



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 3

#### EXTRADITION TO THE UNITED KINGDOM

##### *Extradition from category 1 territories*

#### Commencement Information

- II** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103, art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258 art. 2\(2\)](#) and [S.I. 2003/3312 art. 2\(2\)](#))

#### 142 Issue of Part 3 warrant

- (1) The appropriate judge may issue a Part 3 warrant in respect of a person if—
- (a) a constable or an appropriate person applies to the judge for a Part 3 warrant, and
  - (b) the condition in subsection (2) [<sup>F1</sup>, or the condition in subsection (2A),]<sup>F1</sup> is satisfied.

[<sup>F2</sup>(2) The condition is that—

- (a) there are reasonable grounds for believing that the person has committed an extradition offence, and
- (b) a domestic warrant has been issued in respect of the person.

(2A) The condition is that—

- (a) there are reasonable grounds for believing that the person is unlawfully at large after conviction of an extradition offence by a court in the United Kingdom, and
- (b) either a domestic warrant has been issued in respect of the person or the person may (if unlawfully at large as mentioned in paragraph (a)) be arrested without a warrant.]

*Status: Point in time view as at 15/01/2007.*

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- <sup>F2</sup>(3) A Part 3 warrant is an arrest warrant which contains—
- (a) the statement referred to in subsection (4) or the statement referred to in subsection (5), and
  - (b) the certificate referred to in subsection (6).
- (4) The statement is one that—
- (a) the person in respect of whom the warrant is issued is accused in the United Kingdom of the commission of an extradition offence specified in the warrant, and
  - (b) the warrant is issued with a view to his arrest and extradition to the United Kingdom for the purpose of being prosecuted for the offence.
- (5) The statement is one that—
- (a) the person in respect of whom the warrant is issued [<sup>F3</sup>has been convicted]<sup>F3</sup> of an extradition offence specified in the warrant by a court in the United Kingdom, and
  - (b) the warrant is issued with a view to his arrest and extradition to the United Kingdom for the purpose of being sentenced for the offence or of serving a sentence of imprisonment or another form of detention imposed in respect of the offence.
- (6) The certificate is one certifying—
- (a) whether the conduct constituting the extradition offence specified in the warrant falls within the European framework list;
  - (b) whether the offence is an extra-territorial offence;
  - (c) what is the maximum punishment that may be imposed on conviction of the offence or (if the person has been sentenced for the offence) what sentence has been imposed.
- (7) The conduct which falls within the European framework list must be taken for the purposes of subsection (6)(a) to include conduct which constitutes—
- (a) an attempt, conspiracy or incitement to carry out conduct falling within the list, or
  - (b) aiding, abetting, counselling or procuring the carrying out of conduct falling within the list.
- [<sup>F4</sup>(8) A domestic warrant is a warrant for the arrest or apprehension of a person which is issued under any of the provisions referred to in subsection (8A), or at common law by a Crown Court judge in Northern Ireland.
- (8A) The provisions are—
- (a) section 72 of the Criminal Justice Act 1967;
  - (b) section 7 of the Bail Act 1976;
  - (c) section 51 of the Judicature (Northern Ireland) Act 1978;
  - (d) section 1 of the Magistrates' Courts Act 1980;
  - (e) Article 20 or 25 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26));
  - (f) the Criminal Procedure (Scotland) Act 1995.]
- <sup>F4</sup>(9) An appropriate person is a person of a description specified in an order made by the Secretary of State for the purposes of this section.

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- (10) Subsection (1)(a) applies to Scotland with the substitution of “ a procurator fiscal ” for “a constable or an appropriate person”.

#### Textual Amendments

- F1** Words in s. 142(1)(b) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 21\(1\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F2** S. 142(2)(2A) substituted (15.1.2007) for s. 142(2) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 21\(2\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F3** Words in s. 142(5)(a) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 1\(3\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F4** S. 142(8)(8A) substituted (15.1.2007) for s. 142(8) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 22](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

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

- C1** S. 142(7)(a) modified (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 62(2), 94, [Sch. 6 para. 46](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)](#)

#### Commencement Information

- I2** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

### 143 Undertaking in relation to person serving sentence

- (1) This section applies if—
- a Part 3 warrant is issued in respect of a person;
  - the person is serving a sentence of imprisonment or another form of detention in a category 1 territory;
  - the person’s extradition to the United Kingdom from the category 1 territory in pursuance of the warrant is made subject to a condition that an undertaking is given on behalf of the United Kingdom with regard to his treatment in the United Kingdom or his return to the category 1 territory (or both).
- (2) The Secretary of State may give an undertaking to a person acting on behalf of the category 1 territory with regard to either or both of these things—
- the treatment in the United Kingdom of the person in respect of whom the warrant is issued;
  - the return of that person to the category 1 territory.
- (3) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person accused in the United Kingdom of the commission of an offence include terms—
- that the person be kept in custody until the conclusion of the proceedings against him for the offence and any other offence in respect of which he is permitted to be dealt with in the United Kingdom;
  - that the person be returned to the category 1 territory to serve the remainder of his sentence on the conclusion of those proceedings.
- (4) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person [<sup>F5</sup>who has been convicted]<sup>F5</sup> of an offence by a court in the United Kingdom include terms that the person be returned to the

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category 1 territory to serve the remainder of his sentence after serving any sentence imposed on him in the United Kingdom.

- (5) If the Part 3 warrant was issued by a sheriff, the preceding provisions of this section apply as if the references to the Secretary of State were to the Scottish Ministers.

#### Textual Amendments

- F5** Words in s. 143(4) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 2\(5\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

- I3** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

### 144 Return to extraditing territory to serve sentence

- (1) This section applies if—
- (a) a Part 3 warrant is issued in respect of a person;
  - (b) the warrant states that it is issued with a view to his extradition to the United Kingdom for the purpose of being prosecuted for an offence;
  - (c) he is extradited to the United Kingdom from a category 1 territory in pursuance of the warrant;
  - (d) he is extradited on the condition that, if he is convicted of the offence and a sentence of imprisonment or another form of detention is imposed in respect of it, he must be returned to the category 1 territory to serve the sentence;
  - (e) he is convicted of the offence and a sentence of imprisonment or another form of detention is imposed in respect of it.
- (2) The person must be returned to the category 1 territory to serve the sentence as soon as is reasonably practicable after the sentence is imposed.
- (3) If subsection (2) is complied with the punishment for the offence must be treated as remitted but the person's conviction for the offence must be treated as a conviction for all other purposes.
- (4) If subsection (2) is not complied with and the person applies to the appropriate judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.

#### Commencement Information

- I4** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

### 145 Service of sentence in territory executing Part 3 warrant

- (1) This section applies if—
- (a) a Part 3 warrant is issued in respect of a person;
  - (b) the certificate contained in the warrant certifies that a sentence has been imposed;

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- (c) an undertaking is given on behalf of a category 1 territory that the person will be required to serve the sentence in the territory;
  - (d) on the basis of the undertaking the person is not extradited to the United Kingdom from the category 1 territory.
- (2) The punishment for the offence must be treated as remitted but the person's conviction for the offence must be treated as a conviction for all other purposes.

#### Commencement Information

**I5** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

### 146 Dealing with person for other offences

- (1) This section applies if a person is extradited to the United Kingdom from a category 1 territory in pursuance of a Part 3 warrant.
- (2) The person may be dealt with in the United Kingdom for an offence committed before his extradition only if—
- (a) the offence is one falling within subsection (3), or
  - (b) the condition in subsection (4) is satisfied.
- (3) The offences are—
- (a) the offence in respect of which the person is extradited;
  - (b) an offence disclosed by the information provided to the category 1 territory in respect of that offence;
  - (c) an extradition offence in respect of which consent to the person being dealt with is given on behalf of the territory [<sup>F6</sup>in response to a request made by the appropriate judge]<sup>F6</sup>;
  - (d) an offence which is not punishable with imprisonment or another form of detention;
  - (e) an offence in respect of which the person will not be detained in connection with his trial, sentence or appeal;
  - (f) an offence in respect of which the person waives the right that he would have (but for this paragraph) not to be dealt with for the offence.
- (4) The condition is that the person has been given an opportunity to leave the United Kingdom and—
- (a) he has not done so before the end of the permitted period, or
  - (b) he has done so before the end of the permitted period and has returned to the United Kingdom.
- (5) The permitted period is 45 days starting with the day on which the person arrives in the United Kingdom.

#### Textual Amendments

**F6** Words in s. 146(3)(c) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 23](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

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#### **Commencement Information**

**I6** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

### **147 Effect of consent to extradition to the United Kingdom**

- (1) This section applies if—
  - (a) a person is extradited to the United Kingdom from a category 1 territory in pursuance of a Part 3 warrant;
  - (b) the person consented to his extradition to the United Kingdom in accordance with the law of the category 1 territory.
- (2) Section 146(2) does not apply if the conditions in subsection (3) or the conditions in subsection (4) are satisfied.
- (3) The conditions are that—
  - (a) under the law of the category 1 territory, the effect of the person’s consent is to waive his right under section 146(2);
  - (b) the person has not revoked his consent in accordance with that law, if he is permitted to do so under that law.
- (4) The conditions are that—
  - (a) under the law of the category 1 territory, the effect of the person’s consent is not to waive his right under section 146(2);
  - (b) the person has expressly waived his right under section 146(2) in accordance with that law;
  - (c) the person has not revoked his consent in accordance with that law, if he is permitted to do so under that law;
  - (d) the person has not revoked the waiver of his right under section 146(2) in accordance with that law, if he is permitted to do so under that law.

#### **Commencement Information**

**I7** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

### **148 Extradition offences**

- (1) Conduct constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
  - (a) the conduct occurs in the United Kingdom;
  - (b) the conduct is punishable under the law of the relevant part of the United Kingdom with imprisonment or another form of detention for a term of 12 months or a greater punishment.
- (2) Conduct also constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
  - (a) the conduct occurs outside the United Kingdom;

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- (b) the conduct constitutes an extra-territorial offence punishable under the law of the relevant part of the United Kingdom with imprisonment or another form of detention for a term of 12 months or a greater punishment.
- (3) But subsections (1) and (2) do not apply in relation to conduct of a person if—
  - (a) he [<sup>F7</sup>has been convicted]<sup>F7</sup> by a court in the United Kingdom of the offence constituted by the conduct, and
  - (b) he has been sentenced for the offence.
- (4) Conduct also constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
  - (a) the conduct occurs in the United Kingdom;
  - (b) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the United Kingdom in respect of the conduct.
- (5) Conduct also constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
  - (a) the conduct occurs outside the United Kingdom;
  - (b) the conduct constitutes an extra-territorial offence;
  - (c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the United Kingdom in respect of the conduct.
- (6) The relevant part of the United Kingdom is the part of the United Kingdom in which the relevant proceedings are taking place.
- (7) The relevant proceedings are the proceedings in which it is necessary to decide whether conduct constitutes an extradition offence.
- (8) Subsections (1) to (5) apply for the purposes of sections 142 to 147.

#### Textual Amendments

- F7** Words in s. 148(3)(a) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 42, 53, Sch. 13 para. 2\(6\)](#); [S.I. 2006/3364, art. 2\(d\)\(e\)](#)

#### Commencement Information

- I8** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103, art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258 art. 2\(2\)](#) and [S.I. 2003/3312 art. 2\(2\)](#))

## 149 The appropriate judge

- (1) The appropriate judge is—
  - (a) in England and Wales, a District Judge (Magistrates' Courts), a justice of the peace or a judge entitled to exercise the jurisdiction of the Crown Court;
  - (b) in Scotland, a sheriff;
  - (c) in Northern Ireland, a justice of the peace, a resident magistrate or a Crown Court judge.
- (2) This section applies for the purposes of sections 142 to 147.

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#### **Commencement Information**

- 19** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), **art. 2** (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))



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