



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

[^{F1}Provisional arrest without warrant

[^{F1}74D Person provisionally arrested under section 74A

- (1) The judge before whom a person is brought following arrest under section 74A must decide, on the basis of any evidence or information produced to the judge, whether a warrant would be issued under section 73 if the person were not already under arrest.
- (2) If the judge decides the question in subsection (1) in the negative, the judge must order the person's discharge.
- (3) If the judge decides that question in the affirmative, the judge must proceed under section 74E.
- (4) The judge may adjourn the proceedings to allow more evidence or information to be produced if—
 - (a) an application for the adjournment is made in accordance with rules of court, and
 - (b) the judge is satisfied, on the balance of probabilities, that evidence or information could not reasonably have been produced in time to avoid the need for the adjournment.
- (5) If the judge grants an adjournment under subsection (4), the judge must remand the person in custody or on bail.
- (6) If the person is remanded in custody, the judge may later grant bail.
- (7) More than one adjournment may be granted under subsection (4) but the total period of any adjournments must not exceed 72 hours.

Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Section 74D. (See end of Document for details)

- (8) In calculating that 72-hour period, no account is to be taken of any day falling within section 6(8A)(a) to (d) (weekends, bank holidays etc).
- (9) If the judge has granted an adjournment or further adjournment, the question in subsection (1) must be decided by the appropriate judge on the next occasion when the person is brought or appears before the appropriate judge (unless a further adjournment is granted on that occasion).
- (10) If the person applies to the judge to be discharged—
- (a) the judge may order the person's discharge if—
 - (i) section 74A(2) (copy of certificate to be given to arrested person) was not complied with, or
 - (ii) the certificate did not comply with section 74B(2);
 - (b) the judge must order the person's discharge if—
 - (i) the judge is satisfied that there were no reasonable grounds on which the designated authority could have issued the certificate under section 74B(1), or
 - (ii) section 74A(3) (person to be brought before judge as soon as practicable after arrest) was not complied with.]

Textual Amendments

F1 Ss. 74A-74E and cross-heading inserted (31.12.2020) by [Extradition \(Provisional Arrest\) Act 2020](#) (c. 18), s. 2(4), **Sch. para. 2** (with [Sch. para. 6](#)); S.I. 2020/1652, reg. 2(1)(b)

Changes to legislation:

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