



Extradition Act 2003

2003 CHAPTER 41

PART 3

EXTRADITION TO THE UNITED KINGDOM

Extradition from category 1 territories

142 Issue of Part 3 warrant

- (1) The appropriate judge may issue a Part 3 warrant in respect of a person if—
 - (a) a constable or an appropriate person applies to the judge for a Part 3 warrant, and
 - (b) the condition in subsection (2) is satisfied.
- (2) The condition is that a domestic warrant has been issued in respect of the person and there are reasonable grounds for believing—
 - (a) that the person has committed an extradition offence, or
 - (b) that the person is unlawfully at large after conviction of an extradition offence by a court in the United Kingdom.
- (3) A Part 3 warrant is an arrest warrant which contains—
 - (a) the statement referred to in subsection (4) or the statement referred to in subsection (5), and
 - (b) the certificate referred to in subsection (6).
- (4) The statement is one that—
 - (a) the person in respect of whom the warrant is issued is accused in the United Kingdom of the commission of an extradition offence specified in the warrant, and
 - (b) the warrant is issued with a view to his arrest and extradition to the United Kingdom for the purpose of being prosecuted for the offence.
- (5) The statement is one that—

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- (a) the person in respect of whom the warrant is issued is alleged to be unlawfully at large after conviction of an extradition offence specified in the warrant by a court in the United Kingdom, and
 - (b) the warrant is issued with a view to his arrest and extradition to the United Kingdom for the purpose of being sentenced for the offence or of serving a sentence of imprisonment or another form of detention imposed in respect of the offence.
- (6) The certificate is one certifying—
- (a) whether the conduct constituting the extradition offence specified in the warrant falls within the European framework list;
 - (b) whether the offence is an extra-territorial offence;
 - (c) what is the maximum punishment that may be imposed on conviction of the offence or (if the person has been sentenced for the offence) what sentence has been imposed.
- (7) The conduct which falls within the European framework list must be taken for the purposes of subsection (6)(a) to include conduct which constitutes—
- (a) an attempt, conspiracy or incitement to carry out conduct falling within the list, or
 - (b) aiding, abetting, counselling or procuring the carrying out of conduct falling within the list.
- (8) A domestic warrant is a warrant for the arrest or apprehension of a person which is issued under any of these—
- (a) section 72 of the Criminal Justice Act 1967 (c. 80);
 - (b) section 7 of the Bail Act 1976 (c. 63);
 - (c) section 51 of the Judicature (Northern Ireland) Act 1978 (c. 23);
 - (d) section 1 of the Magistrates' Courts Act 1980 (c. 43);
 - (e) Article 20 or 25 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/ 1675 (N.I. 26));
 - (f) the Criminal Procedure (Scotland) Act 1995 (c. 46).
- (9) An appropriate person is a person of a description specified in an order made by the Secretary of State for the purposes of this section.
- (10) Subsection (1)(a) applies to Scotland with the substitution of “a procurator fiscal” for “a constable or an appropriate person”.

143 Undertaking in relation to person serving sentence

- (1) This section applies if—
- (a) a Part 3 warrant is issued in respect of a person;
 - (b) the person is serving a sentence of imprisonment or another form of detention in a category 1 territory;
 - (c) the person’s extradition to the United Kingdom from the category 1 territory in pursuance of the warrant is made subject to a condition that an undertaking is given on behalf of the United Kingdom with regard to his treatment in the United Kingdom or his return to the category 1 territory (or both).
- (2) The Secretary of State may give an undertaking to a person acting on behalf of the category 1 territory with regard to either or both of these things—

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- (a) the treatment in the United Kingdom of the person in respect of whom the warrant is issued;
 - (b) the return of that person to the category 1 territory.
- (3) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person accused in the United Kingdom of the commission of an offence include terms—
- (a) that the person be kept in custody until the conclusion of the proceedings against him for the offence and any other offence in respect of which he is permitted to be dealt with in the United Kingdom;
 - (b) that the person be returned to the category 1 territory to serve the remainder of his sentence on the conclusion of those proceedings.
- (4) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person alleged to be unlawfully at large after conviction of an offence by a court in the United Kingdom include terms that the person be returned to the category 1 territory to serve the remainder of his sentence after serving any sentence imposed on him in the United Kingdom.
- (5) If the Part 3 warrant was issued by a sheriff, the preceding provisions of this section apply as if the references to the Secretary of State were to the Scottish Ministers.

144 Return to extraditing territory to serve sentence

- (1) This section applies if—
- (a) a Part 3 warrant is issued in respect of a person;
 - (b) the warrant states that it is issued with a view to his extradition to the United Kingdom for the purpose of being prosecuted for an offence;
 - (c) he is extradited to the United Kingdom from a category 1 territory in pursuance of the warrant;
 - (d) he is extradited on the condition that, if he is convicted of the offence and a sentence of imprisonment or another form of detention is imposed in respect of it, he must be returned to the category 1 territory to serve the sentence;
 - (e) he is convicted of the offence and a sentence of imprisonment or another form of detention is imposed in respect of it.
- (2) The person must be returned to the category 1 territory to serve the sentence as soon as is reasonably practicable after the sentence is imposed.
- (3) If subsection (2) is complied with the punishment for the offence must be treated as remitted but the person's conviction for the offence must be treated as a conviction for all other purposes.
- (4) If subsection (2) is not complied with and the person applies to the appropriate judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.

145 Service of sentence in territory executing Part 3 warrant

- (1) This section applies if—
- (a) a Part 3 warrant is issued in respect of a person;
 - (b) the certificate contained in the warrant certifies that a sentence has been imposed;

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- (c) an undertaking is given on behalf of a category 1 territory that the person will be required to serve the sentence in the territory;
 - (d) on the basis of the undertaking the person is not extradited to the United Kingdom from the category 1 territory.
- (2) The punishment for the offence must be treated as remitted but the person's conviction for the offence must be treated as a conviction for all other purposes.

146 Dealing with person for other offences

- (1) This section applies if a person is extradited to the United Kingdom from a category 1 territory in pursuance of a Part 3 warrant.
- (2) The person may be dealt with in the United Kingdom for an offence committed before his extradition only if—
- (a) the offence is one falling within subsection (3), or
 - (b) the condition in subsection (4) is satisfied.
- (3) The offences are—
- (a) the offence in respect of which the person is extradited;
 - (b) an offence disclosed by the information provided to the category 1 territory in respect of that offence;
 - (c) an extradition offence in respect of which consent to the person being dealt with is given on behalf of the territory;
 - (d) an offence which is not punishable with imprisonment or another form of detention;
 - (e) an offence in respect of which the person will not be detained in connection with his trial, sentence or appeal;
 - (f) an offence in respect of which the person waives the right that he would have (but for this paragraph) not to be dealt with for the offence.
- (4) The condition is that the person has been given an opportunity to leave the United Kingdom and—
- (a) he has not done so before the end of the permitted period, or
 - (b) he has done so before the end of the permitted period and has returned to the United Kingdom.
- (5) The permitted period is 45 days starting with the day on which the person arrives in the United Kingdom.

147 Effect of consent to extradition to the United Kingdom

- (1) This section applies if—
- (a) a person is extradited to the United Kingdom from a category 1 territory in pursuance of a Part 3 warrant;
 - (b) the person consented to his extradition to the United Kingdom in accordance with the law of the category 1 territory.
- (2) Section 146(2) does not apply if the conditions in subsection (3) or the conditions in subsection (4) are satisfied.
- (3) The conditions are that—

- (a) under the law of the category 1 territory, the effect of the person's consent is to waive his right under section 146(2);
 - (b) the person has not revoked his consent in accordance with that law, if he is permitted to do so under that law.
- (4) The conditions are that—
- (a) under the law of the category 1 territory, the effect of the person's consent is not to waive his right under section 146(2);
 - (b) the person has expressly waived his right under section 146(2) in accordance with that law;
 - (c) the person has not revoked his consent in accordance with that law, if he is permitted to do so under that law;
 - (d) the person has not revoked the waiver of his right under section 146(2) in accordance with that law, if he is permitted to do so under that law.

148 Extradition offences

- (1) Conduct constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
- (a) the conduct occurs in the United Kingdom;
 - (b) the conduct is punishable under the law of the relevant part of the United Kingdom with imprisonment or another form of detention for a term of 12 months or a greater punishment.
- (2) Conduct also constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
- (a) the conduct occurs outside the United Kingdom;
 - (b) the conduct constitutes an extra-territorial offence punishable under the law of the relevant part of the United Kingdom with imprisonment or another form of detention for a term of 12 months or a greater punishment.
- (3) But subsections (1) and (2) do not apply in relation to conduct of a person if—
- (a) he is alleged to be unlawfully at large after conviction by a court in the United Kingdom of the offence constituted by the conduct, and
 - (b) he has been sentenced for the offence.
- (4) Conduct also constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
- (a) the conduct occurs in the United Kingdom;
 - (b) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the United Kingdom in respect of the conduct.
- (5) Conduct also constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
- (a) the conduct occurs outside the United Kingdom;
 - (b) the conduct constitutes an extra-territorial offence;
 - (c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the United Kingdom in respect of the conduct.

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- (6) The relevant part of the United Kingdom is the part of the United Kingdom in which the relevant proceedings are taking place.
- (7) The relevant proceedings are the proceedings in which it is necessary to decide whether conduct constitutes an extradition offence.
- (8) Subsections (1) to (5) apply for the purposes of sections 142 to 147.

149 The appropriate judge

- (1) The appropriate judge is—
 - (a) in England and Wales, a District Judge (Magistrates' Courts), a justice of the peace or a judge entitled to exercise the jurisdiction of the Crown Court;
 - (b) in Scotland, a sheriff;
 - (c) in Northern Ireland, a justice of the peace, a resident magistrate or a Crown Court judge.
- (2) This section applies for the purposes of sections 142 to 147.

Extradition from category 2 territories

150 Dealing with person for other offences: Commonwealth countries etc.

- (1) This section applies if—
 - (a) a person is extradited to the United Kingdom from a category 2 territory under law of the territory corresponding to Part 2 of this Act, and
 - (b) the territory is a Commonwealth country, a British overseas territory or the Hong Kong Special Administrative Region of the People's Republic of China.
- (2) The person may be dealt with in the United Kingdom for an offence committed before his extradition only if—
 - (a) the offence is one falling within subsection (3), or
 - (b) the condition in subsection (6) is satisfied.
- (3) The offences are—
 - (a) the offence in respect of which the person is extradited;
 - (b) a lesser offence disclosed by the information provided to the category 2 territory in respect of that offence;
 - (c) an offence in respect of which consent to the person being dealt with is given by or on behalf of the relevant authority.
- (4) An offence is a lesser offence in relation to another offence if the maximum punishment for it is less severe than the maximum punishment for the other offence.
- (5) The relevant authority is—
 - (a) if the person has been extradited from a Commonwealth country, the government of the country;
 - (b) if the person has been extradited from a British overseas territory, the person administering the territory;
 - (c) if the person has been extradited from the Hong Kong Special Administrative Region of the People's Republic of China, the government of the Region.

- (6) The condition is that the protected period has ended.
- (7) The protected period is 45 days starting with the first day after his extradition to the United Kingdom on which the person is given an opportunity to leave the United Kingdom.
- (8) A person is dealt with in the United Kingdom for an offence if—
 - (a) he is tried there for it;
 - (b) he is detained with a view to trial there for it.

151 Dealing with person for other offences: other category 2 territories

- (1) This section applies if—
 - (a) a person is extradited to the United Kingdom from a category 2 territory under law of the territory corresponding to Part 2 of this Act, and
 - (b) the territory is not one falling within section 150(1)(b).
- (2) The person may be dealt with in the United Kingdom for an offence committed before his extradition only if—
 - (a) the offence is one falling within subsection (3), or
 - (b) the condition in subsection (4) is satisfied.
- (3) The offences are—
 - (a) the offence in respect of which the person is extradited;
 - (b) an offence disclosed by the information provided to the category 2 territory in respect of that offence;
 - (c) an offence in respect of which consent to the person being dealt with is given on behalf of the territory.
- (4) The condition is that—
 - (a) the person has returned to the territory from which he was extradited, or
 - (b) the person has been given an opportunity to leave the United Kingdom.
- (5) A person is dealt with in the United Kingdom for an offence if—
 - (a) he is tried there for it;
 - (b) he is detained with a view to trial there for it.

General

152 Remission of punishment for other offences

- (1) This section applies if—
 - (a) a person is extradited to the United Kingdom from—
 - (i) a category 1 territory under law of the territory corresponding to Part 1 of this Act, or
 - (ii) a category 2 territory under law of the territory corresponding to Part 2 of this Act;
 - (b) before his extradition he has been convicted of an offence in the United Kingdom;
 - (c) he has not been extradited in respect of that offence.

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- (2) The punishment for the offence must be treated as remitted but the person's conviction for the offence must be treated as a conviction for all other purposes.

153 Return of person acquitted or not tried

- (1) This section applies if—
- (a) a person is accused in the United Kingdom of the commission of an offence;
 - (b) the person is extradited to the United Kingdom in respect of the offence from—
 - (i) a category 1 territory under law of the territory corresponding to Part 1 of this Act, or
 - (ii) a category 2 territory under law of the territory corresponding to Part 2 of this Act;
 - (c) the condition in subsection (2) or the condition in subsection (3) is satisfied.
- (2) The condition is that—
- (a) proceedings against the person for the offence are not begun before the end of the required period, which is 6 months starting with the day on which the person arrives in the United Kingdom on his extradition, and
 - (b) before the end of the period of 3 months starting immediately after the end of the required period the person asks the Secretary of State to return him to the territory from which he was extradited.
- (3) The condition is that—
- (a) at his trial for the offence the person is acquitted or is discharged under any of the provisions specified in subsection (4), and
 - (b) before the end of the period of 3 months starting immediately after the date of his acquittal or discharge the person asks the Secretary of State to return him to the territory from which he was extradited.
- (4) The provisions are—
- (a) section 12(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);
 - (b) section 246(1), (2) or (3) of the Criminal Procedure (Scotland) Act 1995 (c. 46);
 - (c) Article 4(1) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)).
- (5) The Secretary of State must arrange for him to be sent back, free of charge and with as little delay as possible, to the territory from which he was extradited to the United Kingdom in respect of the offence.
- (6) If the accusation in subsection (1)(a) relates to the commission of an offence in Scotland, subsections (2)(b), (3)(b) and (5) apply as if the references to the Secretary of State were references to the Scottish Ministers.

154 Restriction on bail where undertaking given by Secretary of State

- (1) This section applies in relation to a person if—
- (a) the Secretary of State has given an undertaking in connection with the person's extradition to the United Kingdom, and

- (b) the undertaking includes terms that the person be kept in custody until the conclusion of any proceedings against him in the United Kingdom for an offence.
- (2) A court, judge or justice of the peace may grant bail to the person in the proceedings only if the court, judge or justice of the peace considers that there are exceptional circumstances which justify it.

155 Service personnel

The Secretary of State may by order provide for the preceding provisions of this Part to have effect with specified modifications in relation to a case where the person whose extradition is sought or ordered is subject to military law, air-force law or the Naval Discipline Act 1957 (c. 53).