C2** S. 28 extended (British Antarctic Territory) (with modifications) (6.7.1992) by S.I. 1992/1300, art. 2, Sch.  
S. 28 extended (16.8.2002) (with modifications) by [The Extradition \(Overseas Territories\) Order 2002](#) (S.I. 2002/1823), art. 2, Schs. 1-4 (as amended (16.8.2002) by S.I. 2002/1825, art. 2, Sch. 2)

### *Channel Islands and Isle of Man*

## **29 Application to Channel Islands and Isle of Man.**

- (1) Subject to the provisions of this section, Parts I to V of this Act shall extend to the Channel Islands and the Isle of Man, and shall have effect as if each of them were part of the United Kingdom.
- (2) Her Majesty may by Order in Council direct that any provision contained in those Parts shall, in its application to any of the said Islands, have effect subject to such exceptions, adaptations or modifications as may be specified in the Order.
- (3) An Order in Council under this section relating to any provision of this Act as it has effect in relation to Commonwealth countries or colonies may contain such transitional

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or other incidental and supplementary provisions as may appear to Her Majesty to be necessary or expedient.

- (4) Paragraph 18 of Schedule 1 to this Act has effect as to the application of that Schedule to the Channel Islands and the Isle of Man.

*Extradition between colonies and foreign states*

**30 General extradition arrangements.**

- (1) Upon the making of an Order in Council under section 4 above—
- (a) the provisions of this Act relating to general extradition arrangements; and
  - (b) section 21 above,
- shall, unless the Order otherwise provides, extend to every colony, as regards the extradition arrangements to which the Order refers, but subject—
- (a) to the modifications set out in subsections (2) to (5) below;
  - (b) to any further modifications as to procedure prescribed by the law of the colony; and
  - (c) to the limitations, restrictions, exceptions and qualifications, if any, contained in the Order.
- (2) A reference to the colony shall be substituted for any reference to the United Kingdom.
- (3) An extradition request may be made to the Governor and the Governor may exercise the powers of the Secretary of State.
- (4) An extradition request may be made by a consular representative recognised by the Governor.
- (5) Any reference to a magistrate, judge or court shall be construed as a reference to such judicial authority as the law of the colony may provide.

**31 Special extradition arrangements.**

- (1) Her Majesty may by Order in Council direct that this section shall extend to any colony specified in the Order in the case of foreign states with whom there are no general extradition arrangements, subject to the limitations, restrictions, exceptions and qualifications, if any, contained in the Order.
- (2) Where arrangements have been made in respect of a person under which extradition procedures under Part III of this Act or section 21 above will be available as between a colony to which this section applies and a foreign state, such extradition procedures shall be available in the case of that person, as between the colony and the state with whom the arrangements have been made, subject—
- (a) to the modifications of this Act set out in section 30(2) to (5) above;
  - (b) to any further modifications as to procedure prescribed by the law of the colony; and
  - (c) to the limitations, restrictions, exceptions and qualifications, if any, contained in the arrangements.
- (3) If the Governor or the Secretary of State issues a certificate—
- (a) that such arrangements have been made; and

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- (b) that such extradition procedures are available in the case of the person named in the certificate as between the colony and the foreign state to the extent specified in the certificate,  
it shall be conclusive evidence of all matters stated in it.

*Orders in Council relating to colonies etc.*

### **32 Application of provisions of Act by Order in Council.**

- (1) Her Majesty may by Order in Council make provision for extending all or any of the provisions of this Act relating to return to Commonwealth countries (other than this section) to any colony, with the substitution of a reference to that colony for any reference to the United Kingdom, and with such other exceptions, adaptations or modifications as may be specified in the Order.
- (2) Without prejudice to the generality of subsection (1) above, an Order in Council under this section may—
- (a) so far as it extends to any colony provisions of this Act relating to the return of persons to and the treatment of persons returned from designated Commonwealth countries, apply those provisions in relation to the Republic of Ireland as they apply in relation to a designated Commonwealth country;
  - (b) so far as it extends to any colony provisions of this Act relating to the return of persons to and the treatment of persons returned from colonies, apply those provisions in relation to the United Kingdom as they apply in relation to a colony.

[<sup>F5</sup>(2A) An Order in Council under this section may make such provision as appears to Her Majesty to be necessary or expedient in consequence of or in connection with the provisions of section 1(1) of the Hong Kong Act 1985 for the purposes of the surrender of persons from a British overseas territory to the Hong Kong Special Administrative Region of the People's Republic of China and the treatment of persons surrendered to a British overseas territory from that Region.]

- (3) Any Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Textual Amendments**

**F5** S. 32(2A) inserted (16.8.2002) by [The Extradition \(Overseas Territories\) \(Hong Kong\) Order 2002 \(S.I. 2002/1824\)](#), [art. 2](#)

### **33 Alternative arrangements for colonies.**

- (1) Without prejudice to the powers exercisable by virtue of section 32 above, Her Majesty may by Order in Council make, for any colony, such special provision as appears to Her to be appropriate as between that colony and any other country being either a designated Commonwealth country or a colony—
- (a) for authorising and regulating the return to that other country of persons accused or convicted in it of offences;

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- (b) for regulating the treatment in the colony for which the Order makes provision of persons returned to it from that other country pursuant to this Act or any Order in Council under this Act or any corresponding law of that other country.
- (2) The legislature of any colony shall have power to make provision, not inconsistent with any Order in Council under this section or section 32 above which extends to that colony, for any purpose for which provision could be made by such an Order in Council.
- (3) Any Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **34 Colonies— supplementary.**

- (1) Her Majesty may by Order in Council direct that any provision to which this section applies shall have effect in any colony.
- (2) This section applies—
  - (a) to any provision of this Act that corresponds to a provision of the <sup>M1</sup>Extradition Act 1870 with amendments made by the <sup>M2</sup>Criminal Justice Act 1988; and
  - (b) to any provision of this Act that corresponds to a provision of the <sup>M3</sup>Fugitive Offenders Act 1967 with amendments and repeals made by the Criminal Justice Act 1988.
- (3) The repeal by this Act of the Fugitive Offenders Act 1967 does not affect an Order in Council made under section 16 or 17 of that Act or the power to revoke or amend such an Order.

#### **Marginal Citations**

- M1** 1870 c. 52.
- M2** 1988 c. 33.
- M3** 1967 c. 68.

*[<sup>F6</sup>1995 and 1996 Convention cases]*

#### **Textual Amendments**

- F6** [S. 34A](#) and preceding cross-heading inserted (the amendment coming into force in accordance with reg. 1(1) of the amending S.I.) by [The European Union Extradition Regulations 2002 \(S.I. 2002/419\)](#), reg. 2, [Sch. 9 para. 3](#)

### **[<sup>F7</sup>34A Application of Act in 1995 and 1996 Convention cases**

Schedule 1A provides for the application of this Act as between—

- (a) the United Kingdom and states other than the Republic of Ireland that are parties to the 1995 Convention;
- (b) the United Kingdom and states other than the Republic of Ireland that are parties to the 1996 Convention.]

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### Textual Amendments

- F7** S. 34A and preceding cross-heading inserted (the amendment coming into force in accordance with reg. 1(1) of the amending S.I.) by [The European Union Extradition Regulations 2002 \(S.I. 2002/419\)](#), reg. 2, [Sch. 9 para. 3](#)

### General

## 35 Interpretation.

(1) In this Act—

“appropriate authority” has the meaning assigned to it by section 6(9) above;

“authority to proceed” has the meaning assigned to it by section 7(1) above;

“court of committal” has the meaning assigned to it by section 9(1) above;

“designated Commonwealth country” has the meaning assigned to it by section 5(1) above,

<sup>F8</sup>  
...

“extradition crime”, subject to paragraph 20 of Schedule 1 to this Act, is to be construed in accordance with section 2 above;

“extradition arrangements”, “general extradition arrangements” and “special extradition arrangements” have the meanings assigned to them by section 3 above;

“extradition request” has the meaning assigned to it by section 7(1) above;

[<sup>F9</sup>“Hong Kong Special Administrative Region” means the Hong Kong Special Administrative Region of the People’s Republic of China;]

<sup>F10</sup>  
...

[<sup>F11</sup>“the 1995 Convention” means the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on Simplified Extradition Procedure between the Member States of the European Union;

“the 1996 Convention” means the Convention drawn up on the basis of Article K.3 of the Treaty on European Union relating to Extradition 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;

“party to the 1996 Convention” means a state in respect of which the 1996 Convention is in force either generally or between it and the United Kingdom;] and

“provisional warrant” has the meaning assigned to it by section 8(1) above.

(2) For the purposes of this Act a person convicted in his absence in a designated Commonwealth country or a colony shall be treated as a person accused of the offence of which he is convicted.

[<sup>F12</sup>(3) For the purposes of the application of this Act by virtue of any Order in Council in force under it or section 2 of the <sup>M4</sup>Extradition Act 1870, any reference in this Act to evidence making a case requiring an answer by an accused person shall be taken to indicate a determination of the same question as is indicated by a reference (however

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expressed) in any such Order (or arrangements embodied or recited in it) to evidence warranting or justifying the committal for trial of an accused person.]

#### Textual Amendments

- F8** S. 35(1): definition of “designated metropolitan magistrate” repealed (31.8.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(3)** (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 3**
- F9** Definition in s. 35(1) inserted (1.7.1997) by S.I. 1997/1178, **art. 2, Sch. para. 15**.
- F10** S. 35(1): definition of “metropolitan magistrate” repealed (31.8.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(3)** (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 3**
- F11** Words in s. 35(1) inserted (the amendment coming into force in accordance with reg. 1(1) of the amending S.I.) by **The European Union Extradition Regulations 2002** (S.I. 2002/419), reg. 2, **Sch. 9 para. 4**
- F12** S. 35(3) inserted (1.4.1997) by 1994 c. 33, s. 158(7); S.I. 1997/882, **art. 2**.

#### Modifications etc. (not altering text)

- C3** S. 35 extended (British Antarctic Territory) (with modifications) (6.7.1992) by S.I. 1992/1300, **art. 2, Sch.**  
 S. 35 extended (16.8.2002) (with modifications) by **The Extradition (Overseas Territories) Order 2002** (S.I. 2002/1823), **art. 2, Schs. 1-4** (as amended (16.8.2002) by S.I. 2002/1825, art. 2, Sch. 2)

#### Marginal Citations

- M4** 1870 c. 52.

### *Supplementary Evidence*

#### 36 Amendments.

- (1) In paragraph 4 of Schedule 3 to the <sup>M5</sup>Parliamentary Commissioner Act 1967 (matters not subject to investigation by Commissioner) for the words from “or” to the end there shall be substituted the words “, the Fugitive Offenders Act 1967 or the Extradition Act 1989 ”.
- (2) The following subsection shall be substituted for subsection (1) of section 3 of the <sup>M6</sup>Genocide Act 1969 (application to Channel Islands, Isle of Man and colonies)—
 

“(1) Section 12 of the Backing of Warrants (Republic of Ireland) Act 1965 shall extend to the provisions of this Act amending that Act.”.
- (3) In section 2(2) of the <sup>M7</sup>Bail Act 1976 in the definition of “proceedings against a fugitive offender” for the words from “section”, in the first place where it occurs, to “1967” there shall be substituted the words “ the Extradition Act 1989 ”.
- (4) In paragraph (a) of subsection (1) of section 5 of the <sup>M8</sup>Suppression of Terrorism Act 1978 (power to apply provisions of Act to countries that are not parties to the European Convention on the Suppression of Terrorism) for the words “Fugitive Offenders Act 1967” there shall be substituted the words “ Extradition Act 1989 ”.
- (5) In paragraph (b) of that subsection after “1870” there shall be inserted the words “ or in the Extradition Act 1989 ”.
- (6) The following paragraph shall be substituted for paragraph (c) of that subsection—
 

“(c) a colony.”.



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- (7) In paragraph (i) of that subsection for the words “of this Act which would, apart from this section, apply only in relation to convention countries” there shall be substituted the words “to which this paragraph applies”.
- (8) The following subsection shall be inserted after that subsection—
- “(1A) Subsection (1)(i) above applies—
- (a) to the provisions of this Act which would, apart from this section, apply only in relation to convention countries; and
- (b) to section 24(1) and (2) of the Extradition Act 1989.”
- (9) The following subsection shall be added at the end of section 6 of the <sup>M9</sup>Nuclear Material (Offences) Act 1983—
- “(5) In this section “the Convention” means the Convention on the Physical Protection of Nuclear Material opened for signature at Vienna and New York on 3rd March 1980.”

**Modifications etc. (not altering text)**

- C4 S. 36 extended (16.8.2002) (with modifications) by [The Extradition \(Overseas Territories\) Order 2002 \(S.I. 2002/1823\)](#), [art. 2](#), [Schs. 1-4](#) (as amended (16.8.2002) by [S.I. 2002/1825](#), [art. 2](#), [Sch. 2](#))

**Marginal Citations**

- M5 1967 c. 13.  
M6 1969 c. 12.  
M7 1976 c. 63.  
M8 1978 c. 18.  
M9 1983 c. 18.

**37 Repeals etc.**

- (1) The enactments mentioned in Schedule 2 to this Act (which this Act replaces) are repealed to the extent specified in the third column of that Schedule.
- (2) The <sup>M10</sup>Extradition Act 1895 is repealed as of no practical utility.
- (3) The repeal by this Act of the <sup>M11</sup>Extradition Act 1870 does not affect an Order in Council made under section 2 of that Act or the power to revoke or alter such an Order.
- (4) Notwithstanding the repeal any forms that might have been used by virtue of section 20 of the Act may continue to be used and shall be deemed to be valid and sufficient in law.
- (5) Section 2A of the <sup>M12</sup>Backing of Warrants (Republic of Ireland) Act 1965 shall continue to have effect notwithstanding the repeal of section 1(9) of the <sup>M13</sup>Criminal Justice Act 1988 (which introduced Schedule 1 to the Act, Part II of which inserted section 2A in the Act of 1965) and the repeal of Schedule 1.
- (6) The repeal of an enactment relating to a Convention to which section 22 above applies does not affect an Order in Council made under any provision whose effect is reproduced in that section or in section 29 above or any power to revoke, amend or re-enact such an Order.

*Status: Point in time view as at 16/08/2002.*

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**Marginal Citations**

**M10** 1895 c. 33.

**M11** 1870 c. 52.

**M12** 1965 c. 45.

**M13** 1988 c. 33.

**38 Short title, commencement and extent.**

- (1) This Act may be cited as the Extradition Act 1989.
- (2) The provisions of this Act other than any provision to which subsection (3) below applies shall come into force at the end of the period of two months beginning with the day on which it is passed.
- (3) The provisions of this Act to which this subsection applies are sections 7(3), 10(3) and 14(2) and (3) above, this section and paragraph 9(2) of Schedule 1.
- (4) Section 136(1) of the Criminal Justice Act 1988 (which provided that torture should be deemed to be included in the list of extradition crimes contained in Schedule 1 to the Extradition Act 1870) and paragraph 4 of Schedule 1 to that Act (which provided that any offence under the <sup>M14</sup>Company Securities (Insider Dealing) Act 1985 and offences under section 24 of the <sup>M15</sup>Drug Trafficking Offences Act 1986 should be deemed to be so included) shall come into force immediately before this Act comes into force.
- (5) This Act extends to Northern Ireland.

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**Marginal Citations**

**M14** 1985 c. 8.

**M15** 1986 c. 32.

**Status:**

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**Changes to legislation:**

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