

*These notes refer to the Extradition Act 2003 (c.41)  
which received Royal Assent on 20th November 2003*

# EXTRADITION ACT 2003

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## EXPLANATORY NOTES

### TERRITORIAL APPLICATION: WALES

#### Part 5

#### Miscellaneous and General Provisions

#### *Section 198: Bail: England and Wales*

562. This section amends the Bail Act 1976 so that extradition proceedings under this Act are governed by the bail provisions that apply in other criminal justice proceedings (*subsections (1) to (3)*).
563. The amendments to section 4 of the Bail Act contained in *subsections (4) and (5)* extend the presumption in favour of bail to proceedings in extradition cases where a person is accused of an offence. Currently the presumption in favour of bail does not apply to extradition cases and these amendments remove this anomaly, to bring extradition proceedings into line with other criminal proceedings. In conviction cases the presumption in favour of bail does not apply.
564. The amendments in *subsection (6)* relate to the situation where a person has been granted bail in the course of extradition proceedings. A court is given power to withhold bail or vary or impose conditions of bail, on the application by the person representing the requesting state in extradition proceedings.
565. *Subsections (7) to (11)* apply when a person has been granted bail in the course of extradition proceedings. Their effect is that the person is subject to the same liability to arrest as if he was granted bail and is under a duty to surrender into custody in the course of a criminal case. Therefore, where the person fails to surrender as required, a magistrates' court has the power to issue a warrant for his arrest. In addition, where there is reason to believe that the person is likely to break his bail conditions or fail to surrender, the person may be arrested without warrant by a constable. A constable also has this power if, where applicable, a person's surety gives notice in writing that the person is unlikely to surrender and so the surety requests to be relieved of his associated obligations. If a person is arrested in this manner without a warrant he must be brought before a justice of the peace within 24 hours (this is calculated to except Sundays and certain public holidays). The justice of the peace will decide whether the person is then to be granted bail again or committed to custody.
566. The amendments in *subsections (12) to (14)* are to Part 1 of Schedule 1 of the Bail Act. Their effect is that this Part of the Schedule, which governs the decision-making process for granting bail in criminal law cases involving imprisonable offences, also applies in extradition cases.