



# Repatriation of Prisoners Act 1984

## 1984 CHAPTER 47

*[<sup>F1</sup>Transfer of prisoners to or from the United Kingdom]*

### Textual Amendments

- F1** S. 1 cross-heading inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 26 para. 10](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

### 1 Issue of warrant for transfer.

- (1) Subject to the following provisions of this section, where—
- (a) the United Kingdom is a party to international arrangements providing for the transfer between the United Kingdom and a country or territory outside the British Islands of persons to whom subsection (7) below applies, and
  - (b) the [<sup>F2</sup>relevant Minister] and the appropriate authority of that country or territory have each agreed to the transfer under those arrangements of a particular person (in this Act referred to as “the prisoner”), and
  - [<sup>F3</sup>(c) in a case in which the terms of those arrangements provide for the prisoner to be transferred only with his consent, the prisoner's consent has been given,]
- the [<sup>F2</sup>relevant Minister] shall issue a warrant providing for the transfer of the prisoner into or out of the United Kingdom.
- (2) The [<sup>F2</sup>relevant Minister] shall not issue a [<sup>F4</sup>warrant under this section], and, if he has issued one, shall revoke it, in any case where after the duty under subsection (1) above has arisen and before the transfer in question takes place circumstances arise, or are brought to the [<sup>F2</sup>relevant Minister]’s attention, which in his opinion make it inappropriate that the transfer should take place.
- (3) The [<sup>F2</sup>relevant Minister] shall not issue a [<sup>F5</sup>warrant under this section] providing for the transfer of any person into the United Kingdom unless—
- (a) that person is a British citizen; or
  - (b) the transfer appears to the [<sup>F2</sup>relevant Minister] to be appropriate having regard to any close ties which that person has with the United Kingdom; or

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- (c) it appears to the [F<sup>2</sup>relevant Minister] that the transfer is such a transfer for the purpose of the temporary return of the prisoner to the United Kingdom as may be provided for by virtue of section 4(1)(b) below.
- (4) The [F<sup>2</sup>relevant Minister] shall not issue a [F<sup>6</sup>warrant under this section], other than one superseding an earlier warrant, unless he is satisfied that all reasonable steps have been taken to inform the prisoner in writing in his own language—
- (a) of the substance, so far as relevant to the prisoner's case, of the international arrangements in accordance with which it is proposed to transfer him,
  - (b) of the effect in relation to the prisoner of the warrant which it is proposed to issue in respect of him <sup>F7</sup>...,
  - (c) in the case of a transfer into the United Kingdom, of the effect in relation to the prisoner of the law relating to his detention under that warrant (including the effect of any enactment or instrument under which he may be released earlier than provided for by the terms of the warrant),
  - (d) in the case of a transfer out of the United Kingdom, of the effect in relation to the prisoner of so much of the law of the country or territory to which he is to be transferred as has effect with respect to transfers under those arrangements, and
  - (e) of the powers of the [F<sup>2</sup>relevant Minister] under section 6 of this Act;
- and, the [F<sup>2</sup>relevant Minister] shall not issue a warrant superseding an earlier [F<sup>6</sup>warrant under this section] unless the requirements of this subsection were fulfilled in relation to the earlier warrant.
- (5) [F<sup>8</sup>In such a case as is referred to in subsection (1)(c) above, the relevant Minister shall not issue a [F<sup>9</sup>warrant under this section] unless he is satisfied that the prisoner's consent was given ] in a manner authorised by the international arrangements in accordance with which the prisoner is to be transferred and was so given either—
- (a) by the prisoner himself; or
  - (b) in circumstances where it appears to the [F<sup>2</sup>relevant Minister] inappropriate by reason of the physical or mental condition or the youth of the prisoner for the prisoner to act for himself, by a person appearing to the [F<sup>2</sup>relevant Minister] to be an appropriate person to have acted on the prisoner's behalf.
- (6) A consent given for the purposes of subsection (1)(c) above shall not be capable of being withdrawn after a warrant [F<sup>10</sup>under this section] has been issued in respect of the prisoner; and, accordingly, a purported withdrawal of that consent after that time shall not affect the validity of the warrant, or of any provision which by virtue of section 6 below subsequently supersedes provisions of that warrant, or of any direction given in relation to the prisoner under section 2(3) below.
- (7) This subsection applies to a person if he is for the time being required to be detained in a prison, a hospital or any other institution either—
- (a) by virtue of an order made in the course of the exercise by a court or tribunal in the United Kingdom, or in any country or territory outside the British Islands, of its criminal jurisdiction; or
  - (b) under [F<sup>11</sup>any of] the provisions of this Act or any similar provisions of the law of any part of the United Kingdom or of the law of any country or territory outside the British Islands.
- [F<sup>12</sup>(7A) In subsection (7)(a) the reference to an order made by a court or tribunal in the United Kingdom in the course of the exercise of its criminal jurisdiction includes an order made (anywhere) by—

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- (a) the Court Martial;
  - (b) the Service Civilian Court;
  - (c) the Court Martial Appeal Court; or
  - (d) the Supreme Court on an appeal brought from the Court Martial Appeal Court.]
- (8) In subsection (7)(b) above the reference to provisions similar to [F13 any of] the provisions of this Act shall be construed as a reference to any provisions which have effect with respect to [F14—
- (a) the transfer between different countries and territories (or different parts of a country or territory) of persons who are required to be detained in prisons, hospitals or other institutions by virtue of orders made in the course of the exercise by courts and tribunals of their criminal jurisdiction[F15; or
  - (b) the transfer between different countries and territories (or different parts of a country or territory) of responsibility for the detention and release of persons who are required to be so detained in one of those countries or territories (or parts of a country or territory) but are present in the other country or territory (or part of a country or territory).]
- [F16(9) In this section “relevant Minister” means—
- (a) the Scottish Ministers 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 Scotland; 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 Scotland; F17  
...
  - [ F18 (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]
  - (b) the Secretary of State in any other case.]

#### Textual Amendments

- F2** Words in s. 1(1)-(5) substituted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 75(2)(a)**
- F3** S. 1(1)(c) substituted (15.1.2007) by Police and Justice Act 2006 (c. 48), **ss. 44(2)**, 53(1); S.I. 2006/3364, art. 2(f)
- F4** Words in s. 1(2) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 11(2)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F5** Words in s. 1(3) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 11(2)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F6** Words in s. 1(4) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 11(3)(a)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F7** Words in s. 1(4)(b) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 26 para. 11(3)(b), **Sch. 28 Pt. 6**; S.I. 2008/1586, art. 2(1), Sch. 1 paras. 48(g)50(6)
- F8** Words in s. 1(5) substituted (15.1.2007) by Police and Justice Act 2006 (c. 48), **ss. 44(3)**, 53(1); S.I. 2006/3364, art. 2(f)

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- F9** Words in s. 1(5) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 11(4)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F10** Words in s. 1(6) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 11(5)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F11** Words in s. 1(7)(b) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 11(6)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F12** S. 1(7A) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 98**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F13** Words in s. 1(8) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 11(7)(a)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F14** Words in s. 1(8) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 11(7)(b)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F15** S. 1(8)(b) and word inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 11(7)(c)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F16** S. 1(9) inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. 1 para. 75(2)(b)**
- F17** Word in s. 1(9)(a) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 2(a)** (with arts. 28-31)
- F18** S. 1(9)(aa) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 2(b)** (with arts. 28-31)

#### Modifications etc. (not altering text)

- C1** Ss. 1-8: certain functions made exercisable in or as regards Scotland (30.6.1999) by S.I. 1999/1748, arts. 4(1), 8(1), **Sch. 2 para. 1(1)-(10)**
- C2** S. 1 amendments made by 2006 c. 48, s. 44(2)(3) extended (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 96(1)**, 153(7); S.I. 2008/1586, art. 2(1), Sch. 1 para. 40
- C3** S. 1(7)(a) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), art. 1(3), **Sch. 1 para. 26**

## 2 Transfer out of the United Kingdom.

[<sup>F19</sup>(1) The effect of a warrant [<sup>F20</sup>under section 1] under section 1 providing for the transfer of the prisoner out of the United Kingdom shall be to authorise—

- (a) the taking of the prisoner to any place in any part of the United Kingdom, his delivery at a place of departure from the United Kingdom into the custody of an appropriate person and his removal by that person from the United Kingdom to a place outside the United Kingdom; or
- (b) the taking of the prisoner to any place in any part of the United Kingdom, his removal from the United Kingdom and his delivery, at the place of arrival from the United Kingdom, into the custody of an appropriate person.

(1A) In subsection (1) “appropriate person” means a person representing the appropriate authority of the country or territory to which the prisoner is to be transferred.]

- (2) Subject to subsections (3) to (5) below, the order by virtue of which the prisoner is required to be detained at the time such a warrant is issued in respect of him shall continue to have effect after his removal from the United Kingdom so as to apply to him if he is again in the United Kingdom at any time when under that order he is to be, or may be, detained.

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- (3) If, at any time after the removal of the prisoner from the United Kingdom, it appears to the [<sup>F21</sup>relevant Minister] appropriate to do so in order that effect may be given to the international arrangements in accordance with which the prisoner was transferred, the [<sup>F21</sup>relevant Minister] may give a direction varying the order referred to in subsection (2) above or providing for that order to cease to have effect.

[<sup>F22</sup>(3A) In subsection (3) above, “relevant Minister” means—

- (a) the Scottish Ministers where the order referred to in subsection (2) above relates to a person who has been removed from Scotland by virtue of a warrant issued under section 1 above; <sup>F23</sup> ...
  - [<sup>F24</sup>(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]
  - (b) the Secretary of State in any other case.]
- (4) The power by direction under subsection (3) above to vary the order referred to in subsection (2) above shall include power by direction—
- (a) to provide for how any period during which the prisoner is, by virtue of a [<sup>F25</sup>warrant under section 1] , out of the part of the United Kingdom in which that order has effect is to be treated for the purposes of that order; and
  - (b) to provide for the prisoner to be treated as having been—
    - [<sup>F26</sup>(i) released on licence under section 28(5) of the Crime (Sentences) Act 1997 or under [<sup>F27</sup>Chapter 6 of Part 12] of the Criminal Justice Act 2003; or]
    - [<sup>F28</sup>(ii) released on licence under section 1(2), (3) or (4), [<sup>F29</sup>1AB,] 2(4) or 7(1) or (2) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;]
    - [<sup>F30</sup>(iii) released subject to a supervised release order made under section 209 of the <sup>M1</sup>Criminal Procedure (Scotland) Act 1995;]
    - (iii) released on licence under [<sup>F31</sup>Article 6(3) of the Life Sentences (Northern Ireland) Order 2001] or discharged on licence [<sup>F32</sup>Article 46 of the Criminal Justice (Children)(Northern Ireland) Order 1998] (release and discharge on licence of, respectively, persons serving imprisonment for life and [<sup>F32</sup>children] in detention for grave crimes); or
    - [<sup>F33</sup>(iiii) released on licence under Article 17 or 19 of the Criminal Justice (Northern Ireland) Order 2008;]
    - (iv) for the purposes of Part II of the <sup>M2</sup>Treatment of Offenders (Northern Ireland) Order 1976 (conviction within certain period after discharge), discharged from prison or a young offenders centre in pursuance of rules made under section 13 of the said Act of 1953.
- (5) Except in relation to any period during which a restriction order is in force in respect of the prisoner, subsection (2) above shall not apply in relation to a hospital order; and, accordingly, a hospital order shall cease to have effect in relation to the prisoner—
- (a) at the time of his removal from the United Kingdom if no restriction order is in force in respect of him at that time; and
  - (b) if at that time a restriction order is in force in respect of him, as soon after his removal as the restriction order ceases to have effect.
- (6) In subsection (5) above—

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“hospital order” means an order made under section 37 of the Mental Health Act 1983, section 175 or 376 of the <sup>M3</sup>Criminal Procedure (Scotland) Act 1975 or [<sup>F34</sup>Article 44 of the Mental Health (Northern Ireland) Order 1986]<sup>F35</sup> or a compulsion order under section 57A of the Criminal Procedure (Scotland) Act 1995 ] or any order or direction made under another enactment but having the same effect as an order made under one of [<sup>F34</sup>those provisions]; and

“restriction order” means an order made under section 41 of the said Act of 1983, section 178 or 379 of the said Act of 1975 or [<sup>F34</sup>Article 47 of the said Order of 1986] or any order or direction made under another enactment but having the same effect as an order made under one of [<sup>F34</sup>those provisions].

- (7) References in this section to the order by virtue of which the prisoner is required to be detained at the time a [<sup>F36</sup>warrant under section 1] is issued in respect of him include references to any order by virtue of which he is required to be detained after the order by virtue of which he is required to be detained at that time ceases to have effect.

#### Textual Amendments

- F19** S. 2(1)(1A) substituted for s. 2(1) (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 93, 153(7) (with Sch. 27 para. 30); S.I. 2008/1586, art. 2(1), Sch. 1 para. 37
- F20** Words in s. 2(1) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 26 para. 12(2); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F21** Words in s. 2(3) substituted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. 1 para. 75(3)(a)
- F22** S. 2(3A) inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. 1 para. 75(3)(b)
- F23** Word in s. 2(3A)(a) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), Sch. 8 para. 3(a) (with arts. 28-31)
- F24** S. 2(3A)(aa) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), Sch. 8 para. 3(b) (with arts. 28-31)
- F25** Words in s. 2(4)(a) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 26 para. 12(3)(a); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F26** S. 2(4)(b)(i) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 41 (and with saving in 2008 c. 4, Sch. 26 para. 12(3)(b)); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(19) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F27** Words in s. 2(4)(b)(i) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 16 para. 4; S.I. 2012/2906, art. 2(n)
- F28** S. 2(4)(b)(ii) substituted (E.W.S.) (1.10.1993) by 1993 c. 9, s. 47(1), Sch. 5 para. 3(2) (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, art. 3(4).
- F29** Word in s. 2(4)(b)(ii) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 50
- F30** S. 2(4)(b)(iia) inserted (1.8.1997) by 1997 c. 48, s. 62(1), Sch. 1 para. 10(2)(b) (with s. 33); S.I. 1997/1712, art. 3, Sch.
- F31** Words in s. 2(4)(b)(iii) substituted (8.10.2001) by S.I. 2001/2565, arts. 1(2) 2(2); S.R. 2001/337, art. 2
- F32** Words in s. 2(4)(b)(iii) substituted (31.1.1999) by S.I. 1998/1504 (N.I. 9), arts. 1(2), Sch. 5 para. 22; S.R. 1999/25, art. 2(c)
- F33** S. 2(4)(b)(iia) inserted (N.I.) (1.4.2009 for specified purposes) by The Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216), art. 1(4), Sch. 5 para. 4(1); S.R. 2009/120, art. 2, Sch. 1 para. 18(a) (with Sch. 2 paras. 12(3))
- F34** Words substituted by S.I. 1986/596, art. 9

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**F35** Words in s. 2(6) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 96(2), 153(7); S.I. 2008/1586, art. 2(1), Sch. 1 para. 40

**F36** Words in s. 2(7) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 26 para. 12(4); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

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**Modifications etc. (not altering text)**

**C4** Ss. 1-8: certain functions made exercisable in or as regards Scotland (30.6.1999) by S.I. 1999/1748, arts. 4(1), 8(1), Sch. 2 para. 1(1)-(10)

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**Marginal Citations**

**M1** 1995 c.46.

**M2** S.I. 1976/226 (N.I. 4.).

**M3** 1975 c. 21.

### 3 Transfer into the United Kingdom.

- (1) The effect of a warrant [<sup>F37</sup>under section 1] providing for the transfer of the prisoner into the United Kingdom shall be to authorise—
- (a) the bringing of the prisoner into the United Kingdom from a place outside the United Kingdom;
  - (b) the taking of the prisoner to such place in any part of the United Kingdom, being a place at which effect may be given to the provisions contained in the warrant by virtue of paragraph (c) below, as may be specified in the warrant; and
  - (c) the detention of the prisoner in any part of the United Kingdom in accordance with such provisions as may be contained in the warrant, being provisions appearing to the [<sup>F38</sup>relevant Minister] to be appropriate for giving effect to the international arrangements in accordance with which the prisoner is transferred.
- (2) Subject to section 4(2) to (4) below, a provision shall not be contained by virtue of subsection (1)(c) above in a [<sup>F39</sup>warrant under section 1] unless it satisfies the following two conditions, that is to say—
- (a) it is a provision with respect to the detention of a person in a prison, a hospital or any other institution; and
  - (b) it is a provision which at the time the warrant is issued may be contained in an order made either—
    - (i) in the course of the exercise of its criminal jurisdiction by a court in the part of the United Kingdom in which the prisoner is to be detained; or
    - (ii) otherwise than by a court but for the purpose of giving effect to an order made as mentioned in sub-paragraph (i) above.
- (3) In determining for the purposes of paragraph (c) of subsection (1) above what provisions are appropriate for giving effect to the international arrangements mentioned in that paragraph, the [<sup>F38</sup>relevant Minister] shall, to the extent that it appears to him consistent with those arrangements to do so, have regard to the inappropriateness of the warrant's containing provisions which—
- (a) are equivalent to more than the maximum penalties (if any) that may be imposed on a person who, in the part of the United Kingdom in which the prisoner is to be detained, commits an offence corresponding to that in respect

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- of which the prisoner is required to be detained in the country or territory from which he is to be transferred; or
- (b) are framed without reference to the length—
- (i) of the period during which the prisoner is, but for the transfer, required to be detained in that country or territory; and
  - (ii) of so much of that period as will have been, or be treated as having been, served by the prisoner when the said provisions take effect.
- (4) Subject to subsection (6) below and the Schedule to this Act, a provision contained by virtue of subsection (1)(c) above in a <sup>F40</sup>warrant under section 1] shall for all purposes have the same effect as the same provision contained in an order made as mentioned in sub-paragraph (i) or, as the case may be, sub-paragraph (ii) of subsection (2) (b) above.
- (5) A provision contained by virtue of subsection (1)(c) above in a warrant under this Act shall take effect with the delivery of the prisoner to the place specified in the warrant for the purposes of subsection (1)(b) above.
- (6) Subsection (4) above shall not confer any right of appeal on the prisoner against provisions contained by virtue of subsection (1)(c) above in a <sup>F41</sup>warrant under section 1].
- (7) <sup>F42</sup>Part 1 of] the Schedule to this Act shall have effect, subject to section 4(4) below, with respect to the operation of certain enactments in relation to provisions contained by virtue of subsection (1)(c) above in a <sup>F43</sup>warrant under section 1].
- (8) For the purposes of determining whether at any particular time any such order as is mentioned in subsection (2)(b) above could have been made as so mentioned, there shall be disregarded both—
- (a) any requirement that certain conditions must be satisfied before the order is made; and
  - (b) any restriction on the minimum period in respect of which the order may be made.

<sup>F44</sup>(9) .....

<sup>F45</sup>(10) .....

#### Textual Amendments

- F37** Words in s. 3(1) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 13\(2\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F38** Words in s. 3(1)(c)(3) substituted (1.7.1999) by S.I. 1999/1820, art. 4, [Sch. 2 Pt. I para. 75\(4\)](#)
- F39** Words in s. 3(2) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 13\(3\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F40** Words in s. 3(4) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 13\(3\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F41** Words in s. 3(6) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 13\(3\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F42** Words in s. 3(7) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 13\(4\)\(a\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F43** Words in s. 3(7) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 13\(4\)\(b\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F44** S. 3(9) repealed (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(2), Sch. 32 para. 42, [Sch. 37 Pt. 9](#)



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**F45** S. 3(10) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 26 para. 13(5), **Sch. 28 Pt. 6**; S.I. 2008/1586, art. 2(1), Sch. 1 paras. 48(g)50(6)

**Modifications etc. (not altering text)**

**C5** Ss. 1-8: certain functions made exercisable in or as regards Scotland (30.6.1999) by S.I. 1999/1748, arts. 4(1), 8(1), **Sch. 2 para. 1(1)-(10)**

**[<sup>F46</sup>3A Prosecution of other offences**

- (1) This section applies where—
  - (a) a person has been transferred into [<sup>F47</sup>the United Kingdom] under a warrant under section 1, and
  - (b) the international arrangements in accordance with which the person has been transferred contain a speciality provision.
- (2) The person must not, unless a condition in subsection (3) is met—
  - (a) be prosecuted for any offence committed before the departure of that person from the country or territory from which that person has been transferred, or
  - (b) be detained or otherwise subjected to any restriction of liberty for any offence committed before the departure of that person from the country or territory from which that person has been transferred, other than the offence in respect of which the person has been transferred.
- (3) For the purposes of subsection (2), the conditions are as follows—
  - (a) the person has consented to the transfer;
  - (b) the offence is an offence which is not punishable with imprisonment or another form of detention;
  - (c) the offence is an offence in respect of which the person will not be detained in connection with the person's trial, sentence or appeal;
  - (d) the person is given an opportunity to leave [<sup>F48</sup>the United Kingdom] and—
    - (i) the person does not do so before the end of the permitted period, or
    - (ii) if the person does so before the end of the permitted period, the person subsequently returns to Great Britain;
  - (e) after the transfer has taken place, the person has made a renunciation of the application of subsection (2) to the offence;
  - (f) the appropriate authority of the country or territory from which the person has been transferred consents to the prosecution of the offence.
- (4) For the purpose of subsection (3)(d) the “permitted period” is 45 days starting with the day on which the person's sentence ends.
- (5) For the purpose of subsection (3)(e) a renunciation must be made before a court before which the person may be prosecuted for that offence.
- (6) In this section a “speciality provision” means a provision preventing or limiting the prosecution, detention or other restriction of liberty of the person (“P”) for any offence committed before the departure of P from the country or territory from which P has been transferred, other than for the offence in respect of which P has been transferred.]

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#### Textual Amendments

- F46** S. 3A inserted (E.W.S.) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 130, 151\(1\)](#); S.I. 2012/2906, art. 2(f)
- F47** Words in s. 3A(1)(a) substituted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **114(2)**
- F48** Words in s. 3A(3)(d) substituted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **114(2)**

#### 4 Temporary return.

- (1) A single [<sup>F49</sup>warrant under section 1] may provide for the transfer of the prisoner both out of and into (or into and out of) the United Kingdom if it appears to the [<sup>F50</sup>relevant Minister] that the transfers are to be for the purpose of the temporary return of the prisoner either—
- (a) from the United Kingdom to a country or territory outside the British Islands from which he has previously been transferred into the United Kingdom [<sup>F51</sup>, or from which responsibility for his detention and release has previously been transferred to the United Kingdom,] under this Act or any other enactment; or
  - (b) to the United Kingdom from a country or territory outside the British Islands to which he has previously been transferred [<sup>F52</sup>, or to which responsibility for his detention and release has previously been transferred,] from the United Kingdom under this Act.
- (2) The provisions contained by virtue of section 3(1)(c) above in [<sup>F53</sup>a warrant under section 1] issued for the purpose of the temporary return of the prisoner to a country or territory outside the British Islands may, where the prisoner is required when that warrant is issued to be detained in accordance with provisions so contained in an [<sup>F54</sup>earlier warrant under section 1 or section 4A], require the prisoner to continue, after his return to the part of the United Kingdom in which the provisions contained in the earlier warrant have effect, to be detained in accordance with those earlier provisions.
- (3) A warrant [<sup>F55</sup>issued under section 1] containing, with respect to provisions contained in an earlier warrant [<sup>F56</sup>under section 1 or section 4A], any such requirement as is referred to in subsection (2) above, shall provide that any period during which the prisoner is out of the part of the United Kingdom in which the provisions contained in the earlier warrant have effect and is in custody is to be treated (except to such extent as may be specified in the warrant in order that effect may be given to the international arrangements in question) as a period during which the prisoner is detained under the provisions contained in the earlier warrant.
- (4) The provisions contained by virtue of section 3(1)(c) above in a [<sup>F57</sup>warrant under section 1] issued for the purpose of the temporary return of the prisoner to the United Kingdom may require the prisoner to be detained in accordance with any order which on his return will apply in respect of him in pursuance of section 2(2) above; and the Schedule to this Act shall not apply in relation to the provisions so contained in such a warrant.
- [<sup>F58</sup>(5) In this section “relevant Minister” means—
- (a) the Scottish Ministers in a case where the prisoner is a person who is either—
    - (i) detained in Scotland and the transfers are for the purpose of a temporary return of the prisoner to a country or territory outside the

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- British Islands from which he has previously been transferred into Scotland 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 Scotland under this Act; <sup>F59</sup> ...
- [ the Department of Justice in Northern Ireland in a case where the prisoner is a person who is either—
- <sup>F60</sup>(aa) (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]
- (b) the Secretary of State in any other case.]

[<sup>F61</sup>(6) Any reference in subsection (5)(a) to the prisoner having previously been transferred into or from Scotland includes a reference to responsibility for his detention and release having previously been transferred to or from the Scottish Ministers (as the case may be).]

[<sup>F62</sup>(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).]

#### Textual Amendments

- F49** Words in s. 4(1) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 14(2)(a)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F50** Words in s. 4(1) substituted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 75(5)(a)**
- F51** Words in s. 4(1)(a) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 14(2)(b)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F52** Words in s. 4(1)(b) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 14(2)(c)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F53** Words in s. 4(2) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 14(3)(a)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F54** Words in s. 4(2) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 14(3)(b)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F55** Words in s. 4(3) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 14(4)(a)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F56** Words in s. 4(3) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 14(4)(b)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F57** Words in s. 4(4) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 14(5)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)
- F58** S. 4(5) inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 75(5)(b)**
- F59** Word in s. 4(5)(a) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 4(2)(a)** (with arts. 28-31)
- F60** S. 4(5)(aa) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 4(2)(b)** (with arts. 28-31)
- F61** S. 4(6) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 14(6)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

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**F62** S. 4(7) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 4(3)** (with arts. 28-31)

**Modifications etc. (not altering text)**

**C6** Ss. 1-8: certain functions made exercisable in or as regards Scotland (30.6.1999) by S.I. 1999/1748, arts. 4(1), 8(1), **Sch. 2 para. 1(1)-(10)**

**Changes to legislation:**

There are currently no known outstanding effects for the Repatriation of Prisoners Act 1984,  
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