



Crime (International Co-operation) Act 2003

2003 CHAPTER 32

PART 1

MUTUAL ASSISTANCE IN CRIMINAL MATTERS

CHAPTER 5

TRANSFER OF PRISONERS

47 Transfer of UK prisoner to assist investigation abroad

- (1) The Secretary of State may pursuant to an agreement with the competent authority of a participating country issue a warrant providing for any person to whom this section applies (“a prisoner”) to be transferred to that country for the purpose of assisting there in the investigation of an offence.

The offence must be one which was or may have been committed in the United Kingdom.

- (2) This section applies to a person—
- (a) serving a sentence in a prison,
 - (b) in custody awaiting trial or sentence, or
 - (c) committed to prison for default in paying a fine.
- (3) But, in relation to transfer from Scotland—
- (a) this section applies to any person detained in custody,
 - (b) references in this section to the Secretary of State are to be read as references to the Scottish Ministers.
- (4) A warrant may be issued in respect of a prisoner under subsection (1) only if—
- (a) the prisoner, or

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- (b) in the circumstances mentioned in subsection (5), a person appearing to the Secretary of State to be an appropriate person to act on the prisoner's behalf, has made a written statement consenting to his being transferred for the purpose mentioned in subsection (1).
- (5) The circumstances are those in which it appears to the Secretary of State to be inappropriate for the prisoner to act for himself, by reason of his physical or mental condition or his youth.
- (6) Such consent cannot be withdrawn after the issue of the warrant.
- (7) A warrant under this section authorises—
- (a) the taking of the prisoner to a place in the United Kingdom and his delivery at a place of departure from the United Kingdom into the custody of a person representing the appropriate authority of the participating country to which the prisoner is to be transferred, and
 - (b) the bringing of the prisoner back to the United Kingdom and his transfer in custody to the place where he is liable to be detained under the sentence or order to which he is subject.
- (8) References to a prison in this section include any other institution to which the Prison Act 1952 (c. 52), the Prison Act (Northern Ireland) 1953 (c. 18 (N.I.)) or Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/ 1504 (N.I.9)) applies.
- ^{F1}(9) Subsections [^{F1} (4)] to (8) of section 5 of the 1990 Act (transfer of UK prisoner to give evidence or assist investigation overseas) have effect in relation to a warrant issued under this section as they have effect in relation to a warrant issued under that section.

Textual Amendments

- F1** Word in s. 47(9) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 237](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

Commencement Information

- II** S. 47 in force at 26.4.2004 by [S.I. 2004/786](#), art. 3

48 Transfer of EUetc. prisoner to assist UK investigation

- (1) The Secretary of State may pursuant to an agreement with the competent authority of a participating country issue a warrant providing for any person to whom this section applies (“the overseas prisoner”) to be transferred to the United Kingdom for the purpose of assisting in the investigation of an offence.

The offence must be one which was or may have been committed in the participating country.

- (2) This section applies to a person who is detained in custody in a participating country—
- (a) by virtue of a sentence or order of a court exercising criminal jurisdiction there, or
 - (b) in consequence of [^{F2}—

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- (a) having been transferred there, or responsibility for his detention and release having been transferred there, from the United Kingdom under the Repatriation of Prisoners Act 1984;
 - (b) having been transferred there, or responsibility for his detention and release having been transferred there, under any similar provision or arrangement from any other country or territory.]
- (3) But, in relation to transfer to Scotland—
- (a) this section applies to any person who is detained in custody in a participating country,
 - (b) the reference in subsection (1) to the Secretary of State is to be read as a reference to the Scottish Ministers.
- (4) A warrant may be issued in respect of an overseas prisoner under subsection (1) only if the competent authority provides a written statement made by the prisoner consenting to his being transferred for the purpose mentioned in that subsection.
- (5) Such consent cannot be withdrawn after the issue of the warrant.
- (6) A warrant under this section authorises—
- (a) the bringing of the prisoner to the United Kingdom,
 - (b) the taking of the prisoner to, and his detention in custody at, any place or places in the United Kingdom specified in the warrant,
 - (c) the returning of the prisoner to the country from which he has come.
- (7) Subsections (4) to (8) of section 5 of the 1990 Act have effect in relation to a warrant issued under this section as they have effect in relation to a warrant issued under that section.
- (8) A person is not subject to the Immigration Act 1971 (c. 77) in respect of his entry into or presence in the United Kingdom pursuant to a warrant under this section; but if the warrant ceases to have effect while he is still in the United Kingdom—
- (a) he is to be treated for the purposes of that Act as if he has then illegally entered the United Kingdom, and
 - (b) the provisions of Schedule 2 to that Act have effect accordingly except that paragraph 20(1) (liability of carrier for expenses of custody etc. of illegal entrant) does not have effect in relation to directions for his removal given by virtue of this subsection.

Textual Amendments

- F2** Words in s. 48(2)(b) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 52](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(q)
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Commencement Information

- I2** S. 48 in force at 26.4.2004 by [S.I. 2004/786](#), [art. 3](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4A4B inserted by [2003 c. 44 Sch. 36 para. 16](#)