



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

Arrest

71 Arrest warrant following extradition request

- (1) This section applies if the Secretary of State sends documents to the appropriate judge under section 70.
- (2) The judge may issue a warrant for the arrest of the person whose extradition is requested if the judge has reasonable grounds for believing that—
 - (a) the offence in respect of which extradition is requested is an extradition offence, and
 - (b) there is evidence falling within subsection (3).
- (3) The evidence is—
 - (a) evidence that would justify the issue of a warrant for the arrest of a person accused of the offence within the judge's jurisdiction, if the person whose extradition is requested is accused of the commission of the offence;
 - (b) evidence that would justify the issue of a warrant for the arrest of a person unlawfully at large after conviction of the offence within the judge's jurisdiction, if the person whose extradition is requested is alleged to be unlawfully at large after conviction of the offence.
- (4) But if the category 2 territory to which extradition is requested is designated for the purposes of this section by order made by the Secretary of State, subsections (2) and (3) have effect as if "evidence" read "information".
- (5) A warrant issued under this section may—
 - (a) be executed by any person to whom it is directed or by any constable or customs officer;

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- (b) be executed even if neither the warrant nor a copy of it is in the possession of the person executing it at the time of the arrest.
- (6) If a warrant issued under this section in respect of a person is directed to a service policeman, it may be executed in any place where the service policeman would have power to arrest the person under the appropriate service law if the person had committed an offence under that law.
- (7) In any other case, a warrant issued under this section may be executed in any part of the United Kingdom.
- (8) The appropriate service law is—
 - (a) the Army Act 1955 (3 & 4 Eliz. 2 c. 18), if the person in respect of whom the warrant is issued is subject to military law;
 - (b) the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19), if that person is subject to air-force law;
 - (c) the Naval Discipline Act 1957 (c. 53), if that person is subject to that Act.

72 Person arrested under section 71

- (1) This section applies if a person is arrested under a warrant issued under section 71.
- (2) A copy of the warrant must be given to the person as soon as practicable after his arrest.
- (3) The person must be brought as soon as practicable before the appropriate judge.
- (4) But subsection (3) does not apply if—
 - (a) the person is granted bail by a constable following his arrest, or
 - (b) the Secretary of State decides under section 126 that the request for the person's extradition is not to be proceeded with.
- (5) If subsection (2) is not complied with and the person applies to the judge to be discharged, the judge may order his discharge.
- (6) If subsection (3) is not complied with and the person applies to the judge to be discharged, the judge must order his discharge.
- (7) When the person first appears or is brought before the appropriate judge, the judge must—
 - (a) inform him of the contents of the request for his extradition;
 - (b) give him the required information about consent;
 - (c) remand him in custody or on bail.
- (8) The required information about consent is—
 - (a) that the person may consent to his extradition to the category 2 territory to which his extradition is requested;
 - (b) an explanation of the effect of consent and the procedure that will apply if he gives consent;
 - (c) that consent must be given in writing and is irrevocable.
- (9) If the judge remands the person in custody he may later grant bail.
- (10) Subsection (4)(a) applies to Scotland with the omission of the words "by a constable".

73 Provisional warrant

- (1) This section applies if a justice of the peace is satisfied on information in writing and on oath that a person within subsection (2)—
 - (a) is or is believed to be in the United Kingdom, or
 - (b) is or is believed to be on his way to the United Kingdom.
- (2) A person is within this subsection if—
 - (a) he is accused in a category 2 territory of the commission of an offence, or
 - (b) he is alleged to be unlawfully at large after conviction of an offence by a court in a category 2 territory.
- (3) The justice may issue a warrant for the arrest of the person (a provisional warrant) if he has reasonable grounds for believing that—
 - (a) the offence of which the person is accused or has been convicted is an extradition offence, and
 - (b) there is written evidence falling within subsection (4).
- (4) The evidence is—
 - (a) evidence that would justify the issue of a warrant for the arrest of a person accused of the offence within the justice’s jurisdiction, if the person in respect of whom the warrant is sought is accused of the commission of the offence;
 - (b) evidence that would justify the issue of a warrant for the arrest of a person unlawfully at large after conviction of the offence within the justice’s jurisdiction, if the person in respect of whom the warrant is sought is alleged to be unlawfully at large after conviction of the offence.
- (5) But if the category 2 territory is designated for the purposes of this section by order made by the Secretary of State, subsections (3) and (4) have effect as if “evidence” read “information”.
- (6) A provisional warrant may—
 - (a) be executed by any person to whom it is directed or by any constable or customs officer;
 - (b) be executed even if neither the warrant nor a copy of it is in the possession of the person executing it at the time of the arrest.
- (7) If a warrant issued under this section in respect of a person is directed to a service policeman, it may be executed in any place where the service policeman would have power to arrest the person under the appropriate service law if the person had committed an offence under that law.
- (8) In any other case, a warrant issued under this section may be executed in any part of the United Kingdom.
- (9) The appropriate service law is—
 - (a) the Army Act 1955 (3 & 4 Eliz. 2 c. 18), if the person in respect of whom the warrant is issued is subject to military law;
 - (b) the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19), if that person is subject to air-force law;
 - (c) the Naval Discipline Act 1957 (c. 53), if that person is subject to that Act.
- (10) The preceding provisions of this section apply to Scotland with these modifications—

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- (a) in subsection (1) for “justice of the peace is satisfied on information in writing and on oath” substitute “sheriff is satisfied, on an application by a procurator fiscal,”;
 - (b) in subsection (3) for “justice” substitute “sheriff”;
 - (c) in subsection (4) for “justice’s”, in paragraphs (a) and (b), substitute “sheriff’s”.
- (11) Subsection (1) applies to Northern Ireland with the substitution of “a complaint” for “information”.

74 Person arrested under provisional warrant

- (1) This section applies if a person is arrested under a provisional warrant.
- (2) A copy of the warrant must be given to the person as soon as practicable after his arrest.
- (3) The person must be brought as soon as practicable before the appropriate judge.
- (4) But subsection (3) does not apply if—
 - (a) the person is granted bail by a constable following his arrest, or
 - (b) in a case where the Secretary of State has received a valid request for the person’s extradition, the Secretary of State decides under section 126 that the request is not to be proceeded with.
- (5) If subsection (2) is not complied with and the person applies to the judge to be discharged, the judge may order his discharge.
- (6) If subsection (3) is not complied with and the person applies to the judge to be discharged, the judge must order his discharge.
- (7) When the person first appears or is brought before the appropriate judge, the judge must—
 - (a) inform him that he is accused of the commission of an offence in a category 2 territory or that he is alleged to be unlawfully at large after conviction of an offence by a court in a category 2 territory;
 - (b) give him the required information about consent;
 - (c) remand him in custody or on bail.
- (8) The required information about consent is—
 - (a) that the person may consent to his extradition to the category 2 territory in which he is accused of the commission of an offence or is alleged to have been convicted of an offence;
 - (b) an explanation of the effect of consent and the procedure that will apply if he gives consent;
 - (c) that consent must be given in writing and is irrevocable.
- (9) If the judge remands the person in custody he may later grant bail.
- (10) The judge must order the person’s discharge if the documents referred to in section 70(9) are not received by the judge within the required period.
- (11) The required period is—
 - (a) 45 days starting with the day on which the person was arrested, or

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- (b) if the category 2 territory is designated by order made by the Secretary of State for the purposes of this section, any longer period permitted by the order.
- (12) Subsection (4)(a) applies to Scotland with the omission of the words “by a constable”.