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STATUTORY INSTRUMENTS

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**2011 No. 1709**

The Criminal Procedure Rules 2011

PART 17  
EXTRADITION

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**Refusal to make an order of committal**

**17.1.**—(1) Where a magistrates' court refuses to make an order of committal in relation to a person in respect of the offence or, as the case may be, any of the offences to which the authority to proceed relates and the state, country or colony seeking the surrender of that person immediately informs the court that it intends to make an application to the court to state a case for the opinion of the High Court, if the magistrates' court makes an order in accordance with section 10(2) of the Extradition Act 1989(1) releasing that person on bail, the court officer shall forthwith send a copy of that order to the Administrative Court Office.

(2) Where a magistrates' court refuses to make an order of committal in relation to a person in respect of the offence or, as the case may be, any of the offences to which the authority to proceed relates and the state, country or colony seeking his surrender wishes to apply to the court to state a

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(1) 1989 c. 33; the whole Act was repealed by section 218(b) of, and Schedule 4 to, the Extradition Act 1989 (c. 41), with savings and territorial exceptions.

case for the opinion of the High Court under section 10(1) of the 1989 Act, such application must be made to the magistrates' court within the period of 21 days following the day on which the court refuses to make the order of committal unless the court grants a longer period within which the application is to be made.

(3) Such an application shall be made in writing and shall identify the question or questions of law on which the opinion of the High Court is sought.

(4) Within 21 days after receipt of an application to state a case under section 10(1) of the 1989 Act, the magistrates' court officer shall send a draft case to the solicitor for the state, country or colony and to the person whose surrender is sought or his solicitor and shall allow each party 21 days within which to make representations thereon; within 21 days after the latest day on which such representations may be made the court of committal shall, after considering any such representations and making such adjustments, if any, to the draft case as it thinks fit, state and sign the case which the court officer shall forthwith send to the solicitor for the state, country or colony.

*[Note. This rule has effect only in proceedings where the request for extradition was received by the relevant authority in the United Kingdom on or before 31st December 2003.]*

#### **Notice of waiver**

**17.2.**—(1) A notice given under section 14 of, or paragraph 9 of Schedule 1 to, the Extradition Act 1989(2) (notice of waiver under the simplified procedure) shall be in the form set out in the Practice Direction or a form to the like effect.

(2) Such a notice shall be signed in the presence of the Senior District Judge (Chief Magistrate) or another District Judge (Magistrates' Courts) designated by him for the purposes of the Act, a justice of the peace or a justices' clerk.

(3) Any such notice given by a person in custody shall be delivered to the Governor of the prison in whose custody he is.

(4) If a person on bail gives such notice he shall deliver it to, or send it by post in a registered letter or by recorded delivery service addressed to, the Secretary of State for the Home Department, c/o the Extradition Section, Home Office, 5<sup>th</sup> Floor, Fry Building, 2 Marsham Street, London, SW1P 4DF.

*[Note. This rule has effect only in proceedings where the request for extradition was received by the relevant authority in the United Kingdom on or before 31st December 2003.]*

#### **Notice of consent**

**17.3.**—(1) A person arrested in pursuance of a warrant under section 8 of or paragraph 5 of Schedule 1 to the Extradition Act 1989(3) may at any time consent to his return; and where such consent is given in accordance with the following provisions of this rule, the Senior District Judge (Chief Magistrate) or another District Judge (Magistrates' Courts) designated by him for the purposes of the Act may order the committal for return of that person in accordance with section 14(2) of that Act or, as the case may be, paragraph 9(2) of Schedule 1 to the Act.

(2) A notice of consent for the purposes of this rule shall be given in the form set out in the Practice Direction and shall be signed in the presence of the Senior District Judge (Chief Magistrate) or another District Judge (Magistrates' Courts) designated by him for the purposes of the 1989 Act.

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- (2) 1989 c. 33; section 14 was amended by section 109(1) of, and paragraph 328 of Schedule 8 to, the Courts Act 2003 (c. 39); paragraph 9 of Schedule 1 was amended by section 109(1) of, and paragraph 329 of Schedule 8 to, the Courts Act 2003 (c. 39).
- (3) 1989 c. 33; section 8 was amended by section 158(4) of the Criminal Justice and Public Order Act 1994 (c. 33), article 6(1) of, and paragraph 9 of Schedule 5 to, S.I. 1999/1750, section 78(2) of, and paragraphs 31 and 32 of Schedule 11 and Part V of Schedule 15 to, the Access to Justice Act 1999 (c. 22) and section 109(1) of, and paragraph 325 of Schedule 8 to, the Courts Act 2003 (c. 39); paragraph 5 of Schedule 1 was amended by section 78(2) of, and paragraphs 31 and 36 of Schedule 11 and Part V of Schedule 15 to, the Access to Justice Act 1999 (c. 22) and section 109(1) of, and paragraph 329 of Schedule 8 to, the Courts Act 2003 (c. 39).

*[Note. This rule has effect only in proceedings where the request for extradition was received by the relevant authority in the United Kingdom on or before 31st December 2003.]*

#### **Notice of consent (parties to 1995 Convention)**

**17.4.**—(1) This rule applies as between the United Kingdom and states other than the Republic of Ireland that are parties to the Convention drawn up on the basis of Article 31 of the Treaty on European Union on Simplified Extradition Procedures between the Member States of the European Union, in relation to which section 14A of the Extradition Act 1989 applies by virtue of section 34A and Schedule 1A of that Act(4).

(2) Notice of consent for the purposes of section 14A(3) of the 1989 Act shall be given in the form set out in the Practice Direction and shall be signed in the presence of the Senior District Judge (Chief Magistrate) or another District Judge (Magistrates' Courts) designated by him for the purposes of that Act.

(3) The Senior District Judge (Chief Magistrate) or another District Judge (Magistrates' Courts) designated by him for the purposes of the Act may order the committal for return of a person if he gives consent under section 14A of the 1989 Act in accordance with paragraph (2) above before he is committed under section 9 of that Act(5).

*[Note. This rule has effect only in proceedings where the request for extradition was received by the relevant authority in the United Kingdom on or before 31st December 2003.]*

#### **Consent to early removal to Republic of Ireland**

**17.5.**—(1) A notice given under section 3(1)(a) of the Backing of Warrants (Republic of Ireland) Act 1965(6) (consent to surrender earlier than is otherwise permitted) shall be signed in the presence of a justice of the peace or a justices' clerk.

(2) Any such notice given by a person in custody shall be delivered to the Governor of the prison in whose custody he is.

(3) If a person on bail gives such notice, he shall deliver it to, or send it by post in a registered letter or by recorded delivery service addressed to, the police officer in charge of the police station specified in his recognizance.

(4) Any such notice shall be attached to the warrant ordering the surrender of that person.

*[Note. This rule has effect only in proceedings where the request for extradition was received by the relevant authority in the United Kingdom on or before 31st December 2003.]*

#### **Bail pending removal to Republic of Ireland**

**17.6.**—(1) The person taking the recognizance of a person remanded on bail under section 2(1) or 4(3) of the Backing of Warrants (Republic of Ireland) Act 1965(7) shall furnish a copy of the recognizance to the police officer in charge of the police station specified in the recognizance.

(2) The court officer for a magistrates' court which ordered a person to be surrendered and remanded him on bail shall deliver to, or send by post in a registered letter or by recorded delivery

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(4) 1989 c. 33; section 34A and Schedule 1A were inserted by regulation 2(1) of, and paragraph 1 of Schedule 9 to, S.I. 2002/419.

(5) 1989 c. 33; section 9 was amended by article 6(1) of, and paragraph 9 of Schedule 5 to, S.I. 1999/1750, section 158(5) of the Criminal Justice and Public Order Act 1994 (c. 33), section 78(2) of, and paragraphs 31 and 36 of Schedule 11 and Table (3) in Part V of Schedule 15 to, the Access to Justice Act 1999 (c. 22) and section 109(1) of, and paragraph 326 of Schedule 8 to, the Courts Act 2003 (c. 39).

(6) 1965 c. 45; this Act was repealed by section 218(a) of, and Schedule 4 to, the Extradition Act 2003 (c. 41).

(7) 1965 c. 45; section 4(3) was amended by section 159(4) of the Criminal Justice and Public Order Act 1994 (c. 33). The 1965 Act was repealed by Schedule 4 to, the Extradition Act 2003 (c. 41).

service addressed to, the police officer in charge of the police station specified in the recognizance the warrant ordering the person to be surrendered.

(3) The court officer for a magistrates' court which refused to order a person to be delivered under section 2 of the 1965 Act but made an order in accordance with section 2A(2) of that Act<sup>(8)</sup> releasing that person on bail, upon the chief officer of police immediately informing the court that he intended to make an application to the court to state a case for the opinion of the High Court, shall forthwith send a copy of that order to the Administrative Court Office.

*[Note. This rule has effect only in proceedings where the request for extradition was received by the relevant authority in the United Kingdom on or before 31st December 2003.]*

### **Delivery of warrant issued in Republic of Ireland**

**17.7.**—(1) The court officer for a magistrates' court which ordered a person to be surrendered under section 2(1) of the Backing of Warrants (Republic of Ireland) Act 1965 shall deliver to, or send by post in a registered letter or by recorded delivery service addressed to—

- (a) if he is remanded in custody under section 5(1)(a) of the 1965 Act, the prison Governor to whose custody he is committed;
- (b) if he is remanded on bail under section 5(1)(b) of the 1965 Act<sup>(9)</sup>, the police officer in charge of the police station specified in the recognizance; or
- (c) if he is committed to the custody of a constable pending the taking from him of a recognizance under section 5(1) of the 1965 Act, the police officer in charge of the police station specified in the warrant of commitment,

the warrant of arrest issued by a judicial authority in the Republic of Ireland and endorsed in accordance with section 1 of the 1965 Act<sup>(10)</sup>.

(2) The Governor or police officer to whom the said warrant of arrest is delivered or sent shall arrange for it to be given to the member of the police force of the Republic into whose custody the person is delivered when the person is so delivered.

*[Note. This rule has effect only in proceedings where the request for extradition was received by the relevant authority in the United Kingdom on or before 31st December 2003.]*

### **Verification of warrant etc. issued in Republic of Ireland**

**17.8.**—(1) A document purporting to be a warrant issued by a judicial authority in the Republic of Ireland shall, for the purposes of section 7(a) of the Backing of Warrants (Republic of Ireland) Act 1965, be verified by a certificate purporting to be signed by a judicial authority, a clerk of a court or a member of the police force of the Republic and certifying that the document is a warrant and is issued by a judge or justice of a court or a peace commissioner.

(2) A document purporting to be a copy of a summons issued by a judicial authority in the Republic shall, for the purposes of section 7(a) of the 1965 Act, be verified by a certificate purporting to be signed by a judicial authority, a clerk of a court or a member of the police force of the Republic and certifying that the document is a true copy of such a summons.

(3) A deposition purporting to have been made in the Republic, or affidavit or written statement purporting to have been sworn therein, shall, for the purposes of section 7(c) of the 1965 Act,

<sup>(8)</sup> 1965 c. 45; section 2 was amended by section 4 of, and paragraph 1 of Schedule 3 to, the Criminal Jurisdiction Act 1975 (c. 59), section 72 of the Criminal Justice Act 1993 (c. 36) and sections 159 and 168 of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33). The 1965 Act was repealed by Schedule 4 to, the Extradition Act 2003 (c. 41).

<sup>(9)</sup> 1965 c. 45; section 5(1)(b) was amended by sections 12 and 13 of, and paragraph 33 of Schedule 2 to, the Bail Act 1976 (c. 63). The 1965 Act was repealed by Schedule 4 to, the Extradition Act 2003 (c. 41).

<sup>(10)</sup> 1965 c. 45; section 1 was amended by section 109(1) of, and paragraph 119 of Schedule 8 to, the Courts Act 2003 (c. 39). The 1965 Act was repealed by Schedule 4 to, the Extradition Act 2003 (c. 41).

be verified by a certificate purporting to be signed by the person before whom it was sworn and certifying that it was so sworn.

*[Note. This rule has effect only in proceedings where the request for extradition was received by the relevant authority in the United Kingdom on or before 31st December 2003.]*

#### **Application to state a case where court declines to order removal to Republic of Ireland**

**17.9.**—(1) Where a magistrates' court refuses to make an order in relation to a person under section 2 of the Backing of Warrants (Republic of Ireland) Act 1965, any application to the court under section 2A(1) of that Act to state a case for the opinion of the High Court on any question of law arising in the proceedings must be made to the court by the chief officer of police within the period of 21 days following the day on which the order was refused, unless the court grants a longer period within which the application is to be made.

(2) Such an application shall be made in writing and shall identify the question or questions of law on which the opinion of the High Court is sought.

*[Note. This rule has effect only in proceedings where the request for extradition was received by the relevant authority in the United Kingdom on or before 31st December 2003.]*

#### **Draft case where court declines to order removal to Republic of Ireland**

**17.10.** Within 21 days after receipt of an application to state a case under section 2A(1) of the Backing of Warrants (Republic of Ireland) Act 1965, the magistrates' court officer shall send a draft case to the applicant or his solicitor and to the person to whom the warrant relates or his solicitor and shall allow each party 21 days within which to make representations thereon; within 21 days after the latest day on which such representations may be made the court shall, after considering such representations and making such adjustments, if any, to the draft case as it thinks fit, state and sign the case which the court officer shall forthwith send to the applicant or his solicitor.

*[Note. This rule has effect only in proceedings where the request for extradition was received by the relevant authority in the United Kingdom on or before 31st December 2003.]*

#### **Forms for proceedings for removal to Republic of Ireland**

**17.11.** Where a requirement is imposed by the Backing of Warrants (Republic of Ireland) Act 1965 for the use of a form, and an appropriate form is contained in the Practice Direction, that form shall be used.

*[Note. This rule has effect only in proceedings where the request for extradition was received by the relevant authority in the United Kingdom on or before 31st December 2003.]*