



Extradition Act 1989

1989 CHAPTER 33

PART V

SPECIAL CASES

Repatriation cases

21 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 or consular representative of a foreign state in the case of which an Order in Council under section 2 of the Extradition Act 1870 applies or as between which and the United Kingdom extradition procedures under Part III of this Act are available; or

(ii) by or on behalf of the Government of a designated Commonwealth country or the Governor of a colony,

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 is requested;

(ii) particulars of the offence of which he was convicted (including evidence 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.

Status: This is the original version (as it was originally enacted).

- (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 the provisions of this Act that are relevant—
- (a) if the case falls within paragraph (a) of subsection (2) above, to extradition to the country of conviction; and
 - (b) if it falls within paragraph (b), to extradition to the country of imprisonment.

International Convention cases

22 Extension of purposes of extradition for offences under Acts giving effect to international Conventions

- (1) Except as provided by subsection (6) below, this section has effect where—
- (a) general extradition arrangements have not been made with a state which is a party to a Convention to which this section applies; and
 - (b) no Order in Council under section 2 of the Extradition Act 1870 is in force in relation to that state.
- (2) The Conventions to which this section applies are—
- (a) the Convention on Offences and certain other Acts committed on board Aircraft, which was signed at Tokyo on 14th September 1963 (“the Tokyo Convention”);
 - (b) the Convention for the Suppression of Unlawful Seizure of Aircraft, which was signed at the Hague on 16th December 1970 (“the Hague Convention”);
 - (c) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, which was signed at Montreal on 23rd September 1971 (“the Montreal Convention”);
 - (d) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons adopted by the United Nations General Assembly in 1973 (“the Internationally Protected Persons Convention”);
 - (e) the International Convention against the Taking of Hostages opened for signature at New York on 18th December 1979 (“the Hostages Convention”);
 - (f) the Convention on the Physical Protection of Nuclear Material opened for signature at Vienna and New York on 3rd March 1980 (“the Nuclear Material Convention”);

- (g) the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the United Nations General Assembly on 10th December 1984 (“the Torture Convention”).
- (3) Where this section has effect, an Order in Council applying this Act may be made under section 4 above as if a Convention to which this section applies that is specified in the Order constituted general extradition arrangements between the United Kingdom and the foreign state, or any foreign state, party to the Convention; but where this Act is so applied, it shall have effect only in respect—
- (a) of the relevant offences;
 - (b) of an attempt to commit a relevant offence;
 - (c) of counselling, procuring, commanding, aiding or abetting a relevant offence; and
 - (d) of being accessory before or after the fact to a relevant offence.
- (4) The relevant offences are—
- (a) in relation to the Tokyo Convention, any offence committed on board an aircraft in flight;
 - (b) in relation to the Hague Convention, any offence under or by virtue of section 1 or 6(1) or (2)(a) of the Aviation Security Act 1982;
 - (c) in relation to the Montreal Convention, any offence under or by virtue of section 2, 3 or 6(2)(b) or (c) of that Act;
 - (d) in relation to the Internationally Protected Persons Convention—
 - (i) an offence mentioned in paragraph (a) of subsection (1) of section 1 of the Internationally Protected Persons Act 1978 which is committed against a protected person within the meaning of that section;
 - (ii) an offence mentioned in paragraph (b) of that subsection which is committed in connection with such an attack as is so mentioned; and
 - (iii) an offence under section 1(3) of that Act;
 - (e) in relation to the Hostages Convention, an offence under the Taking of Hostages Act 1982;
 - (f) in relation to the Nuclear Material Convention—
 - (i) an offence mentioned in paragraph (a), (b), (c) or (d) of subsection (1) of section 1 of the Nuclear Material (Offences) Act 1983 which is committed by doing an act in relation to or by means of nuclear material; and
 - (ii) an offence under section 2 of that Act; and
 - (g) in relation to the Torture Convention, torture.
- (5) An Order in Council such as is mentioned in subsection (3) above may not provide that a court dealing with a person arrested for an offence shall not be under a duty to determine whether the evidence would be sufficient to warrant his trial if the offence had taken place within the jurisdiction of the court.
- (6) For the purposes of general extradition procedures under Part III of this Act, in their application (whether or not by virtue of such an Order in Council) as between the United Kingdom and any other state, any act or omission, wherever it takes place, which constitutes—
- (a) an offence mentioned in this section; and
 - (b) an offence against the law of that state,
- shall be deemed to be an offence committed within the territory of that state.

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

- (7) Subsections (4) and (5) of section 92 of the Civil Aviation Act 1982 shall apply for the purposes of this section as they apply for the purposes of that section.
- (8) Section 98 of that Act shall have effect as if the reference to sections 92 to 95 included a reference to this section.

23 Genocide etc

- (1) For the purposes of this Act, no offence which, if committed in the United Kingdom, would be punishable as an offence of genocide or as an attempt, conspiracy or incitement to commit such an offence shall be regarded as an offence of a political character, and no proceedings in respect of such an offence shall be regarded as a criminal matter of a political character.
- (2) It shall not be an objection to any proceedings against a person under this Act in respect of an offence which, if committed in the United Kingdom, would be punishable as an offence of genocide or as an attempt, conspiracy or incitement to commit such an offence that under the law in force at the time when and in the place where he is alleged to have committed the act of which he is accused or of which he was convicted he could not have been punished for it.

24 Suppression of terrorism

- (1) For the purposes mentioned in subsection (2) below—
 - (a) no offence to which section 1 of the Suppression of Terrorism Act 1978 applies shall be regarded as an offence of a political character; and
 - (b) no proceedings in respect of an offence to which that section applies shall be regarded as a criminal matter of a political character or as criminal proceedings of a political character.
- (2) Those purposes are the purposes—
 - (a) of a request for the return of a person in accordance with extradition procedures under Part III of this Act made by a country to which this subsection applies; and
 - (b) of a requisition under Schedule 1 to this Act which is made by such a country.
- (3) Subsection (2) above applies—
 - (a) to a country for the time being designated in an order made by the Secretary of State as a party to the European Convention on the Suppression of Terrorism signed at Strasbourg on 27th January 1977; and
 - (b) to a country in relation to which the Secretary of State has made an order under section 5 of the Suppression of Terrorism Act 1978 applying that subsection.
- (4) In relation to a requisition under Schedule 1 to this Act which is made by a country to which subsection (2) above applies that Schedule shall have effect as if at the end of paragraph 1(2)(b) there were added “or
 - (c) he proves to the satisfaction of the metropolitan magistrate or the court before whom he is brought on habeas corpus, or to the Secretary of State—
 - (i) that the requisition for his surrender has in fact been made with a view to try or punish him on account of his race, religion, nationality or political opinions; or

- (ii) that he might, if surrendered, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.”.

25 Hostage-taking

- (1) A person shall not be returned under this Act to a designated Commonwealth country which is party to the Convention referred to in subsection (3) below, or committed or kept in custody for the purposes of such return, if it appears to the appropriate authority—
 - (a) that he might, if returned, be prejudiced at his trial by reason of the impossibility of effecting communications between him and the appropriate authorities of the state entitled to exercise rights of protection in relation to him; and
 - (b) that the act or omission constituting the offence of which he has been accused or convicted also constituted an offence under section 1 of the Taking of Hostages Act 1982 or an attempt to commit such an offence.
- (2) Where the Secretary of State certifies that a country is a party to the Convention, the certificate shall, in any proceedings under this Act, be conclusive evidence of that fact.
- (3) The Convention mentioned in subsections (1) and (2) above is the International Convention against the Taking of Hostages opened for signature at New York on 18th December 1979.