

SCHEDULES

SCHEDULE 1

Sections 188 and 189

RE-EXTRADITION: MODIFICATIONS

PART 1

CATEGORY 1 TERRITORIES

- 1 In section 11(1), omit paragraphs (c), (g) and (h).
- 2 Omit sections 14, 18 and 19.
- 3 In section 21(3), for “must” substitute “may”.
- 4 In section 31(2), for paragraphs (a) and (b) substitute “would (apart from section 187(1)) be released from detention pursuant to the UK sentence (whether or not on licence)”.
- 5 In section 39(2)(a), for “a certificate is issued under section 2 in respect of the warrant” substitute “the person would (apart from section 187(1)) be released from detention pursuant to the UK sentence (whether or not on licence)”.
- 6 In section 44(2)(a), for “following his arrest under this Part” substitute “under section 187(1)”.
- 7 In section 45(1), for the words from “arrested” to “issued” substitute “brought before the appropriate judge under section 187(1) may consent to his extradition to the territory in which the overseas sentence was imposed”.

PART 2

CATEGORY 2 TERRITORIES

- 8 In section 78, omit subsections (2), (3), (5) and (8).
- 9 In section 78, for subsection (4) substitute—

“(4) The judge must decide whether the offence specified in the request is an extradition offence.”
- 10 In section 78(6), for “any of the questions” substitute “the question”.
- 11 In section 78(7), for “those questions” substitute “that question”.
- 12 In section 79(1), omit paragraph (c).
- 13 Omit section 82.
- 14 In section 87(3), for the words from “must send the case” to “extradited” substitute “may order the person to be extradited to the category 2 territory”.
- 15 In section 87, after subsection (3) insert—

Status: This is the original version (as it was originally enacted).

“(4) If the judge makes an order under subsection (3) he must remand the person in custody or on bail to wait for his extradition to the territory.

(5) If the judge remands the person in custody he may later grant bail.”

16 In section 103(1)—

(a) for the words from “sends a case” to “extradited” substitute “orders a person’s extradition under this Part”; and

(b) for “the relevant decision” substitute “the order”.

17 In section 103(2), for the words from “the person” to “the Secretary of State” substitute “the order is made under section 128”.

18 In section 103, omit subsections (3), (5), (6), (7) and (8).

19 In section 103(9), for the words from “the Secretary of State” to “person” substitute “the order is made”.

20 In section 104, omit subsections (1)(b), (6) and (7).

21 In section 106, omit subsections (1)(b), (7) and (8).

22 In section 117(1)(a), for “the Secretary of State” substitute “the appropriate judge”.

23 In section 117(1)(b), for the words from “permitted period” to “extradition” substitute “period permitted under that section”.

24 In section 117, after subsection (1) insert—

“(1A) But this section does not apply if the order is made under section 128.”

25 In section 117(2), for “the Secretary of State” substitute “the judge”.

26 In section 119(1)(a), for “the Secretary of State” substitute “the appropriate judge”.

27 In section 119, in subsections (2) to (6) and in each place in subsection (7), for “the Secretary of State” substitute “the judge”.

28 In section 120, after subsection (1) insert—

“(1A) But this section does not apply if the order for the person’s extradition is made under section 128.”

29 In section 121(2)(a), for “a certificate is issued under section 70 in respect of the request” substitute “the person would (apart from section 187(1)) be released from detention pursuant to the UK sentence (whether or not on licence)”.

30 In section 127(1), for the words from “arrested” to “requested” substitute “brought before the appropriate judge under section 187(1) may consent to his extradition to the territory in which the overseas sentence was imposed”.

31 In section 127(3), before paragraph (a) insert—

“(aa) must be given before the appropriate judge;”.

32 In section 127, omit subsections (4) and (5).

33 In section 128, after subsection (1) insert—

“(1A) The judge must remand the person in custody or on bail.

(1B) If the judge remands the person in custody he may later grant bail.”

34 In section 128(4), for the words from “send the case” to “extradited” substitute
“within the period of 10 days starting with the day on which consent is given order
the person’s extradition to the category 2 territory”.

35 In section 128, after subsection (5) insert—

“(6) Subsection (4) has effect subject to section 128B.

(7) If subsection (4) is not complied with and the person applies to the judge to
be discharged the judge must order his discharge.”

36 After section 128 insert—

“128A Extradition to category 2 territory following consent

(1) This section applies if the appropriate judge makes an order under
section 128(4) for a person’s extradition to a category 2 territory.

(2) The person must be extradited to the category 2 territory before the end of
the required period, which is 28 days starting with the day on which the order
is made.

(3) If subsection (2) is not complied with and the person applies to the judge to
be discharged the judge must order his discharge, unless reasonable cause
is shown for the delay.

128B Extradition claim following consent

(1) This section applies if—

(a) a person consents under section 127 to his extradition to a category 2
territory, and

(b) before the judge orders his extradition under section 128(4), the judge is
informed that the conditions in subsection (2) or (3) are met.

(2) The conditions are that—

(a) the Secretary of State has received another valid request for the
person’s extradition to a category 2 territory;

(b) the other request has not been disposed of.

(3) The conditions are that—

(a) a certificate has been issued under section 2 in respect of a Part 1
warrant issued in respect of the person;

(b) the warrant has not been disposed of.

(4) The judge must not make an order under section 128(4) until he is informed
what order has been made under section 126(2) or 179(2).

(5) If the order under section 126(2) or 179(2) is for further proceedings on
the request under consideration to be deferred until the other request, or the
warrant, has been disposed of, the judge must remand the person in custody
or on bail.

(6) If the judge remands the person in custody he may later grant bail.

(7) If—

Status: This is the original version (as it was originally enacted).

- (a) the order under section 126(2) or 179(2) is for further proceedings on the request under consideration to be deferred until the other request, or the warrant, has been disposed of, and
 - (b) an order is made under section 180 for proceedings on the request under consideration to be resumed,
- the period specified in section 128(4) must be taken to be 10 days starting with the day on which the order under section 180 is made.
- (8) If the order under section 126(2) or 179(2) is for further proceedings on the other request, or the warrant, to be deferred until the request under consideration has been disposed of, the period specified in section 128(4) must be taken to be 10 days starting with the day on which the judge is informed of the order.

128C Extradition following deferral for competing claim

- (1) This section applies if—
- (a) an order is made under section 128(4) for a person to be extradited to a category 2 territory in pursuance of a request for his extradition;
 - (b) before the person is extradited to the territory an order is made under section 126(2) or 179(2) for the person's extradition in pursuance of the request to be deferred;
 - (c) the appropriate judge makes an order under section 181(2) for the person's extradition in pursuance of the request to cease to be deferred.
- (2) The required period for the purposes of section 128A(2) is 28 days starting with the day on which the order under section 181(2) is made.”