



Criminal Justice Act 1988

1988 CHAPTER 33

PART I

EXTRADITION

Preliminary

1 Scope of Part I

- (1) Where extradition procedures under this Part of this Act are available as between the United Kingdom and a foreign state, a person in the United Kingdom who—
- (a) is accused in that state of the commission of an extradition crime; or
 - (b) is alleged to be unlawfully at large after conviction of an extradition crime by a court in that state,
- may be arrested and returned to that state in accordance with those procedures.
- (2) In this Part of this Act—
- “extradition procedures” means the procedures set out in sections 3 to 10 and 12 to 17 below; and
- “extradition arrangements” means arrangements made with a foreign state under which extradition procedures will be available as between the United Kingdom and that state.
- (3) Extradition arrangements may be—
- (a) arrangements of a general nature made with one or more states and relating to the operation of this Part of this Act (in this Part of this Act referred to as “general extradition arrangements”); or
 - (b) arrangements relating to the operation of this Part of this Act in particular cases (in this Part of this Act referred to as “special extradition arrangements”) made with a state with which there are no general extradition arrangements.
- (4) In this Part of this Act “foreign state” means any state other than—
- (a) the United Kingdom;

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- (b) a country mentioned in Schedule 3 to the British Nationality Act 1981 (countries whose citizens are Commonwealth citizens);
- (c) a colony of the United Kingdom; or
- (d) the Republic of Ireland,

but a state which is a party to the European Convention on Extradition done at Paris on 13th December 1957 may be treated as a foreign state for the purposes of this Part of this Act.

- (5) In this Part of this Act “extradition crime” means—
- (a) conduct in the territory of a foreign state which, if it occurred in the United Kingdom, would constitute an offence punishable with imprisonment for a term of 12 months, or any greater punishment, and which, however described in the law of the foreign state, is so punishable under that law; or
 - (b) any conduct which by virtue of subsection (8)(b) below is treated as conduct in the territory of a foreign state and which satisfies the conditions in paragraph (a) above; or
 - (c) an extra-territorial offence against the law of a foreign state which is punishable under that law with imprisonment for a term of 12 months, or any greater punishment, and which satisfies—
 - (i) the condition specified in subsection (6) below; or
 - (ii) all the conditions specified in subsection (7) below.
- (6) The condition mentioned in subsection (5)(c)(i) above is that in corresponding circumstances equivalent conduct would constitute an extra-territorial offence against the law of the United Kingdom punishable with imprisonment for a term of 12 months, or any greater punishment.
- (7) The conditions mentioned in subsection (5)(c)(ii) above are—
- (a) that the foreign state bases its jurisdiction on the nationality of the offender;
 - (b) that the conduct constituting the offence occurred outside the United Kingdom; and
 - (c) that, if it occurred in the United Kingdom, it would constitute an offence under the law of the United Kingdom punishable with imprisonment for a term of 12 months, or any greater punishment.
- (8) For the purposes of this Part of this Act—
- (a) the law of a foreign state includes the law of any part of that state and the law of the United Kingdom includes the law of any part of the United Kingdom; and
 - (b) conduct in a colony or dependency of a foreign state, or a vessel, aircraft or hovercraft of a foreign state, shall be treated as if it were conduct in the territory of that state.
- (9) The amendments of the Extradition Act 1870, the Backing of Warrants (Republic of Ireland) Act 1965 and the Fugitive Offenders Act 1967 contained respectively in Parts I, II and III of Schedule 1 to this Act (which introduce into those Acts provisions corresponding to certain provisions of this Part of this Act) shall have effect.

2 Orders in Council as to arrangements for extradition

- (1) Where general extradition arrangements have been made, Her Majesty may, by Order in Council reciting or embodying their terms, direct that extradition procedures shall be available as between the United Kingdom and the foreign state, or any foreign state,

with whom they have been made, subject to the limitations, restrictions, exceptions and qualifications, if any, contained in the Order.

- (2) An Order in Council under this section shall not be made unless the general extradition arrangements to which it relates—
 - (a) provide for their determination after the expiration of a notice given by a party to them and not exceeding one year or for their denunciation by means of such a notice; and
 - (b) are in conformity with the provisions of this Part of this Act, and in particular with the restrictions on return contained in this Part of this Act.
- (3) An Order in Council under this section shall be conclusive evidence that the arrangements therein referred to comply with this Part of this Act and that this Part of this Act applies in the case of the foreign state, or any foreign state, mentioned in the Order.
- (4) An Order in Council under this section shall be laid before Parliament after being made.
- (5) An Order in Council under this section which does not provide that a person may only be returned to the foreign state requesting his return if the court before which he is brought under section 6 below is satisfied that the evidence would be sufficient to warrant his trial if the extradition crime had taken place within the jurisdiction of the court shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) On the commencement of this Part of this Act the power conferred by section 2 of the Extradition Act 1870 to direct that that Act shall apply in the case of a foreign state shall cease to be exercisable, but nothing in this Part of this Act affects any Order in Council made under that section or the operation of any enactment in relation to a foreign state in whose case an Order in Council under that section is in force.

3 General restrictions on return

- (1) A person shall not be returned to a foreign state under this Part of this Act, or committed to or kept in custody for the purposes of such return, if it appears to an appropriate authority—
 - (a) that the offence of which that person is accused or was convicted is an offence of a political character;
 - (b) that it is an offence under military law which is not also an offence under the general criminal law;
 - (c) that the request for his return (though purporting to be made on account of an extradition crime) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions; or
 - (d) that he might, if returned, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.
- (2) A person who is alleged to be unlawfully at large after conviction of an extradition crime by a court in a foreign state shall not be returned to that state, or committed to or kept in custody for the purposes of such return, if it appears to an appropriate authority—
 - (a) that the conviction was obtained in his absence; and

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- (b) that it would not be in the interests of justice to return him to the foreign state on the ground of that conviction.
- (3) A person accused of an offence shall not be returned to a foreign state, or committed to or kept in custody for the purposes of such return, if it appears to an appropriate authority that if charged with that offence in the United Kingdom he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.
- (4) A person shall not be returned to a foreign state, or committed to or kept in custody for the purposes of such return, unless provision is made by the law of that state, or by an arrangement made with that state, for securing that he will not, unless he has first had an opportunity to leave that state, be dealt with in that state for or in respect of any offence committed before his return to it other than—
 - (a) the offence in respect of which his return is ordered;
 - (b) an offence, other than an offence excluded by subsection (5) below, which is disclosed by the particulars furnished under section 4(2)(b) below; or
 - (c) subject to subsection (6) below, any other offence being an extradition crime in respect of which the Secretary of State may consent to his being dealt with.
- (5) The offences excluded from paragraph (b) of subsection (4) above are offences in relation to which an order for the return of the person concerned could not lawfully be made in accordance with the provisions of this Part of this Act.
- (6) The Secretary of State may not give consent under paragraph (c) of that subsection in respect of an offence in relation to which it appears to him that an order for the return of the person concerned could not lawfully be made, or would not in fact be made, in accordance with the provisions of this Part of this Act.
- (7) In this Part of this Act “appropriate authority” means—
 - (a) the Secretary of State;
 - (b) the court of committal;
 - (c) the High Court or High Court of Justiciary on an application for habeas corpus or for review of the order of committal.

Procedure

4 Extradition request and authority to proceed

- (1) Subject to the provisions of this Part of this Act relating to provisional warrants, a person shall not be dealt with under this Part of this Act except in pursuance of an order of the Secretary of State (in this Part of this Act referred to as an “authority to proceed”) issued in pursuance of a request (in this Part of this Act referred to as an “extradition request”) for the surrender of a person under this Part of this Act made by some person recognised by the Secretary of State as a diplomatic representative of a foreign state.
- (2) There shall be furnished with any such request—
 - (a) particulars of the person whose return is requested;
 - (b) particulars of the offence of which he is accused or was convicted (including information sufficient to justify the issue of a warrant for his arrest under this Part of this Act);

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- (c) in the case of a person accused of an offence, a warrant for his arrest issued in the foreign state; and
 - (d) in the case of a person unlawfully at large after conviction of an offence, a certificate of the conviction and sentence,
- and copies of them shall be served on the person whose return is requested before he is brought before a court under section 6 below.
- (3) Rules under section 144 of the Magistrates' Courts Act 1980 may make provision as to the procedure for service under subsection (2) above in England and Wales.
 - (4) The High Court of Justiciary may, by Act of Adjournal, make rules as to the procedure for service under subsection (2) above in Scotland.
 - (5) On receipt of any such request the Secretary of State may issue an authority to proceed unless it appears to him that an order for the return of the person concerned could not lawfully be made, or would not in fact be made, in accordance with the provisions of this Part of this Act.
 - (6) An authority to proceed shall specify the offence or offences under the law of the United Kingdom which it appears to the Secretary of State would be constituted by equivalent conduct in the United Kingdom.
 - (7) In this Part of this Act “warrant”, in the case of any foreign state, includes any judicial document authorising the arrest of a person accused or convicted of a crime.

5 Arrest for purposes of committal

- (1) For the purposes of this Part of this Act a warrant for the arrest of a person accused in a foreign state of an extradition crime, or alleged to be unlawfully at large after conviction in a foreign state of an extradition crime, may be issued—
 - (a) on the receipt of an authority to proceed, by—
 - (i) the chief metropolitan stipendiary magistrate or metropolitan stipendiary magistrate designated for the purposes of this Part of this Act by the Lord Chancellor; or
 - (ii) the sheriff of Lothian and Borders;
 - (b) without such an authority—
 - (i) by a metropolitan stipendiary magistrate;
 - (ii) by a justice of the peace in any part of the United Kingdom; and
 - (iii) in Scotland, by a sheriff,upon information that the said person is or is believed to be in or on his way to the United Kingdom;and any warrant issued by virtue of paragraph (b) above is in this Part of this Act referred to as a “provisional warrant”.
- (2) A person empowered to issue warrants of arrest under this section may issue such a warrant if he is supplied with such information as would in his opinion authorise the issue of a warrant for the arrest of a person accused of conduct which would constitute an offence punishable under the law of the United Kingdom with imprisonment for a period of not less than 12 months or, as the case may be, of a person alleged to be unlawfully at large after conviction of such an offence within his jurisdiction.
- (3) Where a provisional warrant is issued under this section, the authority by whom it is issued shall forthwith give notice to the Secretary of State, and transmit to him the

information, or certified copies of the information, upon which it was issued; and the Secretary of State may in any case, and shall, if he decides not to issue an authority to proceed in respect of the person to whom the warrant relates, by order cancel the warrant and, if that person has been arrested under it, discharge him from custody.

- (4) A warrant of arrest issued under this section may, without being backed, be executed in any part of the United Kingdom and may be so executed by any person to whom it is directed or by any constable.

6 Proceedings for committal

- (1) A person arrested in pursuance of a warrant under section 5 above shall (unless previously discharged under subsection (3) of that section) be brought as soon as practicable before a court (in this Part of this Act referred to as “the court of committal”) consisting of the chief metropolitan stipendiary magistrate or a metropolitan stipendiary magistrate designated as mentioned in section 5(1)(a) above or the sheriff of Lothian and Borders, as may be directed by the warrant.
- (2) For the purposes of proceedings under this section the court of committal shall have the like jurisdiction and powers, as nearly as may be, including power to remand in custody or on bail, as a magistrates' court acting as examining justices.
- (3) For the purposes of proceedings under this section a court of committal in Scotland shall have the like powers, including power to adjourn the case and meanwhile to remand the person arrested under the warrant either in custody or on bail, and the proceedings shall be conducted as nearly as may be in the like manner, as if the proceedings were summary proceedings in respect of an offence alleged to have been committed by that person; and the provisions of the Legal Aid (Scotland) Act 1986 relating to such proceedings or any appellate proceedings following thereon shall apply accordingly to that person.
- (4) Where an Order in Council such as is mentioned in subsection (8) below is in force in relation to the foreign state, there is no need to furnish the court of committal with evidence sufficient to warrant the trial of the arrested person if the extradition crime had taken place within the jurisdiction of the court.
- (5) Where the person arrested is in custody by virtue of a provisional warrant and no authority to proceed has been received in respect of him, the court of committal may fix a period (of which the court shall give notice to the Secretary of State) after which he will be discharged from custody unless such an authority has been received.
- (6) In exercising the power conferred by subsection (5) above in a case when the extradition request is made under general extradition arrangements the court shall have regard to any period specified for the purpose in the Order in Council relating to the arrangements.
- (7) Where—
- (a) the extradition request is made under general extradition arrangements but no period is so specified; or
 - (b) the application is made under special extradition arrangements,
- the court of committal may fix a reasonable period.
- (8) Where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied, after hearing any representations made in support of the

extradition request or on behalf of that person, that the offence or any of the offences to which the authority relates is an extradition crime, and is further satisfied—

- (a) where that person is accused of the offence, unless an Order in Council giving effect to general extradition arrangements otherwise provides, that the evidence would be sufficient to warrant his trial if the extradition crime had taken place within the jurisdiction of the court;
- (b) where that person is alleged to be unlawfully at large after conviction of the offence, that he has been so convicted and appears to be so at large,

the court, unless his committal is prohibited by any other provision of this Part of this Act, shall commit him—

- (i) to await the Secretary of State's decision as to his return to the foreign state that made the extradition request; and
- (ii) if the Secretary of State decides that he shall be returned to that state, to await his return.

(9) If the court commits a person under subsection (8) above, it shall issue a certificate of the offence against the law of the United Kingdom which would be constituted by his conduct.

(10) A person may be committed in the exercise of the power conferred by subsection (8) above either to custody or on bail.

(11) If the court commits a person to custody in the exercise of that power, it may subsequently grant him bail if it considers it appropriate to do so.

(12) If—

- (a) the court is not satisfied as mentioned in subsection (8) above in relation to the person arrested; or
 - (b) his committal is prohibited by a provision of this Part of this Act,
- it shall discharge him.

7 Statement of case by court

(1) If the court of committal refuses to make an order of committal in relation to a person under section 6 above in respect of the offence or, as the case may be, any of the offences, to which the authority to proceed relates, the state seeking the surrender of that person to it may question the proceeding on the ground that it is wrong in law by applying to the court to state a case for the opinion of the High Court or, in Scotland, the High Court of Justiciary on the question of law involved.

(2) If the state seeking his surrender immediately informs the court of committal that it intends to make such an application, the court shall make an order providing for his detention, or directing that he shall not be released except on bail.

(3) Rules of Court may specify—

- (a) a period within which a state must make such an application unless the Court grants a longer period; and
- (b) a period within which the court of committal must comply with such an application.

(4) Where the court of committal fails to comply with an application under subsection (1) above within the period specified in Rules of Court, the High Court or, in Scotland,

the High Court of Justiciary may, on the application of the state that applied for the case to be stated, make an order requiring the court to state a case.

- (5) The High Court or High Court of Justiciary shall have power—
 - (a) to remit the case to the court of committal to decide it according to the opinion of the High Court or High Court of Justiciary on the question of law; or
 - (b) to dismiss the appeal.
- (6) Where the court dismisses an appeal relating to an offence, it shall by order declare that that offence is not an offence in respect of which the Secretary of State has power to make an order under section 9 below in respect of the person whose return was requested.
- (7) An order made by a metropolitan magistrate under subsection (2) above shall cease to have effect if—
 - (a) the court dismisses the appeal in respect of the offence or all the offences to which it relates; and
 - (b) the state seeking surrender does not immediately—
 - (i) apply for leave to appeal to the House of Lords; or
 - (ii) inform the court that it intends to apply for leave.
- (8) An order made by the sheriff of Lothian and Borders under subsection (2) above shall cease to have effect if the court dismisses the appeal in respect of the offence or all the offences to which it relates.
- (9) In relation to a decision of a court on an appeal under this section, section 1 of the Administration of Justice Act 1960 (right of appeal to House of Lords) shall have effect as if so much of subsection (2) as restricts the grant of leave to appeal were omitted.
- (10) The House of Lords may exercise any powers of the High Court under subsection (5) above and subsection (6) above shall apply to them as it applies to that Court.
- (11) Subject to subsections (7) and (8) above, an order under subsection (2) above shall have effect so long as the case is pending.
- (12) For the purposes of this section a case is pending (unless proceedings are discontinued) until (disregarding any power of a court to grant leave to take any step out of time) there is no step that the foreign state can take.
- (13) In the application to Scotland of this section, subsections (9) and (10) shall be omitted and, in relation to an appeal under this section in Scotland, the court may make an order providing for the detention of the person to whom it relates or it may grant bail; and section 446(2) of the Criminal Procedure (Scotland) Act 1975 shall apply for the purpose of such an appeal as it applies for the purpose of an appeal such as is mentioned in section 444 of that Act.

8 Application for habeas corpus etc

- (1) Where a person is committed under section 6 above, the court shall inform him in ordinary language of his right to make an application for habeas corpus, and shall forthwith give notice of the committal to the Secretary of State.
- (2) A person committed under section 6 above shall not be returned under this Part of this Act—

- (a) in any case, until the expiration of the period of 15 days beginning with the day on which the order for his committal is made;
 - (b) if an application for habeas corpus is made in his case, so long as proceedings on that application are pending.
- (3) Without prejudice to any jurisdiction of the High Court apart from this section, the court shall order the applicant's discharge if it appears to the Court, in relation to the offence, or each of the offences, in respect of which the applicant's return is sought, that—
- (a) by reason of the trivial nature of the offence of which he is accused or was convicted; or
 - (b) by reason of the passage of time since he is alleged to have committed it or to have become unlawfully at large, as the case may be; or
 - (c) because the accusation against him is not made in good faith in the interests of justice,
- it would, having regard to all the circumstances, be unjust or oppressive to return him.
- (4) On any such application the court may receive additional evidence relevant to the exercise of their jurisdiction under section 3 above or subsection (3) above.
- (5) Proceedings on an application for habeas corpus shall be treated for the purposes of this section as pending (unless they are discontinued) until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal.
- (6) In the application of this section to Scotland—
- (a) references to an application for habeas corpus shall be construed as references to an application for review of the order of committal; and
 - (b) the reference to the High Court shall be construed as a reference to the High Court of Justiciary.

9 Order for return to requesting state

- (1) Where a person is committed under section 6 above and is not discharged by order of the High Court or the High Court of Justiciary, the Secretary of State may by warrant order him to be returned to the state by which the extradition request was made unless his return is prohibited, or prohibited for the time being, by this Part of this Act, or the Secretary of State decides under this section to make no such order in his case.
- (2) The Secretary of State shall give the person to whom an order under subsection (1) above would relate notice in writing that he is contemplating making such an order.
- (3) The person to whom such an order would relate shall have a right to make representations, at any time before the expiration of the period of 15 days commencing with the date on which the notice is given, as to why he should not be returned to the foreign state, and unless he waives that right, no such order shall be made in relation to him before the end of that period.
- (4) A notice under subsection (2) above shall explain in ordinary language the right conferred by subsection (3) above.
- (5) It shall be the duty of the Secretary of State to consider any representations made in the exercise of that right.

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- (6) Unless the person to whom it relates waives the right conferred on him by subsection (7) below, he shall not be returned to the foreign state until the expiration of the period of 7 days commencing with the date on which the warrant is issued or such longer period as—
- (a) in England and Wales, rules of court under section 84 of the Supreme Court Act 1981, or
 - (b) in Scotland, the High Court of Justiciary by Act of Adjournal
- may provide.
- (7) At any time within that period he may apply for leave to seek judicial review of the Secretary of State's decision to make the order.
- (8) If he applies for judicial review, he may not be returned so long as the proceedings for judicial review are pending.
- (9) Proceedings for judicial review shall be treated for the purposes of this section as pending (unless they are discontinued) until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal.
- (10) A warrant under this section—
- (a) shall state in ordinary language that the Secretary of State has considered any representations made in the exercise of the right conferred by subsection (3) above; and
 - (b) shall explain in ordinary language the rights conferred by this section on a person whose return to a foreign state has been ordered under this section, and a copy shall be given to the person to whom it relates as soon as the order for his return is made.
- (11) Without prejudice to his general discretion as to the making of an order for the return of a person to a foreign state under this Part of this Act—
- (a) the Secretary of State shall not make an order in the case of any person if it appears to the Secretary of State that—
 - (i) by reason of the trivial nature of the offence of which he is accused or was convicted; or
 - (ii) by reason of the passage of time since he is alleged to have committed it or to have become unlawfully at large, as the case may be; or
 - (iii) because the accusation against him is not made in good faith in the interests of justice,it would, having regard to all the circumstances, be unjust or oppressive to return him; and
 - (b) the Secretary of State may decide not to make an order for the return of a person accused or convicted of an extradition crime constituted by conduct not punishable with death in Great Britain if that person could be or has been sentenced to death for that offence in the state by which the request for his return is made.
- (12) An order for the return of a person to a foreign state under this Part of this Act shall not be made in the case of a person who is serving a sentence of imprisonment or detention, or is charged with an offence, in the United Kingdom—
- (a) in the case of a person serving such a sentence, until the sentence has been served;

- (b) in the case of a person charged with an offence, until the charge is disposed of or withdrawn or unless an order is made for it to lie on the file and, if it results in his serving a term of imprisonment or detention, until the sentence has been served.
- (13) In the application of this section to Scotland, the reference in subsection (12) above to an order being made for the charge to lie on the file shall be construed as a reference to the diet being deserted pro loco et tempore.
- (14) The Secretary of State may decide to make no order under this section for the return of a person committed in consequence of an extradition request if another extradition request has been made in respect of him and it appears to the Secretary of State, having regard to all the circumstances of the case and in particular—
- (a) the relative seriousness of the offences in question;
 - (b) the date on which each such request was made; and
 - (c) the nationality or citizenship of the person concerned and his ordinary residence,
- that preference should be given to that other request.

10 Simplified procedure

- (1) A person may give notice that he waives the rights conferred on him by section 8 above.
- (2) A notice under this section shall be given in England and Wales in the manner prescribed by rules under section 144 of the Magistrates' Courts Act 1980, and, without prejudice to the generality of subsection (1) of that section, the power to make such rules shall include power to make provision for a magistrate to order the committal for return of a person with his consent at any time after his arrest.
- (3) A notice under this section shall be given in Scotland in the manner prescribed by the High Court of Justiciary by Act of Adjournal and the sheriff may order the committal for return of a person with his consent at any time after his arrest.
- (4) Where an order is made under this section, this Part of this Act shall cease to apply to the person in respect of whom it is made, except that, if within one month after the order is made, he is not surrendered to the foreign state to which he is to be returned, the High Court or, in Scotland, the High Court of Justiciary, upon application by or on behalf of that person, may, unless reasonable cause is shown for the delay, order him to be discharged.

11 Special extradition arrangements

- (1) Where special extradition arrangements have been made in respect of a person, extradition procedures shall be available in the case of that person, as between the United Kingdom and the foreign state with whom the arrangements have been made, subject to the limitations, restrictions, exceptions and qualifications, if any, contained in the arrangements.
- (2) If the Secretary of State issues a certificate of special extradition arrangements, it shall be conclusive evidence of all matters stated in it.
- (3) In subsection (2) above “certificate of special extradition arrangements” means a certificate—

- (a) that special extradition arrangements have been made in respect of a person as between the United Kingdom and a foreign state specified in the certificate; and
- (b) that extradition procedures are available in the case of that person as between the United Kingdom and the foreign state to the extent specified in the certificate.

12 Discharge in case of delay

- (1) If a person committed under section 6 above is still in the United Kingdom after the expiration of the relevant period, he may apply to the High Court or the High Court of Justiciary for his discharge.
- (2) Unless he has instituted proceedings for judicial review of the Secretary of State's decision to order his return, the relevant period is—
 - (a) the period of two months beginning with the first day on which, having regard to section 8(2) above, he could have been returned;
 - (b) where a warrant for his return has been issued under section 9 above, the period of one month beginning with the day on which that warrant was issued.
- (3) If he has instituted such proceedings, the relevant period is the period expiring one month after they end.
- (4) Proceedings for judicial review end for the purposes of this section—
 - (a) if they are discontinued, on the date of discontinuance; and
 - (b) if they are determined, on the date on which (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal.
- (5) If upon an application under this section the court is satisfied that reasonable notice of the proposed application has been given to the Secretary of State, the court may, unless sufficient cause is shown to the contrary, by order direct the applicant to be discharged and if a warrant for his return has been issued under section 9 above, quash that warrant.

13 Authentication of foreign documents

- (1) For the purposes of this Part of this Act foreign documents may be authenticated by the oath of a witness, but shall in any case be deemed duly authenticated—
 - (a) if they purport to be signed or certified by a judge, magistrate or officer of the foreign state where they were issued; and
 - (b) if they purport to be certified by the Minister of Justice, or some other Minister of State, of the foreign state.
- (2) Judicial notice shall be taken of such certification as is mentioned in subsection (1)(b) above, and documents authenticated by such certification shall be received in evidence without further proof.

14 Custody

- (1) Any person remanded or committed to custody under this Part of this Act shall be committed to the like institution as a person charged with an offence before the court of committal.

- (2) If any person who is in custody by virtue of a warrant under this Part of this Act escapes out of custody, he may be retaken in any part of the United Kingdom in like manner as a person escaping from custody under a warrant for his arrest issued in that part in respect of an offence committed in that part.
- (3) Where a person, being in custody in any part of the United Kingdom whether under this Part of this Act or otherwise, is required to be removed in custody under this Part of this Act to another part of the United Kingdom and is so removed by sea or by air, he shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed.
- (4) A warrant for the return of any person to a foreign state shall be sufficient authority for all persons to whom it is directed and all constables to receive that person, keep him in custody and convey him into the jurisdiction of that foreign state.

15 Form of warrants and orders

- (1) Any warrant or order to be issued or made by the Secretary of State under this Part of this Act shall be given under the hand of the Secretary of State, a Minister of State or an Under-Secretary of State.
- (2) The Secretary of State may by regulations made by statutory instrument prescribe the form of any document (except a notice required under section 10(2) above) required for the purposes of this Part of this Act.

Treatment of persons returned from foreign states

16 Restrictions upon proceedings for other offences

- (1) Where any person is returned to the United Kingdom by a foreign state in pursuance of general or special extradition arrangements, he shall not, unless he has first been restored or had an opportunity of leaving the United Kingdom, be triable or tried for any offence committed prior to the surrender in any part of the United Kingdom, other than—
 - (a) an offence in respect of which he was returned; or
 - (b) any offence disclosed by the particulars furnished to the foreign state on which his return is grounded; or
 - (c) any other offence in respect of which the foreign state may consent to his being tried.
- (2) Where any person returned to the United Kingdom in pursuance of general or special extradition arrangements has been convicted before his return of an offence for which his return was not granted, any punishment for that offence shall by operation of this section be remitted; but his conviction for it shall be treated as a conviction for all other purposes.

17 Restoration of persons not tried or acquitted

- (1) This section applies to any person accused of an offence under the law of the United Kingdom who is returned to the United Kingdom in pursuance of general or special extradition arrangements.

- (2) If in the case of a person to whom this section applies either—
- (a) proceedings against him for the offence for which he was returned are not begun within the period of six months beginning with the day of his arrival in the United Kingdom on being returned; or
 - (b) on his trial for that offence, he is acquitted or discharged under any of the following provisions—
 - (i) section 7(1) of the Powers of Criminal Courts Act 1973;
 - (ii) section 182 or 383 of the Criminal Procedure (Scotland) Act 1975;
 - (iii) section 5(1) of the Probation Act (Northern Ireland) 1950,
 the Secretary of State may, if he thinks fit, on the request of that person, arrange for him to be sent back free of charge and with as little delay as possible to the foreign state from which he was returned.

Repatriation cases

18 Persons serving sentences outside country of conviction

- (1) This section applies where—
- (a) a request is made—
 - (i) by some person recognised as a diplomatic representative of a foreign state in the case of which the Extradition Act 1870 applies or as between which and the United Kingdom extradition procedures under this Part of this Act are available; or
 - (ii) by or on behalf of the Government of a Commonwealth country which is a designated Commonwealth country, as defined in subsection (1) of section 2 of the Fugitive Offenders Act 1967, or the Governor of a United Kingdom dependency, as defined in subsection (2) of that section,
 for the arrest and return of a person in the United Kingdom who is alleged to be unlawfully at large from a prison in which he was serving a sentence in pursuance of international arrangements for the repatriation of prisoners sentenced in one country (“the country of conviction”) to serve their sentences in another (“the country of imprisonment”); and
 - (b) there are furnished with the request—
 - (i) particulars of the person whose return or surrender is requested;
 - (ii) particulars of the offence of which he was convicted (including information sufficient to justify the issue of a warrant for his arrest under the relevant legislation);
 - (iii) a certificate of the conviction and sentence; and
 - (iv) a certificate of the international arrangements for repatriation under which he was held.
- (2) Where this section applies, the relevant legislation shall have effect—
- (a) if the request is from the country of conviction, as if the person to whom the request relates were alleged to be unlawfully at large from a prison in that country; and
 - (b) if it is from the country of imprisonment, as if he were alleged to have been convicted of a corresponding offence under the law of that country committed there,

and the question whether the person to whom the request relates is to be returned shall be determined, subject to subsection (3) below, in accordance with that legislation.

- (3) A person shall not be returned under subsection (2)(b) above unless—
- (a) the offence was committed in the country of conviction; or
 - (b) the offence was not committed there but was committed in circumstances in which he might be returned on a request made by the country of conviction.
- (4) In this section “the relevant legislation” means—
- (a) if the request is made by some person recognised as a diplomatic representative of a foreign state in the case of which the Extradition Act 1870 applies, the Extradition Acts 1870 to 1935 as they apply in the case of that state;
 - (b) if it is made by some person recognised as a diplomatic representative of a foreign state as between whom and the United Kingdom extradition procedures under this Part of this Act are available, the following provisions of this Act, as they apply in the case of that state—
 - (i) section 1(1) to (8); and
 - (ii) sections 2 to 17; and
 - (c) if it is made by or on behalf of the Government of a designated Commonwealth country or the Governor of a United Kingdom dependency, the Fugitive Offenders Act 1967 as it applies in the case of that country or dependency.

Channel Islands, Isle of Man and colonies

19 Application to Channel Islands and Isle of Man

- (1) Subject to the provisions of this section, sections 1 to 18 above shall extend to the Channel Islands and the Isle of Man, and shall have effect as if each of them were part of the United Kingdom.
- (2) Her Majesty may by Order in Council direct that any of the provisions mentioned in subsection (1) above shall, in its application to any of the said islands, have effect subject to such exceptions, adaptations or modifications as may be specified in the Order.

20 Application of general extradition arrangements to colonies

- (1) Upon the making of an Order in Council under section 2 above, the provisions of this Act specified in subsection (2) below shall, unless the Order otherwise provides, extend to every colony, as regards the extradition arrangements to which the Order refers, but subject—
- (a) to the modifications set out in subsections (3) to (6) below; (b) to any further modifications as to procedure prescribed by the law of the colony; and
 - (c) to the limitations, restrictions, exceptions and qualifications, if any, contained in the Order.
- (2) The provisions of this Act mentioned in subsection (1) above are—
- (a) section 1(1) to (8);
 - (b) sections 3 to 10;
 - (c) sections 12 to 18; and

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

- (d) this section.
- (3) A reference to the colony shall be substituted for any reference to the United Kingdom or Great Britain.
- (4) An extradition request may be made to the Governor and the Governor may exercise the powers of the Secretary of State.
- (5) A reference to a consular representative recognised by the Governor shall be substituted for the reference in section 4(1) above to a diplomatic representative recognised by the Secretary of State.
- (6) Any reference to a magistrate, judge or court shall be construed as a reference to such judicial authority as the law of the colony may provide.
- (7) Her Majesty may by Order in Council direct that in any colony specified in the Order—
 - (a) the Extradition Act 1870 shall have effect with the amendments made by this Act; and
 - (b) the Fugitive Offenders Act 1967 shall have effect with the amendments and repeals so made.

21 Special extradition arrangements—colonies

- (1) Her Majesty may by Order in Council direct that this section shall extend to any colony specified in the Order in the case of foreign states with whom there are no general extradition arrangements, subject to the limitations, restrictions, exceptions and qualifications, if any, contained in the Order.
- (2) Where arrangements have been made in respect of a person under which extradition procedures under this Part of this Act will be available as between a colony to which this section applies and a foreign state, such extradition procedures shall be available in the case of that person, as between the colony and the state with whom the arrangements have been made, subject—
 - (a) to the modifications of the provisions of this Act specified in subsection (2) of section 20 above set out in subsections (3) to (6) of that section;
 - (b) to any further modifications as to procedure prescribed by the law of the colony; and
 - (c) to the limitations, restrictions, exceptions and qualifications, if any, contained in the arrangements.
- (3) The provisions of this Act mentioned in section 20(2)(a) to (c) above shall extend to the colony so far as is necessary for the purposes of the arrangements.
- (4) If the governor or the Secretary of State issues a certificate—
 - (a) that such arrangements have been made; and
 - (b) that extradition procedures are available in the case of the person named in the certificate as between the colony and the foreign state to the extent specified in the certificate,it shall be conclusive evidence of all matters stated in it.

Suppression of terrorism

22 Suppression of terrorism

- (1) Schedule 1 to the Suppression of Terrorism Act 1978 shall be amended as follows.
- (2) The following sub-paragraph shall be inserted before paragraph 8(a)—
 “(za) section 4 (soliciting etc. to commit murder);”.
- (3) The following shall be inserted after paragraph 9—
 “9A The offence of torture under section 134 of the Criminal Justice Act 1988.”.
- (4) The following shall be inserted after paragraph 13—

“Nuclear material

13A An offence under any provision of the Nuclear Material (Offences) Act 1983.”.

- (5) The following shall be added at the end—

“Conspiracy

21 An offence of conspiring to commit any offence mentioned in a preceding paragraph of this Schedule.”.