



Extradition Act 2003

2003 CHAPTER 41

PART 5

MISCELLANEOUS AND GENERAL

[^{F1}Non-UK extradition: transit through the United Kingdom

Textual Amendments

- F1** Ss. 189A-189E and cross-heading inserted (1.5.2021) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 168, 185(1)** (with **ss. 21, 33, 42, 58, 75, 93**); S.I. 2021/532, art. 3

189A Facilitating transit through the United Kingdom

- (1) The relevant UK authority may issue a transit certificate in relation to the non-UK extradition of a person if that authority has been requested to facilitate the transit of the person through the United Kingdom for the purposes of the extradition.
- (2) If the relevant UK authority issues a transit certificate in relation to the non-UK extradition of a person, an authorised officer may do any or all of the following—
 - (a) escort the person from, or to, any means of transport used for the purposes of the extradition;
 - (b) take the person into custody to facilitate the transit of the person through the United Kingdom for the purposes of the extradition;
 - (c) search the person, and any item in the possession of the person, for any item which the person might use to cause physical injury to that person or any other person;
 - (d) in a case where the person has been taken into custody under paragraph (b), search the person, and any item in the possession of the person, for any item which the person might use to escape from custody.

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Cross Heading: Non-UK extradition: transit through the United Kingdom. (See end of Document for details)

- (3) An authorised officer searching a person in the exercise of a power conferred by subsection (2)(c) or (d) may seize any item found if the officer has reasonable grounds for believing that the person searched might use the item—
 - (a) to cause physical injury to that person or any other person; or
 - (b) in a case where the person has been taken into custody, to escape from custody.
- (4) If no request is made under subsection (1) in relation to the non-UK extradition of a person, or if such a request is made but a transit certificate is not issued, that does not—
 - (a) prevent the transit of the person through the United Kingdom for the purposes of the extradition; or
 - (b) affect the powers which an authorised officer has (otherwise than under this section) in relation to the person while in the United Kingdom.

189B Unscheduled arrival in the United Kingdom

- (1) This section applies in a case where—
 - (a) a person is being extradited,
 - (b) the extradition is a non-UK extradition, and
 - (c) the person makes an unscheduled arrival in the United Kingdom.
- (2) An authorised officer may do any or all of the following—
 - (a) take the person into custody to facilitate the transit of the person through the United Kingdom for the purposes of the extradition;
 - (b) search the person, and any item in the possession of the person, for any item which the person might use to cause physical injury to that person or any other person;
 - (c) in a case where the person has been taken into custody under paragraph (a), search the person, and any item in the possession of the person, for any item which the person might use to escape from custody.
- (3) Any power conferred by subsection (2) may be exercised—
 - (a) upon the unscheduled arrival, or
 - (b) at any later time when the person is still in the United Kingdom after the unscheduled arrival.
- (4) A person taken into custody under this section may be kept in custody until the expiry of the period of 72 hours beginning with the time when the person is taken (or first taken) into custody under this section.
- (5) But if a transit certificate is issued under section 189A in respect of the non-UK extradition of the person, the person must not be kept in custody under this section after the issue of the certificate.
- (6) Subsection (5) does not prevent the person from being taken into custody under section 189A.
- (7) An authorised officer searching a person in the exercise of a power conferred by subsection (2)(b) or (c) may seize any item found if the officer has reasonable grounds for believing that the person searched might use the item—
 - (a) to cause physical injury to that person or any other person; or
 - (b) in a case where the person has been taken into custody, to escape from custody.

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189C Exercise of the extradition transit powers

- (1) The extradition transit powers include power to use reasonable force when necessary.
- (2) An authorised officer may not, when exercising a relevant search power, require a person to remove any clothing other than an outer coat, jacket, headgear or gloves.
- (3) Any item seized from a person in the exercise of a relevant search power may be retained while the person is in transit through the United Kingdom.

189D Codes of practice

- (1) The Secretary of State must issue a code of practice in connection with—
 - (a) the exercise of extradition transit powers;
 - (b) the retention, use and return of anything seized under a relevant search power.
- (2) If the Secretary of State proposes to issue a code of practice under this section the Secretary of State must—
 - (a) publish a draft of the code;
 - (b) consider any representations made to the Secretary of State about the draft;
 - (c) if the Secretary of State thinks it appropriate, modify the draft in the light of any such representations.
- (3) The Secretary of State must lay the code before Parliament.
- (4) After doing so the Secretary of State may bring the code into operation by order.
- (5) The Secretary of State may revise the whole or any part of a code issued under this section and issue the code as revised; and subsections (2) to (4) apply to such a revised code as they apply to the original code.
- (6) A failure by an authorised officer to comply with a provision of a code issued under this section does not of itself make the authorised officer liable to criminal or civil proceedings.
- (7) A code issued under this section is admissible in evidence in any proceedings and must be taken into account by a court in determining any question to which it appears to the court to be relevant.
- (8) If the Secretary of State publishes a draft code of practice in connection with a matter specified in subsection (1) before the date on which this section comes into force—
 - (a) the draft is as effective as one published under subsection (2) on or after that date;
 - (b) representations made to the Secretary of State about the draft before that date are as effective as such representations made after that date;
 - (c) modifications made by the Secretary of State to the draft in the light of any such representations before that date are as effective as any such modifications made on or after that date.

189E Sections 189A to 189D: interpretation

- (1) An “authorised officer” is—
 - (a) a constable, or
 - (b) a person who is of a description specified by the Secretary of State by order.

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- (2) A National Crime Agency officer, prison officer, or any other person who has the powers of a constable (but is not a constable)—
- (a) does not have the extradition transit powers by virtue of having the powers of a constable; and
 - (b) accordingly, has the extradition transit powers only if the person is of a description specified under subsection (1)(b).
- (3) These expressions have the meanings given—
- “extradition transit powers” means the powers under—
 - (a) section 189A (except the power to issue transit certificates), and
 - (b) section 189B;
 - “foreign territory” means a territory outside the United Kingdom;
 - “non-UK extradition” means extradition from one foreign territory to another foreign territory;
 - “relevant search power” means a power of search under—
 - (a) section 189A(2)(c) or (d), or
 - (b) section 189B(2)(b) or (c);
 - “relevant UK authority” means—
 - (a) the National Crime Agency (in the case of a non-UK extradition to a category 1 territory), or
 - (b) the Secretary of State (in any other case).
- (4) A reference to the transit of a person through the United Kingdom is a reference to the person arriving in, being in, and departing from the United Kingdom (whether or not the person travels within the United Kingdom between arrival and departure).
- (5) This section applies for the purposes of section 189A to 189D (and this section).]

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