

SCHEDULES

SCHEDULE 8

Transfer of prisoners

Repatriation of Prisoners Act 1984

1. Amend the Repatriation of Prisoners Act 1984(1) as follows.
2. In section 1(9) (issue of warrant for transfer: meaning of “relevant Minister”)—
 - (a) omit “and” at the end of paragraph (a); and
 - (b) after paragraph (a) insert—
 - “(aa) the Department of Justice in Northern Ireland in a case where the person who is the subject of the proposed transfer is for the time being required to be detained in a prison, a hospital or any other institution either—
 - (i) in Northern Ireland; or
 - (ii) in the country or territory referred to in subsection (1)(b) above if it is proposed to transfer him from that country or territory to Northern Ireland; and”.
3. In section 2(3A) (transfer out of the UK: meaning of “relevant Minister”)—
 - (a) omit “and” at the end of paragraph (a); and
 - (b) after paragraph (a) insert—
 - “(aa) the Department of Justice in Northern Ireland where the order referred to in subsection (2) above relates to a person who has been removed from Northern Ireland by virtue of a warrant issued under section 1 above; and”.
- 4.—(1) Amend section 4 (temporary return) as follows.
 - (2) In subsection (5) (meaning of “relevant Minister”)—
 - (a) omit “and” at the end of paragraph (a); and
 - (b) after paragraph (a) insert—
 - “(aa) the Department of Justice in Northern Ireland in a case where the prisoner is a person who is either—
 - (i) detained in Northern Ireland and the transfers are for the purpose of a temporary return of the prisoner to a country or territory outside the British Islands from which he has previously been transferred into Northern Ireland under this Act or any other enactment; or
 - (ii) detained in a country or territory outside the British Islands to which he has previously been transferred from Northern Ireland under this Act; and”.

(1) 1984 c. 47. Sections 1(9), 2(3A), 4(5), 5(8), 6(5), 7(3A) and 8(4) were inserted by S.I. 1999/1820. The Act was modified by S.I. 1999/1748 and amended by the Criminal Justice and Immigration Act 2008 (c. 4), sections 93-96 and Schedule 26. There have been other amendments to the Act, but none are relevant.

Status: This is the original version (as it was originally made).

- (3) After subsection (6) insert—
- “(7) Any reference in subsection (5)(aa) to the prisoner having previously been transferred into or from Northern Ireland includes a reference to responsibility for his detention and release having previously been transferred to or from the Department of Justice in Northern Ireland (as the case may be).”
5. In section 4A (issue of warrant transferring responsibility for detention and release of offender)
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- (a) in subsection (5) for “that Minister” (in both places) substitute “the relevant Minister”; and
- (b) in subsection (10) after paragraph (a) insert—
- “(aa) the Department of Justice in Northern Ireland in a case where the person who is the subject of the proposed transfer of responsibility is—
- (i) a person to whom subsection (2) applies who is for the time being required to be detained at a place in Northern Ireland; or
- (ii) a person to whom subsection (3) applies, if it is proposed that he will be detained at a place in Northern Ireland;”.
6. In section 4B(4) (transfer of responsibility from the UK: meaning of “relevant Minister”) after paragraph (a) omit the “and” and insert—
- “(aa) the Department of Justice in Northern Ireland, where Northern Ireland is the part of the United Kingdom in which the order referred to in subsection (2) has effect; and”.
7. In section 4D(1) (issue of certificate to be sent to the appropriate judge with a view to obtaining the issue of a warrant under section 4D(3)) after “Scottish Ministers” insert “or the Department of Justice in Northern Ireland”.
8. In section 4E—
- (a) in subsection (1) (issue of certificate to be sent to the appropriate judge with a view to obtaining the issue of a warrant under section 4E(3)) after “Scottish Ministers” insert “or the Department of Justice in Northern Ireland”; and
- (b) in subsection (6) (application to the appropriate judge) after “Scottish Ministers” insert “or the Department of Justice in Northern Ireland”.
9. In section 4F(2) (designation of a person for the purposes of sections 4D and 4E) after “Scottish Ministers” insert “or the Department of Justice in Northern Ireland”.
- 10.—(1) Amend section 5 (operation of warrant and retaking prisoners) as follows.
- (2) In subsection (8) (meaning of “relevant Minister”)—
- (a) omit “and” at the end of paragraph (a); and
- (b) after paragraph (a) insert—
- “(aa) the Department of Justice in Northern Ireland where the warrant provides for the transfer of a prisoner to or from Northern Ireland; and”.
- (3) In subsection (10) (modifications for warrants under section 4A) omit the “and” after paragraph (c) and after paragraph (d) insert—
- “; and
- (e) in subsection (8)(aa) for “transfer of a prisoner to or from Northern Ireland” there were substituted “transfer of responsibility for the detention and release of the relevant person to the Department of Justice”.”.

11. In section 6(5) (revocation etc. of warrants: meaning of “relevant Minister”) after paragraph (a) insert—

- “(aa) the Department of Justice in Northern Ireland in a case where—
- (i) the warrant was issued under section 1 and provides for the transfer of the prisoner to or from Northern Ireland; or
 - (ii) the warrant was issued under section 4A and provides for the transfer of responsibility for the detention and release of the relevant person to the Department of Justice;”.

12. In section 7(3A) (expenses: meaning of “relevant Minister”)—

- (a) omit “and” at the end of paragraph (a); and
- (b) after paragraph (a) insert—

“(aa) the Department of Justice in Northern Ireland where the transfer is to Northern Ireland; and”.

13. In section 8(4) (certificates: meaning of “relevant Minister”)—

- (a) omit “and” at the end of paragraph (a); and
- (b) after paragraph (a) insert—

“(aa) the Department of Justice in Northern Ireland where the proceedings relate to a transfer which it has the responsibility under this Act to make or consider making; and”.

14. After section 8 insert—

“8A Northern Ireland: national security

(1) The Secretary of State may, by virtue of this subsection, make an agreement under section 1(1)(b) or 4A(5)(b) if—

- (a) the agreement is one that could be made by the Department of Justice in Northern Ireland by virtue of section 1(9)(aa) or 4A(10)(aa), and
- (b) the Secretary of State’s decision to make the agreement is arrived at (wholly or partly) on the basis of protected information.

(2) Subject to subsection (3), if the Secretary of State makes an agreement by virtue of subsection (1) in any case, in this Act references to the relevant Minister are to be read, for that case, as references to the Secretary of State (and the definitions of “relevant Minister” are to be read accordingly).

(3) In the case of an agreement under section 4A(5)(b), subsection (2) does not apply to—

- (a) the references in sections 4A(1) and 4B(1);
- (b) the last two references in section 4A(5);
- (c) the second reference in section 4A(6);
- (d) the first reference in section 4C(1);
- (e) the reference in paragraph 9 of the Schedule.

(4) The Secretary of State may notify the Department of Justice that no agreement is to be made under section 1(1)(b) or 4A(5)(b) in relation to a particular person without the Secretary of State’s agreement; and the Department may not make such an agreement in relation to that person without the Secretary of State’s agreement.

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

(5) But the Secretary of State may give a notification or refuse his agreement only if his decision to do so is arrived at (wholly or partly) on the basis of protected information.

(6) In this section “protected information” means information the disclosure of which may, in the opinion of the Secretary of State, be against the interests of national security.”