
STATUTORY INSTRUMENTS

2017 No. 144

The Criminal Procedure (Amendment) Rules 2017

Amendments to the Criminal Procedure Rules 2015

12. In Part 50 (Extradition)—

(a) in rule 50.1 (When this Part applies)—

(i) after paragraph (3) insert—

“(4) Section 4 of this Part applies to proceedings in a magistrates’ court under—

(a) sections 54 and 55 of the Act (Request for consent to other offence being dealt with; Questions for decision at consent hearing);

(b) sections 56 and 57 of the Act (Request for consent to further extradition to category 1 territory; Questions for decision at consent hearing).

(5) In this Part, and for the purposes of this Part in other rules—

(a) ‘magistrates’ court’ means a District Judge (Magistrates’ Courts) exercising the powers to which Section 2 of this Part applies;

(b) ‘presenting officer’ means an officer of the National Crime Agency, a police officer, a prosecutor or other person representing an authority or territory seeking the extradition of a defendant;

(c) ‘defendant’ means a person arrested under Part 1 or Part 2 of the Extradition Act 2003.”

(ii) in the first paragraph of the note to the rule, for “or was convicted” substitute “was convicted or is to serve a sentence”, and

(iii) after the third paragraph of the note to the rule insert—

“Under sections 67 and 139 of the Extradition Act 2003(1), a District Judge (Magistrates’ Courts) must be designated for the purposes of the Act to exercise the powers to which Section 2 of this Part applies.”;

(b) for rule 50.2 (Meaning of ‘magistrates’ court’, ‘presenting officer’ and ‘defendant’) substitute—

“Further objective in extradition proceedings

50.2. When exercising a power to which this Part applies, in furthering the overriding objective, in accordance with rule 1.3, the court must have regard to the importance of—

(a) mutual confidence and recognition between judicial authorities in the United Kingdom and in requesting territories; and

(b) the conduct of extradition proceedings in accordance with international obligations, including obligations to deal swiftly with extradition requests.”;

(c) for rule 50.3 (Exercise of magistrates’ court’s powers) substitute—

(1) 2003 c. 41; sections 67 and 139 were amended by section 15 of, and paragraphs 352 and 353 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4) and section 42 of, and paragraph 15 of Schedule 13 to, the Police and Justice Act 2006 (c. 48).

“50.3.—(1) The general rule is that the magistrates’ court must exercise its powers at a hearing in public, but—

- (a) that is subject to any power the court has to—
 - (i) impose reporting restrictions,
 - (ii) withhold information from the public, or
 - (iii) order a hearing in private; and
- (b) despite the general rule the court may, without a hearing—
 - (i) give any directions to which rule 50.4 applies (Case management in the magistrates’ court and duty of court officer), or
 - (ii) determine an application which these Rules allow to be determined by a magistrates’ court without a hearing in a case to which this Part does not apply.

(2) If the court so directs, a party may attend by live link any hearing except an extradition hearing under rule 50.6 or 50.13.

- (3) Where the defendant is absent from a hearing—
- (a) the general rule is that the court must proceed as if the defendant—
 - (i) were present, and
 - (ii) opposed extradition on any ground of which the court has been made aware;
 - (b) the general rule does not apply if the defendant is under 18;
 - (c) the general rule is subject to the court being satisfied that—
 - (i) the defendant had reasonable notice of where and when the hearing would take place,
 - (ii) the defendant has been made aware that the hearing might proceed in his or her absence, and
 - (iii) there is no good reason for the defendant’s absence; and
 - (d) the general rule does not apply but the court may exercise its powers in the defendant’s absence where—
 - (i) the court discharges the defendant,
 - (ii) the defendant is represented and the defendant’s presence is impracticable by reason of his or her ill health or disorderly conduct, or
 - (iii) on an application under rule 50.32 (Application for consent to deal with another offence or for consent to further extradition), the defendant is represented or the defendant’s presence is impracticable by reason of his or her detention in the territory to which he or she has been extradited.

- (4) The court may exercise its power to adjourn—
- (a) if either party asks, or on its own initiative; and
 - (b) in particular—
 - (i) to allow there to be obtained information that the court requires,
 - (ii) following a provisional arrest under Part 1 of the Extradition Act 2003, pending receipt of the warrant,
 - (iii) following a provisional arrest under Part 2 of the Act, pending receipt of the extradition request,

- (iv) if the court is informed that the defendant is serving a custodial sentence in the United Kingdom,
 - (v) if it appears to the court that the defendant is not fit to be extradited, unless the court discharges the defendant for that reason,
 - (vi) where a court dealing with a warrant to which Part 1 of the Act applies is informed that another such warrant has been received in the United Kingdom,
 - (vii) where a court dealing with a warrant to which Part 1 of the Act applies is informed of a request for the temporary transfer of the defendant to the territory to which the defendant's extradition is sought, or a request for the defendant to speak to the authorities of that territory, or
 - (viii) during a hearing to which rule 50.32 applies (Application for consent to deal with another offence or for consent to further extradition).
- (5) The court must exercise its power to adjourn if informed that the defendant has been charged with an offence in the United Kingdom.
- (6) The general rule is that, before exercising a power to which this Part applies, the court must give each party an opportunity to make representations, unless that party is absent without good reason.
- (7) The court may—
- (a) shorten a time limit or extend it (even after it has expired), unless that is inconsistent with other legislation;
 - (b) direct that a notice or application be served on any person;
 - (c) allow a notice or application to be in a different form to one set out in the Practice Direction, or to be presented orally.
- (8) A party who wants an extension of time within which to serve a notice or make an application must—
- (a) apply for that extension of time when serving that notice or making that application; and
 - (b) give the reasons for the application for an extension of time.

[Note. See sections 8A, 8B, 9, 21B, 22, 23, 25 and 44 of the Extradition Act 2003(2)(powers in relation to extradition under Part 1 of the Act) and sections 76A, 76B, 77, 88, 89 and 91 of the Act(3)(powers in relation to extradition under Part 2 of the Act). Under sections 9 and 77 of the Act, at the extradition hearing the court has the same powers (as nearly as may be) as a magistrates' court would have if the proceedings were the summary trial of an information against the defendant: see also rule 24.12(3) (Trial and sentence in a magistrates' court; procedure where the defendant is absent).

(2) 2003 c. 41; sections 8A and 8B were inserted by section 69 of the Policing and Crime Act 2009 (c. 26). Sections 9 and 44 were amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48). section 21B was inserted by section 159 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Section 22 was amended by section 71 of the Policing and Crime Act 2009 (c. 26). Section 23 was amended by paragraph 7 of Schedule 13 to the Police and Justice Act 2006 (c. 48) and section 71 of the Policing and Crime Act 2009 (c. 26).

(3) 2003 c. 41; sections 76A and 76B were inserted by section 70 of the Policing and Crime Act 2009 (c. 26). Section 77 was amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48). Section 88 was amended by section 71 of the Policing and Crime Act 2009 (c. 26). Section 89 was amended by paragraph 7 of Schedule 13 to the Police and Justice Act 2006 (c. 48) and section 71 of the Policing and Crime Act 2009 (c. 26).

Under sections 206A to 206C of the 2003 Act(4), the court may require a defendant to attend by live link a preliminary hearing to which rule 50.5, 50.9 or 50.11 applies, any hearing for the purposes of rule 50.12 and the hearing to which rule 50.32 applies.

Part 6 contains rules about reporting and access restrictions.

Part 14 contains rules about bail. Rules 14.2(3) and 14.7(7)(c) allow an application to be determined without a hearing in the circumstances to which those rules apply.

The principal time limits are prescribed by the Extradition Act 2003: see rule 50.16.]”;

(d) for rule 50.4 (Duty of magistrates’ court officer) substitute—

“Case management in the magistrates’ court and duty of court officer

50.4.—(1) The magistrates’ court and the parties have the same duties and powers as under Part 3 (Case management), subject to—

- (a) rule 50.2 (Further objective in extradition proceedings); and
- (b) paragraph (2) of this rule.

(2) Rule 3.6 (Application to vary a direction) does not apply to a decision to extradite or discharge.

(3) Where this rule applies, active case management by the court includes—

- (a) if the court requires information from the authorities in the requesting territory—
 - (i) nominating a court officer, the designated authority which certified the arrest warrant where Part 1 of the Extradition Act 2003 Act applies, a party or other person to convey that request to those authorities, and
 - (ii) in a case in which the terms of that request need to be prepared in accordance with directions by the court, giving such directions accordingly;
- (b) giving such directions as are required where, under section 21B of the Extradition Act 2003(5), the parties agree—
 - (i) to the temporary transfer of the defendant to the requesting territory, or
 - (ii) that the defendant should speak with representatives of an authority in that territory.

(4) Where this rule applies, active assistance by the parties includes—

- (a) applying for any direction needed as soon as reasonably practicable;
- (b) concisely explaining the reasons for any application for the court to direct—
 - (i) the preparation of a request to which paragraph (3)(a) applies,
 - (ii) the making of arrangements to which paragraph (3)(b) applies.

(5) The court officer must—

- (a) as soon as practicable, serve notice of the court’s decision to extradite or discharge—
 - (i) on the defendant,
 - (ii) on the designated authority which certified the arrest warrant, where Part 1 of the 2003 Act applies,

(4) 2003 c. 41; sections 206A, 206B and 206C were inserted by section 78 of the Policing and Crime Act 2009 (c. 26).

(5) 2003 c. 41; section 21B was inserted by section 159 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).

- (iii) on the Secretary of State, where Part 2 of the Act applies; and
- (b) give the court such assistance as it requires.

[Note. Part 3 contains rules about case management which apply at an extradition hearing and during preparation for that hearing. This rule must be read in conjunction with those rules.

Under section 21B of the Extradition Act 2003 (Request for temporary transfer etc.), where Part 1 of the Act applies, and in the circumstances described in that section, the parties may agree to the defendant's temporary transfer to the requesting territory, or may agree that the defendant will speak to representatives of an investigating, prosecuting or judicial authority in that territory. On the making by a party of a request to such effect the court must if necessary adjourn the proceedings for 7 days while the other party considers it. If the parties then agree to proceed with the proposed transfer or discussion the court must adjourn the proceedings for however long seems necessary.]”;

- (e) in rule 50.5 (Extradition under Part 1 of the Extradition Act 2003: Preliminary hearing after arrest)—
 - (i) in paragraph (4)(c) for “arrange” substitute “give directions”, and
 - (ii) for paragraph (4)(e) substitute—
 - “(e) give such directions as are required for the preparation and conduct of the extradition hearing.”;
- (f) in rule 50.6 (Extradition under Part 1 of the Extradition Act 2003: Extradition hearing), in paragraph (1) for “arranged by the court” substitute “directed”;
- (g) in rule 50.9 (Extradition under Part 2 of the Extradition Act 2003: Preliminary hearing after arrest)—
 - (i) in paragraph (2)(b) for “arrange” substitute “give directions”, and
 - (ii) for paragraph (2)(d) substitute—
 - “(d) give such directions as are required for the preparation and conduct of the extradition hearing.”;
- (h) in rule 50.10 (Issue of provisional arrest warrant), for paragraph (2)(a) substitute—
 - “(a) serve an information on the court officer; and”;
- (i) in rule 50.12 (Arrangement of extradition hearing after provisional arrest)—
 - (i) in paragraph (2)(a) for “arrange” substitute “give directions”, and
 - (ii) for paragraph (2)(c) substitute—
 - “(c) give such directions as are required for the preparation and conduct of the extradition hearing.”;
- (j) in rule 50.13 (Extradition under Part 2 of the Extradition Act 2003: Extradition hearing)—
 - (i) in paragraph (1) for “arranged by the court” substitute “directed”, and
 - (ii) in the note to the rule omit “103, 118A, 118B,”;
- (k) in rule 50.16 (Defendant’s application to be discharged), for paragraph (2)(a) substitute—
 - “(a) such a defendant must apply in writing and serve the application on—
 - (i) the magistrates’ court officer,
 - (ii) the High Court officer, where paragraph (1)(b)(v) applies, and
 - (iii) the prosecutor;”;
- (l) in rule 50.17 (Exercise of the High Court’s powers)—

- (i) for paragraph (1)(b) substitute—
 - “(b) despite the general rule, the court may determine without a hearing—
 - (i) an application for the court to consider out of time an application for permission to appeal to the High Court,
 - (ii) an application for permission to appeal to the High Court (but a renewed such application must be determined at a hearing),
 - (iii) an application for permission to appeal from the High Court to the Supreme Court,
 - (iv) an application for permission to reopen a decision under rule 50.27 (Reopening the determination of an appeal), or
 - (v) an application concerning bail; and”
- (ii) for paragraph (1)(c) substitute—
 - “(c) despite the general rule the court may, without a hearing—
 - (i) give case management directions,
 - (ii) reject a notice or application and, if applicable, dismiss an application for permission to appeal, where rule 50.31 (Payment of High Court fees) applies and the party who served the notice or application fails to comply with that rule, or
 - (iii) make a determination to which the parties have agreed in writing.”
 - and
- (iii) for paragraph (4) substitute—
 - “(4) If the High Court gives permission to appeal to the High Court—
 - (a) unless the court otherwise directs, the decision indicates that the appellant has permission to appeal on every ground identified by the appeal notice;
 - (b) unless the court otherwise directs, the decision indicates that the court finds reasonably arguable each ground on which the appellant has permission to appeal; and
 - (c) the court must give such directions as are required for the preparation and conduct of the appeal, including a direction as to whether the appeal must be heard by a single judge of the High Court or by a divisional court.”
- (m) in rule 50.18 (Case management in the High Court), for paragraph (1) substitute—
 - “(1) The High Court and the parties have the same duties and powers as under Part 3 (Case management), subject to—
 - (a) rule 50.2 (Further objective in extradition proceedings); and
 - (b) paragraph (3) of this rule.”
- (n) in rule 50.20 (Form of appeal notice), for paragraph (4)(a) substitute—
 - “(a) the notice must—
 - (i) explain what the defendant did to ensure that it was served as soon as it could be, and
 - (ii) include or attach such evidence as the defendant relies upon to support that explanation; and”
- (o) for rule 50.22 (Renewing an application for permission to appeal) substitute—

“Renewing an application for permission to appeal, restoring excluded grounds, etc.

50.22.—(1) This rule—

- (a) applies where the High Court—
 - (i) refuses permission to appeal to the High Court, or
 - (ii) gives permission to appeal to the High Court but not on every ground identified by the appeal notice;
- (b) does not apply where—
 - (i) a defendant applies out of time for permission to appeal to the High Court, and
 - (ii) the court for that reason refuses to consider that application.

(2) Unless the court refuses permission to appeal at a hearing, the appellant may renew the application for permission by serving notice on—

- (a) the High Court officer;
- (b) the respondent; and
- (c) any other person on whom the appellant served the appeal notice,

not more than 5 business days after service of notice of the court’s decision on the appellant.

(3) If the court refuses permission to appeal, the renewal notice must explain the grounds for the renewal.

(4) If the court gives permission to appeal but not on every ground identified by the appeal notice the decision indicates that—

- (a) at the hearing of the appeal the court will not consider representations that address any ground thus excluded from argument; and
- (b) an appellant who wants to rely on such an excluded ground needs the court’s permission to do so.

(5) An appellant who wants to rely at the hearing of an appeal on a ground of appeal excluded from argument must—

- (a) apply in writing, with reasons, and identify each such ground;
- (b) serve the application on—
 - (i) the High Court officer, and
 - (ii) the respondent;
- (c) serve the application not more than 5 business days after—
 - (i) the giving of permission to appeal, or
 - (ii) the High Court officer serves notice of that decision on the applicant, if the applicant was not present in person or by live link when permission to appeal was given.

(6) Paragraph (7) applies where a party wants to abandon—

- (a) a ground of appeal on which that party has permission to appeal; or
- (b) a ground of opposition identified in a respondent’s notice.

(7) Such a party must serve notice on—

- (a) the High Court officer; and

(b) each other party,

before any hearing at which that ground will be considered by the court.

[Note. Under rule 50.17 (Exercise of the High Court's powers), the High Court may extend or shorten the time limits under this rule.

Rule 50.19 (Service of appeal notice) and the note to that rule set out the time limits for appeal.]”;

(p) for rule 50.24 (Discontinuing an appeal) substitute—

“Early termination of appeal: order by consent, etc.

50.24.—(1) This rule applies where—

- (a) an appellant has served an appeal notice under rule 50.19; and
- (b) the High Court—
 - (i) has not determined the application for permission to appeal, or
 - (ii) where the court has given permission to appeal, has not determined the appeal.

(2) Where the warrant or extradition request with which the appeal is concerned is withdrawn—

- (a) the party or person so informing the court must serve on the High Court officer—
 - (i) notice to that effect by the authority or territory requesting the defendant's extradition,
 - (ii) details of how much of the warrant or extradition request remains outstanding, if any, and of any other warrant or extradition request outstanding in respect of the defendant,
 - (iii) details of any bail condition to which the defendant is subject, if the defendant is on bail, and
 - (iv) details sufficient to locate the defendant, including details of the custodian and of the defendant's date of birth and custody reference, if the defendant is in custody; and
- (b) paragraph (5) applies but only to the extent that the parties want the court to deal with an ancillary matter.

(3) Where a defendant with whose discharge the appeal is concerned consents to extradition, paragraph (5) applies but only to the extent that the parties want the court to—

- (a) give directions for that consent to be given to the magistrates' court or to the Secretary of State, as the case may be;
- (b) deal with an ancillary matter.

(4) Paragraph (5) applies where the parties want the court to make a decision on which they are agreed—

- (a) determining the application for permission to appeal or the appeal, as the case may be;
- (b) specifying the date on which that application or appeal is to be treated as discontinued; and
- (c) determining an ancillary matter, including costs, if applicable.

(5) The parties must serve on the High Court officer, in one or more documents—

- (a) a draft order in the terms proposed;
- (b) evidence of each party’s agreement to those terms; and
- (c) concise reasons for the request that the court make the proposed order.

[Note. Under sections 42 and 124 of the Extradition Act 2003(6), where an appeal is pending in the High Court and the court is informed that the relevant warrant or extradition request has been withdrawn the court must—

- (a) *order the defendant’s discharge and quash the extradition order or decision, where the defendant has appealed against extradition;*
- (b) *dismiss the application for permission to appeal or the appeal, as the case may be, where the authority or territory requesting the defendant’s extradition has appealed against the defendant’s discharge.*

Under sections 45 and 127 of the 2003 Act(7), a defendant in respect of whom no extradition order or decision has been made may give consent to extradition in the magistrates’ court, or may give such consent to the Secretary of State if the case has been sent there.

Where the effect of the High Court’s decision is that the defendant is to be extradited, sections 36 and 118 of the Act(8) set time limits for extradition after the end of the case.

Part 45 contains rules about costs.]”;

- (q) in rule 50.25 (Application for permission to appeal to the Supreme Court), in paragraph (3) (b) omit “written”;
- (r) in rule 50.29 (Duties of court officers), for paragraph (3)(d) substitute—
 - “(d) where rule 50.24 applies (Early termination of appeal: order by consent, etc.), arrange for the High Court to consider the document or documents served under that rule;”;
- (s) in rule 50.30 (Constitution of the High Court), in paragraph (2) for “paragraph (1)(b), (d) or (e)” substitute “paragraph (1)(a), (b), (d) or (e)”;
- (t) after rule 50.31 (Payment of High Court fees) insert—

“SECTION 4: POST-EXTRADITION PROCEEDINGS

Application for consent to deal with another offence or for consent to further extradition

50.32.—(1) This rule applies where—

- (a) a defendant has been extradited to a territory under Part 1 of the Extradition Act 2003(9); and
- (b) the court officer receives from the authority designated by the Secretary of State a request for the court’s consent to—

(6) 2003 c. 41; sections 42 and 124 were amended by article 3 of S.I. 2015/992.

(7) 2003 c. 41; sections 45 was amended by section 39 of, and paragraphs 62 and 63 of Schedule 5 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) and section 163 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Section 127 was amended by section 39 of, and paragraphs 62 and 64 of Schedule 5 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(8) 2003 c. 41; sections 36 and 118 were amended by section 40 of, and paragraph 81 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4).

(9) 2003 c. 41.

- (i) the defendant being dealt with in that territory for an offence other than one in respect of which the extradition there took place, or
 - (ii) the defendant's further extradition from there to another such territory for an offence.
- (2) The presenting officer must serve on the court officer—
 - (a) the request; and
 - (b) a certificate given by the designated authority that the request was made by a judicial authority with the function of making such requests in the territory to which the defendant was extradited.
- (3) The court must—
 - (a) give directions for service by a party or other person on the defendant of notice that the request for consent has been received, unless satisfied that it would not be practicable for such notice to be served;
 - (b) give directions for a hearing to consider the request to begin—
 - (i) no more than 21 days after the request was received by the designated authority, or
 - (ii) at such a later date as the court decides is in the interests of justice; and
 - (c) give such directions as are required for the preparation and conduct of that hearing.
- (4) At the hearing directed under paragraph (3), in the following sequence the court must decide—
 - (a) whether the consent requested is required, having regard to—
 - (i) any opportunity given for the defendant to leave the requesting territory after extradition which the defendant did not take within 45 days of arrival there,
 - (ii) if the defendant did not take such an opportunity, any requirements for consent imposed by the law of the requesting territory or by arrangements between that territory and the United Kingdom where the request is for consent to deal with the defendant in that territory for another offence,
 - (iii) if the defendant did not take such an opportunity, any requirements for consent imposed by arrangements between the requesting territory and the United Kingdom where the request is for consent to extradite the defendant to another territory for an offence;
 - (b) if such consent is required, then—
 - (i) whether the offence in respect of which consent is requested is an extradition offence, and
 - (ii) if it is, whether the court would order the defendant's extradition under sections 11 to 25 of the Extradition Act 2003 (bars to extradition and other considerations) were the defendant in the United Kingdom and the court was considering extradition for that offence.
- (5) The court must give directions for notice of its decision to be conveyed to the authority which made the request.
- (6) Rules 50.3 (Exercise of magistrates' court's powers) and 50.4 (Case management in the magistrates' court and duty of court officer) apply on an application under this rule.

[Note. See sections 54, 55, 56 and 57 of the Extradition Act 2003(10).]”; and
(u) amend the table of contents correspondingly.