
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force various provisions of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”).

Article 2 brings into force on 21st July 2014 section 140 of the Act, which relates to the appointment of chief police officers. It also brings into force on that date various provisions in Part 12 and Part 4 of Schedule 11 to the Act, which relate to extradition. These include provisions introducing bars to extradition under Part 1 of the Extradition Act 2003 (“the 2003 Act”) (which deals with European Arrest Warrant cases) where the issuing State is not ready to charge and try the person (section 156) and where extradition would be disproportionate (section 157). Also included are provisions ensuring that persons who consent to extradition do not thereby lose the right not be proceeded against for offences other than those listed in the extradition request (speciality protection) (section 163), amending the definitions of “extradition offence” in Parts 1 and 2 of the 2003 Act (section 164) and dealing with the crediting of time spent in custody awaiting extradition to the United Kingdom (sections 171, 172 and 173).

Articles 3 and 4 bring into force on 31st July 2014 and 1st April 2015 respectively various provisions in Schedule 9 to the Act. These relate to Schedule 7 (port and border controls) and Schedule 8 (detention) to the Terrorism Act 2000. The provisions commenced by Article 3 (i) reduce the maximum period of examination under Schedule 7 to the Terrorism Act 2000 from nine to six hours, (ii) extend to individuals detained at a port the statutory rights to have a person informed of their detention and to consult a solicitor privately, (iii) clarify that the right to consult a solicitor includes consultation in person, (iv) ensure access to legal advice for all individuals examined under Schedule 7 for more than one hour, (v) establish a statutory basis for undertaking strip searches of persons detained under Schedule 7 powers, which requires reasonable grounds to suspect that the person is concealing something which may be evidence that the person is involved in terrorism and requires a supervising officer’s authority, (vi) repeal the power to seek intimate samples during the course of a Schedule 7 examination, and (vii) provide that an examining officer may make and retain a copy of information obtained or found in the course of an examination. The provisions commenced by Article 4 introduce a requirement to keep under periodic review the need for continued detention of a person who is being detained under Schedule 7 powers, and make provision concerning the rights of those detained under such powers.

Article 5 contains transitional provision in relation to the commencement of section 163 of the Act. Its effect is that in a case where a person consented to his or her extradition before the coming into force of section 163, that section does not apply, and the person is to be taken to have waived any speciality protection which he or she would otherwise have enjoyed.

Article 6 contains transitional provision in relation to the commencement of section 164 of the Act. Its effect is that the modified definitions of “extradition offence” do not apply in cases where the certificate (under either section 2 or section 70 of the 2003 Act) or the provisional arrest warrant was issued before the commencement of section 164.