



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 5

#### MISCELLANEOUS AND GENERAL

##### *Other miscellaneous provisions*

#### Annotations:

##### Commencement Information

- I1** Act wholly in force at 1.1.2004, see [s. 221](#) and [S.I. 2003/3103, art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

#### **207 Extradition for more than one offence**

The Secretary of State may by order provide for this Act to have effect with specified modifications in relation to a case where—

- (a) a Part 1 warrant is issued in respect of more than one offence;
- (b) a request for extradition is made in respect of more than one offence.

#### Annotations:

##### Commencement Information

- I2** Act wholly in force at 1.1.2004, see [s. 221](#) and [S.I. 2003/3103, art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

#### **208 National security**

- (1) This section applies if the Secretary of State believes that the conditions in subsections (2) to (4) are satisfied in relation to a person.

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*Changes to legislation: Extradition Act 2003, Cross Heading: Other miscellaneous provisions is up to date with all changes known to be in force on or before 21 May 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (2) The first condition is that the person's extradition is sought or will be sought under Part 1 or Part 2 in respect of an offence.
- (3) The second condition is that—
  - (a) in engaging in the conduct constituting (or alleged to constitute) the offence the person was acting for the purpose of assisting in the exercise of a function conferred or imposed by or under an enactment, or
  - (b) as a result of an authorisation given by the Secretary of State the person is not liable under the criminal law of any part of the United Kingdom for the conduct constituting (or alleged to constitute) the offence.
- (4) The third condition is that the person's extradition in respect of the offence would be against the interests of national security.
- (5) The Secretary of State may certify that the conditions in subsections (2) to (4) are satisfied in relation to the person.
- (6) If the Secretary of State issues a certificate under subsection (5) he may—
  - (a) direct that a Part 1 warrant issued in respect of the person and in respect of the offence is not to be proceeded with, or
  - (b) direct that a request for the person's extradition in respect of the offence is not to be proceeded with.
- (7) If the Secretary of State issues a certificate under subsection (5) he may order the person's discharge (instead of or in addition to giving a direction under subsection (6)).
- (8) These rules apply if the Secretary of State gives a direction under subsection (6)(a) in respect of a warrant—
  - (a) if the designated authority has not issued a certificate under section 2 in respect of the warrant it must not do so;
  - (b) if the person is arrested under the warrant or under section 5 there is no requirement for him to be brought before the appropriate judge and he must be discharged;
  - (c) if the person is brought before the appropriate judge under section 4 or 6 the judge is no longer required to proceed or continue proceeding under sections 7 and 8;
  - (d) if the extradition hearing has begun the judge is no longer required to proceed or continue proceeding under sections 10 to 25;
  - (e) if the person has consented to his extradition, the judge is no longer required to order his extradition;
  - (f) if an appeal to the High Court or [<sup>F1</sup>Supreme Court] has been brought, the court is no longer required to hear or continue hearing the appeal;
  - (g) if the person's extradition has been ordered there is no requirement for him to be extradited.
- (9) These rules apply if the Secretary of State gives a direction under subsection (6)(b) in respect of a request—
  - (a) if he has not issued a certificate under section 70 in respect of the request he is no longer required to do so;
  - (b) if the person is arrested under a warrant issued under section 71 or under a provisional warrant there is no requirement for him to appear or be brought before the appropriate judge and he must be discharged;

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- (c) if the person appears or is brought before the appropriate judge the judge is no longer required to proceed or continue proceeding under sections 72, 74, 75 and 76;
  - (d) if the extradition hearing has begun the judge is no longer required to proceed or continue proceeding under sections 78 to 91;
  - (e) if the person has given his consent to his extradition to the appropriate judge, the judge is no longer required to send the case to the Secretary of State for his decision whether the person is to be extradited;
  - (f) if an appeal to the High Court or <sup>[F1]</sup>Supreme Court] has been brought, the court is no longer required to hear or continue hearing the appeal;
  - (g) if the person's extradition has been ordered there is no requirement for him to be extradited.
- (10) These must be made under the hand of the Secretary of State—
- (a) a certificate under subsection (5);
  - (b) a direction under subsection (6);
  - (c) an order under subsection (7).
- (11) The preceding provisions of this section apply to Scotland with these modifications—
- (a) in subsection (9)(a) for “he has” substitute “ the Scottish Ministers have ” and for “he is” substitute “ they are ”;
  - (b) in subsection (9)(e) for “Secretary of State for his” substitute “ Scottish Ministers for their ”.
- (12) In subsection (3) the reference to an enactment includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.
- <sup>[F2]</sup>(13) In this section, “appeal” includes an application for leave to appeal.]

**Annotations:**

**Amendments (Textual)**

- F1** Words in s. 208 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 81(4)(o)**; S.I. 2009/1604, **art. 2(d)**
- F2** S. 208(13) inserted (15.4.2015) by The Extradition Act 2003 (Amendment to Designations and Appeals) Order 2015 (S.I. 2015/992), arts. 1(1), **3(14)** (with art. 1(4))

**Commencement Information**

- I3** Act wholly in force at 1.1.2004, see s. 221 and S.I. 2003/3103, **art. 2** (subject to arts. 3-5) (as amended by S.I. 2003/3258 art. 2(2) and S.I. 2003/3312 art. 2(2))

**209 Reasonable force**

A person may use reasonable force, if necessary, in the exercise of a power conferred by this Act.

**Annotations:**

**Commencement Information**

- I4** Act wholly in force at 1.1.2004, see s. 221 and S.I. 2003/3103, **art. 2** (subject to arts. 3-5) (as amended by S.I. 2003/3258 art. 2(2) and S.I. 2003/3312 art. 2(2))

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## 210 Rules of court

- (1) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings under this Act.
- (2) In Scotland any rules of court under this Act are to be made by Act of Adjournal.

### Annotations:

#### Commencement Information

- I5** Act wholly in force at 1.1.2004, see [s. 221](#) and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

## 211 Service of notices

Service of a notice on a person under section 54, 56, 58, 129, 130 or 131 may be effected in any of these ways—

- (a) by delivering the notice to the person;
- (b) by leaving it for him with another person at his last known or usual place of abode;
- (c) by sending it by post in a letter addressed to him at his last known or usual place of abode.

### Annotations:

#### Commencement Information

- I6** Act wholly in force at 1.1.2004, see [s. 221](#) and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

## 212 Article 95 alerts: transitional provision

[<sup>F3</sup>(1) This section applies in a case where an article 95 alert is issued at the request of an authority of a category 1 territory.

- (2) The reference in section 2(2) to an arrest warrant issued by a judicial authority of a category 1 territory is to be read—
  - (a) as if it were a reference to the alert issued at the request of the authority, and
  - (b) as if the alert included any information sent with it which relates to the case.

(2A) The references in section 63(1) to an arrest warrant are to be read in accordance with paragraphs (a) and (b) of subsection (2) above.]

- (3) [<sup>F4</sup>In consequence of] subsection (2), this Act has effect with these modifications—
  - (a) in sections 2(7) and (8), 28(1), 30(1) and (4)(d), 32(2)(b), 33(6)(b), 35(4)(b), 36(3)(b), 47(3)(b), 49(3)(b), 190(3) and 191(2)(a) for “authority which issued the Part 1 warrant” substitute “ authority at the request of which the alert was issued ”;
  - (b) omit section 5;
  - (c) in sections 33(4)(b), 42(2)(a), 43(2)(a) and (4) and 61(1)(d) and (e), for “authority which issued the warrant” substitute “ authority at the request of which the alert was issued ”;

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(d) in section 66(2), for the words from “believes” to the end substitute “believes is the authority at the request of which the alert was issued”.

(4) An article 95 alert is an alert issued pursuant to article 95 of the Convention implementing the Schengen agreement of 14th June 1985.

**Annotations:**

**Amendments (Textual)**

**F3** S. 212(1)-(2A) substituted (25.1.2010) for s. 212(1)(2) by Policing and Crime Act 2009 (c. 26), ss. 68(2), 116; S.I. 2009/3096, art. 3(k) (with art. 4)

**F4** Words in s. 212(3) substituted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 68(3), 116; S.I. 2009/3096, art. 3(k) (with art. 4)

**Commencement Information**

**I7** Act wholly in force at 1.1.2004, see s. 221 and S.I. 2003/3103, art. 2 (subject to arts. 3-5) (as amended by S.I. 2003/3258 art. 2(2) and S.I. 2003/3312 art. 2(2))

**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. 189A-189E and cross-heading inserted by [2014 c. 12 s. 168](#)