



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 5

#### MISCELLANEOUS AND GENERAL

##### *British overseas 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))

#### **177 Extradition from British overseas territories**

- (1) This section applies in relation to extradition—
- from a British overseas territory to a category 1 territory;
  - from a British overseas territory to the United Kingdom;
  - from a British overseas territory to a category 2 territory;
  - from a British overseas territory to any of the Channel Islands or the Isle of Man.
- (2) An Order in Council may provide for any provision of this Act applicable to extradition from the United Kingdom to apply to extradition in a case falling within subsection (1) (a) or (b).
- (3) An Order in Council may provide for any provision of this Act applicable to extradition from the United Kingdom to a category 2 territory to apply to extradition in a case falling within subsection (1)(c) or (d).
- (4) An Order in Council under this section may provide that the provision applied has effect with specified modifications.

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

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

- C1** S. 177 extended (1.5.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. 151(2)(c), **153(2)**

**178 Extradition to British overseas territories**

- (1) This section applies in relation to extradition—
- (a) to a British overseas territory from a category 1 territory;
  - (b) to a British overseas territory from the United Kingdom;
  - (c) to a British overseas territory from a category 2 territory;
  - (d) to a British overseas territory from any of the Channel Islands or the Isle of Man.
- (2) An Order in Council may provide for any provision of this Act applicable to extradition to the United Kingdom to apply to extradition in a case falling within subsection (1) (a) or (b).
- (3) An Order in Council may provide for any provision of this Act applicable to extradition to the United Kingdom from a category 2 territory to apply to extradition in a case falling within subsection (1)(c) or (d).
- (4) An Order in Council under this section may provide that the provision applied has effect with specified modifications.

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

- C2** S. 178 extended (1.5.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. 151(2)(c), **153(2)**

*Competing extradition claims*

**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))

**179 Competing claims to extradition**

- (1) This section applies if at the same time—
- (a) there is a Part 1 warrant in respect of a person, a certificate has been issued under section 2 in respect of the warrant, and the person has not been extradited in pursuance of the warrant or discharged, and
  - (b) there is a request for the same person's extradition, a certificate has been issued under section 70 in respect of the request, and the person has not been extradited in pursuance of the request or discharged.
- (2) The Secretary of State may—

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (a) order proceedings (or further proceedings) on one of them (the warrant or the request) to be deferred until the other one has been disposed of, if neither the warrant nor the request has been disposed of;
  - (b) order the person's extradition in pursuance of the warrant to be deferred until the request has been disposed of, if an order for his extradition in pursuance of the warrant has been made;
  - (c) order the person's extradition in pursuance of the request to be deferred until the warrant has been disposed of, if an order for his extradition in pursuance of the request has been made.
- (3) In applying subsection (2) the Secretary of State must take account in particular of these matters—
- (a) the relative seriousness of the offences concerned;
  - (b) the place where each offence was committed (or was alleged to have been committed);
  - (c) the date when the warrant was issued and the date when the request was received;
  - (d) whether, in the case of each offence, the person is accused of its commission (but not alleged to have been convicted) or is alleged to be unlawfully at large after conviction.
- (4) If both the certificates referred to in subsection (1) are issued in Scotland, the preceding provisions of this section apply as if the references to the Secretary of State were to the Scottish Ministers.
- [<sup>F1</sup>(5) For the purposes of this section a person is alleged to be unlawfully at large after conviction of an offence if—
- (a) he is alleged to have been convicted of it, and
  - (b) his extradition is sought for the purpose of his being sentenced for the offence or of his serving a sentence of imprisonment or another form of detention imposed in respect of the offence.<sup>F1</sup>]

#### Textual Amendments

- F1** S. 179(5) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 2\(7\)](#); [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))

## 180 Proceedings on deferred warrant or request

- (1) This section applies if—
- (a) an order is made under this Act deferring proceedings on an extradition claim in respect of a person (the deferred claim) until another extradition claim in respect of the person has been disposed of, and
  - (b) the other extradition claim is disposed of.
- (2) The judge may make an order for proceedings on the deferred claim to be resumed.
- (3) No order under subsection (2) may be made after the end of the required period.

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (4) If the person applies to the appropriate judge to be discharged, the judge may order his discharge.
- (5) If the person applies to the appropriate judge to be discharged, the judge must order his discharge if—
  - (a) the required period has ended, and
  - (b) the judge has not made an order under subsection (2) or ordered the person's discharge.
- (6) The required period is 21 days starting with the day on which the other extradition claim is disposed of.
- (7) If the proceedings on the deferred claim were under Part 1, section 67 applies for determining the appropriate judge.
- (8) If the proceedings on the deferred claim were under Part 2, section 139 applies for determining the appropriate judge.
- (9) An extradition claim is made in respect of a person if—
  - (a) a Part 1 warrant is issued in respect of him;
  - (b) a request for his extradition is made.

#### **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))

### **181 Proceedings where extradition deferred**

- (1) This section applies if—
  - (a) an order is made under this Act deferring a person's extradition in pursuance of an extradition claim (the deferred claim) until another extradition claim in respect of him has been disposed of;
  - (b) the other extradition claim is disposed of.
- (2) The judge may make an order for the person's extradition in pursuance of the deferred claim to cease to be deferred.
- (3) No order under subsection (2) may be made after the end of the required period.
- (4) If the person applies to the appropriate judge to be discharged, the judge may order his discharge.
- (5) If the person applies to the appropriate judge to be discharged, the judge must order his discharge if—
  - (a) the required period has ended, and
  - (b) the judge has not made an order under subsection (2) or ordered the person's discharge.
- (6) The required period is 21 days starting with the day on which the other extradition claim is disposed of.

*Status: Point in time view as at 03/12/2012.*

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- (7) If the person's extradition in pursuance of the deferred claim was ordered under Part 1, section 67 applies for determining the appropriate judge.
- (8) If the person's extradition in pursuance of the deferred claim was ordered under Part 2, section 139 applies for determining the appropriate judge.
- (9) An extradition claim is made in respect of a person if—
- (a) a Part 1 warrant is issued in respect of him;
  - (b) a request for his extradition is made.

#### 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))

### *Legal aid*

#### 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))

### **182 Legal advice, assistance and representation: England and Wales**

In section 12(2) of the Access to Justice Act 1999 (c. 22) (meaning of “criminal proceedings”) for paragraph (c) substitute—

“(c) proceedings for dealing with an individual under the Extradition Act 2003,”.

#### 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))

### **183 Legal aid: Scotland**

The provisions of the Legal Aid (Scotland) Act 1986 (c. 47) apply—

- (a) in relation to proceedings in Scotland before the appropriate judge under Part 1, 2 or 5 of this Act as those provisions apply in relation to summary proceedings;
- (b) in relation to any proceedings on appeal arising out of such proceedings before the appropriate judge as those provisions apply in relation to appeals in summary proceedings.

#### 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))

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*Status: Point in time view as at 03/12/2012.*

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## 184 Grant of free legal aid: Northern Ireland

- (1) The appropriate judge may grant free legal aid to a person in connection with proceedings under Part 1 or Part 2 before the judge or the High Court.
- (2) A judge of the High Court may grant free legal aid to a person in connection with proceedings under Part 1 or Part 2 before the High Court or the [<sup>F2</sup>Supreme Court].
- (3) If the appropriate judge refuses to grant free legal aid under subsection (1) in connection with proceedings before the High Court the person may appeal to the High Court against the judge's decision.
- (4) A judge of the High Court may grant free legal aid to a person in connection with proceedings on an appeal under subsection (3).
- (5) Free legal aid may be granted to a person under subsection (1), (2) or (4) only if it appears to the judge that—
  - (a) the person's means are insufficient to enable him to obtain legal aid, and
  - (b) it is desirable in the interests of justice that the person should be granted free legal aid.
- (6) On an appeal under subsection (3) the High Court may—
  - (a) allow the appeal;
  - (b) dismiss the appeal.
- (7) The High Court may allow an appeal under subsection (3) only if it appears to the High Court that—
  - (a) the person's means are insufficient to enable him to obtain legal aid, and
  - (b) it is desirable in the interests of justice that the person should be granted free legal aid.
- (8) If the High Court allows an appeal under subsection (3) it must grant free legal aid to the person in connection with the proceedings under Part 1 or Part 2 before it.
- (9) If on a question of granting free legal aid under this section or of allowing an appeal under subsection (3) there is a doubt as to whether—
  - (a) the person's means are insufficient to enable him to obtain legal aid, or
  - (b) it is desirable in the interests of justice that the person should be granted free legal aid,
 the doubt must be resolved in favour of granting him free legal aid.
- (10) References in this section to granting free legal aid to a person are to assigning to him—
  - (a) a solicitor and counsel, or
  - (b) a solicitor only, or
  - (c) counsel only.

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### Textual Amendments

**F2** Words in s. 184 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 81\(4\)\(n\)](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

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

- C3** S. 184: power to amend conferred (1.9.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\), ss. 90\(2\)\(d\), 111\(3\)](#); [S.R. 2012/214, art. 4](#)

#### Commencement Information

- I9** 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\(2\)](#))

### 185 Free legal aid: supplementary

- (1) The provisions of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8)) listed in subsection (2) apply in relation to free legal aid under section 184 in connection with proceedings before the appropriate judge or the High Court as they apply in relation to free legal aid under Part III of the Order.
- (2) The provisions are—
  - (a) Article 32 (statements of means);
  - (b) Article 36(1) (payment of legal aid);
  - (c) Article 36(3) and (4) (rules);
  - (d) Article 36A (solicitors excluded from legal aid work);
  - (e) Article 37 (remuneration of solicitors and counsel);
  - (f) Article 40 (stamp duty exemption).
- (3) As so applied those Articles have effect as if—
  - (a) a person granted free legal aid under section 184 had been granted a criminal aid certificate under Part III of the Order;
  - (b) section 184 were contained in Part III of the Order.
- (4) The fees of any counsel, and the expenses and fees of any solicitor, assigned to a person under section 184 in connection with proceedings before the <sup>F3</sup>Supreme Court<sup>F3</sup> must be paid by the <sup>F4</sup>Department of Justice in Northern Ireland<sup>F4</sup>.
- (5) The fees and expenses paid under subsection (4) must not exceed the amount <sup>F5</sup>allowed<sup>F5</sup><sup>F6</sup> by the Supreme Court or under Supreme Court Rules.<sup>F6</sup>
- (6) For the purposes of section 184 and this section the appropriate judge is—
  - (a) such county court judge or resident magistrate as is designated for the purposes of Part 1 <sup>F7</sup>under section 67<sup>F7</sup>, if the proceedings are under Part 1;
  - (b) such county court judge or resident magistrate as is designated for the purposes of Part 2 <sup>F8</sup>under section 139<sup>F8</sup>, if the proceedings are under Part 2.

#### Textual Amendments

- F3** Words in s. 185(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(5\)\(a\)](#); [S.I. 2009/1604, art. 2\(d\)](#)
- F4** Words in s. 185(4) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\), arts. 1\(2\), 15\(5\), Sch. 18 para. 70\(4\)](#) (with arts. 28-31); [S.I. 2010/977, art. 1\(2\)](#)
- F5** Word in s. 185(5) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\), ss. 112\(1\), 116, Sch. 7 para. 117](#); [S.I. 2009/3096, art. 3\(v\)\(x\)](#)

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- F6** Words in s. 185(5) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(5\)\(b\); S.I. 2009/1604, art. 2\(d\)](#)
- F7** Words in s. 185(6)(a) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 4 para. 355\(a\); S.I. 2006/1014, art. 2\(a\)](#) Sch. 1 paras. 10, 11(cc)
- F8** Words in s. 185(6)(b) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 4 para. 355\(b\); S.I. 2006/1014, art. 2\(a\)](#) Sch. 1 paras. 10, 11(cc)

#### **Commencement Information**

- I10** 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\(2\)](#))

### *Re-extradition*

#### **Commencement Information**

- I11** 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\(2\)](#))

## **186 Re-extradition: preliminary**

- (1) Section 187 applies in relation to a person if the conditions in subsections (2) to (6) are satisfied.
- (2) The first condition is that the person was extradited to a territory in accordance with Part 1 or Part 2.
- (3) The second condition is that the person was serving a sentence of imprisonment or another form of detention in the United Kingdom (the UK sentence) before he was extradited.
- (4) The third condition is that—
  - (a) if the person was extradited in accordance with Part 1, the Part 1 warrant in pursuance of which he was extradited contained a statement that it was issued with a view to his extradition for the purpose of being prosecuted for an offence;
  - (b) if the person was extradited in accordance with Part 2, the request in pursuance of which the person was extradited contained a statement that the person was accused of the commission of an offence.
- (5) The fourth condition is that a certificate issued by a judicial authority of the territory shows that—
  - (a) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment (the overseas sentence) was imposed on the person in the territory;
  - (b) the overseas sentence was imposed on him in respect of—
    - (i) the offence specified in the warrant or request, or
    - (ii) any other offence committed before his extradition in respect of which he was permitted to be dealt with in the territory.
- (6) The fifth condition is that before serving the overseas sentence the person was returned to the United Kingdom to serve the remainder of the UK sentence.



*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

#### Commencement Information

**I12** 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))

### 187 Re-extradition hearing

- (1) If this section applies in relation to a person, as soon as practicable after the relevant time the person must be brought before the appropriate judge for the judge to decide whether the person is to be extradited again to the territory in which the overseas sentence was imposed.
- (2) The relevant time is the time at which the person would otherwise be released from detention pursuant to the UK sentence (whether or not on licence).
- (3) If subsection (1) is not complied with and the person applies to the judge to be discharged, the judge must order his discharge.
- (4) The person must be treated as continuing in legal custody until he is brought before the appropriate judge under subsection (1) or he is discharged under subsection (3).
- (5) If the person is brought before the appropriate judge under subsection (1) the judge must decide whether the territory in which the overseas sentence was imposed is—
  - (a) a category 1 territory;
  - (b) a category 2 territory;
  - (c) neither a category 1 territory nor a category 2 territory.
- (6) If the judge decides that the territory is a category 1 territory, section 188 applies.
- (7) If the judge decides that the territory is a category 2 territory, section 189 applies.
- (8) If the judge decides that the territory is neither a category 1 territory nor a category 2 territory, he must order the person's discharge.
- (9) A person's discharge as a result of this section or section 188 or 189 does not affect any conditions on which he is released from detention pursuant to the UK sentence.
- [<sup>F9</sup>(10) Section 139 applies for the purposes of this section as it applies for the purposes of Part 2.<sup>F9</sup>]

#### Textual Amendments

**F9** S. 187(10) substituted (15.1.2007) by **Police and Justice Act 2006 (c. 48)**, ss. 42, 53, **Sch. 13 para. 15(2)**; S.I. 2006/3364, **art. 2(d)(e)**

#### Commencement Information

**I13** 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))

### 188 Re-extradition to category 1 territories

- (1) If this section applies, this Act applies as it would if—
  - (a) a Part 1 warrant had been issued in respect of the person;

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (b) the warrant contained a statement that—
    - (i) the person [<sup>F10</sup>had been convicted]<sup>F10</sup> of the relevant offence, and
    - (ii) the warrant was issued with a view to the person’s arrest and extradition to the territory for the purpose of serving a sentence imposed in respect of the relevant offence;
  - (c) the warrant were issued by the authority of the territory which issued the certificate referred to in section 186(5);
  - (d) the relevant offence were specified in the warrant;
  - (e) the judge were the appropriate judge for the purposes of Part 1;
  - (f) the hearing at which the judge is to make the decision referred to in section 187(1) were the extradition hearing;
  - (g) the proceedings before the judge were under Part 1.
- (2) As applied by subsection (1) this Act has effect with the modifications set out in Part 1 of Schedule 1.
- (3) The relevant offence is the offence in respect of which the overseas sentence is imposed.

#### Textual Amendments

**F10** Words in s. 188(1)(b)(i) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 2\(8\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

**I14** 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))

## 189 Re-extradition to category 2 territories

- (1) If this section applies, this Act applies as it would if—
- (a) a valid request for the person’s extradition to the territory had been made;
  - (b) the request contained a statement that the person [<sup>F11</sup>had been convicted]<sup>F11</sup> of the relevant offence;
  - (c) the relevant offence were specified in the request;
  - (d) the hearing at which the appropriate judge is to make the decision referred to in section 187(1) were the extradition hearing;
  - (e) the proceedings before the judge were under Part 2.
- (2) As applied by subsection (1) this Act has effect with the modifications set out in Part 2 of Schedule 1.
- (3) The relevant offence is the offence in respect of which the overseas sentence is imposed.

#### Textual Amendments

**F11** Words in s. 189(1)(b) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 2\(9\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

#### **Commencement Information**

**I15** 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))

### *Conduct of extradition proceedings*

#### **Commencement Information**

**I16** 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))

## **190 Crown Prosecution Service: role in extradition proceedings**

- (1) The Prosecution of Offences Act 1985 (c. 23) is amended as follows.
- (2) In section 3 (functions of the Director) in subsection (2) after paragraph (e) insert—
  - “(ea) to have the conduct of any extradition proceedings;
  - (eb) to give, to such extent as he considers appropriate, and to such persons as he considers appropriate, advice on any matters relating to extradition proceedings or proposed extradition proceedings;”.
- (3) In section 3 after subsection (2) insert—
  - “(2A) Subsection (2)(ea) above does not require the Director to have the conduct of any extradition proceedings in respect of a person if he has received a request not to do so and—
    - (a) in a case where the proceedings are under Part 1 of the Extradition Act 2003, the request is made by the authority which issued the Part 1 warrant in respect of the person;
    - (b) in a case where the proceedings are under Part 2 of that Act, the request is made on behalf of the territory to which the person’s extradition has been requested.”
- (4) In section 5(1) (conduct of prosecutions on behalf of Crown Prosecution Service) after “criminal proceedings” insert “ or extradition proceedings ”.
- (5) In section 14 (control of fees and expenses etc paid by the Service) in subsection (1)
  - (a) after “criminal proceedings” insert “ or extradition proceedings ”.
- (6) In section 15(1) (interpretation of Part 1) in the appropriate place insert—

““extradition proceedings” means proceedings under the Extradition Act 2003;”.

#### **Commencement Information**

**I17** 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))

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

## 191 Lord Advocate: role in extradition proceedings

- (1) The Lord Advocate must—
  - (a) conduct any extradition proceedings in Scotland;
  - (b) give, to such extent as he considers appropriate, and to such persons as he considers appropriate, advice on any matters relating to extradition proceedings or proposed extradition proceedings, in Scotland.
- (2) Subsection (1)(a) does not require the Lord Advocate to conduct any extradition proceedings in respect of a person if he has received a request not to do so and—
  - (a) in a case where the proceedings are under Part 1, the request is made by the authority which issued the Part 1 warrant in respect of the person;
  - (b) in a case where the proceedings are under Part 2, the request is made on behalf of the territory to which the person’s extradition has been requested.

### Commencement Information

**I18** 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))

## 192 Northern Ireland DPP and Crown Solicitor: role in extradition proceedings

- (1) The Prosecution of Offences (Northern Ireland) Order 1972 (S.I. 1972/538 (N.I. 1)) is amended as set out in subsections (2) to (4).
- (2) In article 2(2) (interpretation) in the appropriate place insert—
 

““extradition proceedings” means proceedings under the Extradition Act 2003;”.
- (3) In article 4(7) (conduct of prosecutions on behalf of DPP) after “prosecution” insert “ or extradition proceedings ”.
- (4) In article 5 (functions of DPP) after paragraph (1) insert—
 

“(1A) The Director may—

  - (a) have the conduct of any extradition proceedings in Northern Ireland;
  - (b) give to such persons as appear to him appropriate such advice as appears to him appropriate on matters relating to extradition proceedings, or proposed extradition proceedings, in Northern Ireland.”
- (5) The Justice (Northern Ireland) Act 2002 (c. 26) is amended as set out in subsections (6) to (8).
- (6) After section 31 insert—

### “31A Conduct of extradition proceedings

- (1) The Director may have the conduct of any extradition proceedings in Northern Ireland.

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (2) The Director may give to such persons as appear to him appropriate such advice as appears to him appropriate on matters relating to extradition proceedings, or proposed extradition proceedings, in Northern Ireland.”
- (7) In section 36(2) (conduct of criminal proceedings on behalf of DPP) after “criminal proceedings” insert “ or extradition proceedings ”.
- (8) In section 44 (interpretation) after subsection (6) insert—
- “(7) For the purposes of this Part “extradition proceedings” means proceedings under the Extradition Act 2003.”
- (9) The Crown Solicitor for Northern Ireland may—
- have the conduct of any proceedings under this Act in Northern Ireland;
  - give to such persons as appear to him appropriate such advice as appears to him appropriate on matters relating to proceedings under this Act, or proposed proceedings under this Act, in Northern Ireland.

#### Commencement Information

**I19** 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))

### *Parties to international Conventions*

#### Commencement Information

**I20** 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))

## **193 Parties to international Conventions**

- (1) A territory may be designated by order made by the Secretary of State if—
- it is not a category 1 territory or a category 2 territory, and
  - it is a party to an international Convention to which the United Kingdom is a party.
- (2) This Act applies in relation to a territory designated by order under subsection (1) as if the territory were a category 2 territory.
- (3) As applied to a territory by subsection (2), this Act has effect as if—
- sections 71(4), 73(5), 74(11)(b), 84(7), 86(7), 137 and 138 were omitted;
  - the conduct that constituted an extradition offence for the purposes of Part 2 were the conduct specified in relation to the territory in the order under subsection (1) designating the territory.
- (4) Conduct may be specified in relation to a territory in an order under subsection (1) designating the territory only if it is conduct to which the relevant Convention applies.
- (5) The relevant Convention is the Convention referred to in subsection (1)(b) which is specified in relation to the territory in the order under subsection (1) designating it.

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

#### Commencement Information

**I21** 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))

#### *Special extradition arrangements*

#### Commencement Information

**I22** 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))

### 194 Special extradition arrangements

- (1) This section applies if the Secretary of State believes that—
  - (a) arrangements have been made between the United Kingdom and another territory for the extradition of a person to the territory, and
  - (b) the territory is not a category 1 territory or a category 2 territory.
- (2) The Secretary of State may certify that the conditions in paragraphs (a) and (b) of subsection (1) are satisfied in relation to the extradition of the person.
- (3) If the Secretary of State issues a certificate under subsection (2) this Act applies in respect of the person's extradition to the territory as if the territory were a category 2 territory.
- (4) As applied by subsection (3), this Act has effect—
  - (a) as if sections 71(4), 73(5), 74(11)(b), 84(7) and 86(7) were omitted;
  - (b) with any other modifications specified in the certificate.
- (5) A certificate under subsection (2) in relation to a person is conclusive evidence that the conditions in paragraphs (a) and (b) of subsection (1) are satisfied in relation to the person's extradition.

#### Commencement Information

**I23** 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))

#### *Human rights*

#### Commencement Information

**I24** 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))

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

## 195 Human rights: appropriate tribunal

- (1) The appropriate judge is the only appropriate tribunal in relation to proceedings under section 7(1)(a) of the Human Rights Act 1998 (c. 42) (proceedings for acts incompatible with Convention rights) if the proceedings relate to extradition under Part 1 or Part 2 of this Act.
- (2) If the proceedings relate to extradition under Part 1, section 67 applies for determining the appropriate judge.
- (3) If the proceedings relate to extradition under Part 2, section 139 applies for determining the appropriate judge.

### Commencement Information

**I25** 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))

## *Genocide etc*

### Commencement Information

**I26** 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))

## 196 Genocide, crimes against humanity and war crimes

- (1) This section applies if—
  - (a) a Part 1 warrant in respect of a person is issued in respect of an offence mentioned in subsection (2), or
  - (b) a valid request for a person's extradition is made in respect of an offence mentioned in subsection (2).
- (2) The offences are—
  - (a) an offence that if committed in the United Kingdom would be punishable as an offence under section 51 or 58 of the International Criminal Court Act 2001 (c. 17) (genocide, crimes against humanity and war crimes);
  - (b) an offence that if committed in the United Kingdom would be punishable as an offence under section 52 or 59 of that Act (conduct ancillary to genocide, etc. committed outside the jurisdiction);
  - (c) an offence that if committed in the United Kingdom would be punishable as an ancillary offence, as defined in section 55 or 62 of that Act, in relation to an offence falling within paragraph (a) or (b);
  - (d) an offence that if committed in the United Kingdom would be punishable as an offence under section 1 of the International Criminal Court (Scotland) Act 2001 (asp 13) (genocide, crimes against humanity and war crimes);
  - (e) an offence that if committed in the United Kingdom would be punishable as an offence under section 2 of that Act (conduct ancillary to genocide etc. committed outside the jurisdiction);

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (f) an offence that if committed in the United Kingdom would be punishable as an ancillary offence, as defined in section 7 of that Act, in relation to an offence falling within paragraph (d) or (e);
  - (g) any offence punishable in the United Kingdom under section 1 of the Geneva Conventions Act 1957 (c. 52) (grave breach of scheduled conventions).
- (3) It is not an objection to extradition under this Act that the person could not have been punished for the offence 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 has been convicted.

#### Commencement Information

**I27** 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))

### *Custody and bail*

#### Commencement Information

**I28** 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))

## 197 Custody

- (1) If a judge remands a person in custody under this Act, the person must be committed to the institution to which he would have been committed if charged with an offence before the judge.
- (2) If a person in custody following his arrest under Part 1 or Part 2 <sup>F12</sup>, or kept in custody by virtue of a power under Part 3, <sup>F12</sup> escapes from custody, he may be retaken in any part of the United Kingdom in the same way as he could have been if he had been in custody following his arrest or apprehension under a relevant domestic warrant.
- (3) A relevant domestic warrant is a warrant for his arrest or apprehension issued in the part of the United Kingdom in question in respect of an offence committed there.
- (4) Subsection (5) applies if—
  - (a) a person is in custody in one part of the United Kingdom (whether under this Act or otherwise);
  - (b) he is required to be removed to another part of the United Kingdom after being remanded in custody under this Act;
  - (c) he is so removed by sea or air.
- (5) The person must be treated as continuing in legal custody until he reaches the place to which he is required to be removed.
- (6) An order for a person's extradition under this Act is sufficient authority for an appropriate person—
  - (a) to receive him;
  - (b) to keep him in custody until he is extradited under this Act;



*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (c) to convey him to the territory to which he is to be extradited under this Act.
- (7) An appropriate person is—
- (a) a person to whom the order is directed;
  - (b) a constable.

#### Textual Amendments

**F12** Words in s. 197(2) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 74\(5\)](#), 116; S.I. 2009/3096, [art. 3\(q\)](#)

#### Commencement Information

**I29** 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))

### [<sup>F13</sup>197A Extradition of serving prisoner

If an order is made under Part 1 or 2 for the extradition of a person who is [<sup>F14</sup>in custody]<sup>F14</sup> serving a sentence of imprisonment or another form of detention in the United Kingdom, the order is sufficient authority for the person to be removed from the prison or other institution where he is detained.]

#### Textual Amendments

**F13** S. 197A inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), [ss. 42, 53](#), [Sch. 13 para. 25](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)

**F14** Words in s. 197A inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 71\(9\)](#), 116; S.I. 2009/3096, [art. 3\(n\)](#) (with [art. 4](#))

### 198 Bail: England and Wales

- (1) The Bail Act 1976 (c. 63) is amended as follows.
- (2) In section 1(1) (meaning of “bail in criminal proceedings”) after paragraph (b) insert—
- “, or
- (c) bail grantable in connection with extradition proceedings in respect of an offence.”
- (3) In section 2(2) (other definitions) omit the definition of “proceedings against a fugitive offender” and in the appropriate places insert—
- ““extradition proceedings” means proceedings under the Extradition Act 2003;”;
- ““prosecutor”, in relation to extradition proceedings, means the person acting on behalf of the territory to which extradition is sought;”.
- (4) In section 4 (general right to bail) in subsection (2) omit the words “or proceedings against a fugitive offender for the offence”.
- (5) In section 4 after subsection (2) insert—

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

“(2A) This section also applies to a person whose extradition is sought in respect of an offence, when—

- (a) he appears or is brought before a court in the course of or in connection with extradition proceedings in respect of the offence, or
- (b) he applies to a court for bail or for a variation of the conditions of bail in connection with the proceedings.

(2B) But subsection (2A) above does not apply if the person is alleged to be unlawfully at large after conviction of the offence.”

(6) In section 5B (reconsideration of decisions granting bail) for subsection (1) substitute—

“(A1) This section applies in any of these cases—

- (a) a magistrates' court has granted bail in criminal proceedings in connection with an offence to which this section applies or proceedings for such an offence;
- (b) a constable has granted bail in criminal proceedings in connection with proceedings for such an offence;
- (c) a magistrates' court or a constable has granted bail in connection with extradition proceedings.

(1) The court or the appropriate court in relation to the constable may, on application by the prosecutor for the decision to be reconsidered—

- (a) vary the conditions of bail,
- (b) impose conditions in respect of bail which has been granted unconditionally, or
- (c) withhold bail.”

(7) In section 7 (liability to arrest for absconding or breaking conditions of bail) after subsection (1) insert—

“(1A) Subsection (1B) applies if—

- (a) a person has been released on bail in connection with extradition proceedings,
- (b) the person is under a duty to surrender into the custody of a constable, and
- (c) the person fails to surrender to custody at the time appointed for him to do so.

(1B) A magistrates' court may issue a warrant for the person's arrest.”

(8) In section 7(4) omit the words from “In reckoning” to “Sunday”.

(9) In section 7 after subsection (4) insert—

“(4A) A person who has been released on bail in connection with extradition proceedings and is under a duty to surrender into the custody of a constable may be arrested without warrant by a constable on any of the grounds set out in paragraphs (a) to (c) of subsection (3).

(4B) A person arrested in pursuance of subsection (4A) above shall be brought as soon as practicable and in any event within 24 hours after his arrest before a justice of the peace for the petty sessions area in which he was arrested.”

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (10) In section 7(5) after “subsection (4)” insert “ or (4B) ”.
- (11) In section 7 after subsection (6) insert—
- “(7) In reckoning for the purposes of this section any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.”
- (12) In Part 1 of Schedule 1 (defendants accused or convicted of imprisonable offences) for paragraph 1 substitute—
- “1 The following provisions of this Part of this Schedule apply to the defendant if—
- (a) the offence or one of the offences of which he is accused or convicted in the proceedings is punishable with imprisonment, or
- (b) his extradition is sought in respect of an offence.”
- (13) In Part 1 of Schedule 1 after paragraph 2A insert—
- “2B The defendant need not be granted bail in connection with extradition proceedings if—
- (a) the conduct constituting the offence would, if carried out by the defendant in England and Wales, constitute an indictable offence or an offence triable either way; and
- (b) it appears to the court that the defendant was on bail on the date of the offence.”
- (14) In Part 1 of Schedule 1 in paragraph 6 after “the offence” insert “ or the extradition proceedings ”.

#### **Commencement Information**

**I30** 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))

## **199 Bail: Scotland**

After section 24 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (bail and bail conditions) insert—

### **“24A Bail: extradition proceedings**

- (1) In the application of the provisions of this Part by virtue of section 9(2) or 77(2) of the Extradition Act 2003 (judge’s powers at extradition hearing), those provisions apply with the modifications that—
- (a) references to the prosecutor are to be read as references to a person acting on behalf of the territory to which extradition is sought;
- (b) the right of the Lord Advocate mentioned in section 24(2) of this Act applies to a person subject to extradition proceedings as it applies to a person charged with any crime or offence;

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (c) the following do not apply—
    - (i) paragraph (b) of section 24(3); and
    - (ii) subsection (3) of section 30; and
  - (d) sections 28(1) and 33 apply to a person subject to extradition proceedings as they apply to an accused.
- (2) Section 32 of this Act applies in relation to a refusal of bail, the amount of bail or a decision to allow bail or ordain appearance in proceedings under this Part as the Part applies by virtue of the sections of that Act of 2003 mentioned in subsection (1) above.
- (3) The Scottish Ministers may, by order, for the purposes of section 9(2) or 77(2) of the Extradition Act 2003 make such amendments to this Part as they consider necessary or expedient.
- (4) The order making power in subsection (3) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.”

#### Commencement Information

- I31** 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))

## 200 Appeal against grant of bail

- (1) Section 1 of the Bail (Amendment) Act 1993 (c. 26) (prosecution right of appeal against grant of bail) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where a magistrates' court grants bail to a person in connection with extradition proceedings, the prosecution may appeal to a judge of the Crown Court against the granting of bail.”
- (3) In subsection (3) for “Such an appeal” substitute “ An appeal under subsection (1) or (1A) ”.
- (4) In subsection (4)—
- <sup>F15</sup>(a) . . . . .
  - (b) for “magistrates' court” substitute “ court which has granted bail ”;
  - (c) omit “such”.
- (5) In subsection (5) for “magistrates' court” substitute “ court which has granted bail ”.
- (6) In subsection (6) for “magistrates' court” substitute “ court which has granted bail ”.
- (7) In subsection (8)—
- <sup>F16</sup>(a) . . . . .
  - (b) omit “magistrates”.
- (8) In subsection (10)(b) for “reference in subsection (5) above to remand in custody is” substitute “ references in subsections (6) and (9) above to remand in custody are ”.

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

(9) After subsection (11) insert—

“(12) In this section—

“extradition proceedings” means proceedings under the Extradition Act 2003;

“magistrates' court” and “court” in relation to extradition proceedings means a District Judge (Magistrates' Courts) designated for the purposes of Part 1 or Part 2 of the Extradition Act 2003 by the Lord Chancellor;

“prosecution” in relation to extradition proceedings means the person acting on behalf of the territory to which extradition is sought.”

#### Textual Amendments

**F15** S. 200(4)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 11 para. 35](#); S.I. 2012/2906, art. 2(i)

**F16** S. 200(7)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 11 para. 35](#); S.I. 2012/2906, art. 2(i)

#### Commencement Information

**I32** 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))

### <sup>F17</sup>201 Remand to local authority accommodation

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#### Textual Amendments

**F17** S. 201 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 12 para. 49](#); S.I. 2012/2906, art. 2(j) (with art. 7(2)(h)(3))

#### Commencement Information

**I33** 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))

### *Evidence*

#### Commencement Information

**I34** 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))

### 202 Receivable documents

- (1) A Part 1 warrant may be received in evidence in proceedings under this Act.
- (2) Any other document issued in a category 1 territory may be received in evidence in proceedings under this Act if it is duly authenticated.

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (3) A document issued in a category 2 territory may be received in evidence in proceedings under this Act if it is duly authenticated.
- (4) A document issued in a category 1 or category 2 territory is duly authenticated if (and only if) one of these applies—
- (a) it purports to be signed by a judge, magistrate or [<sup>F18</sup>officer]<sup>F18</sup> of the territory;
  - [<sup>F19</sup>(aa) it purports to be certified, whether by seal or otherwise, by the Ministry or Department of the territory responsible for justice or for foreign affairs;]
  - <sup>F19</sup>(b) it purports to be authenticated by the oath or affirmation of a witness.
- (5) Subsections (2) and (3) do not prevent a document that is not duly authenticated from being received in evidence in proceedings under this Act.

#### Textual Amendments

- F18** Words in s. 202(4)(a) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 26\(a\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F19** S. 202(4)(aa) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 26\(b\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

- I35** 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))

### 203 Documents sent by facsimile

- (1) This section applies if a document to be sent in connection with proceedings under this Act is sent by facsimile transmission.
- (2) This Act has effect as if the document received by facsimile transmission were the document used to make the transmission.

#### Commencement Information

- I36** 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))

### [<sup>F20</sup>204 Warrant issued by category 1 territory: transmission by other electronic means

- (1) This section applies if—
- (a) an arrest warrant is issued by an authority of a category 1 territory in a case in which an article 26 alert is issued,
  - (b) the information contained in the warrant and the alert are transmitted to the designated authority by electronic means, and
  - (c) that information is received by the designated authority in a qualifying form.
- (2) This section also applies if—
- (a) an arrest warrant is issued by an authority of a category 1 territory in a case in which no article 26 alert is issued,

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (b) the information contained in the warrant is transmitted to the designated authority by electronic means, and
  - (c) that information is received by the designated authority in a qualifying form.
- (3) The reference in section 2(2) to an arrest warrant issued by a judicial authority of a category 1 territory is to be read as if it were a reference to the information received by the designated authority.
- (4) The references in section 63(1) to an arrest warrant are to be read as if they were references to the information received by the designated authority.
- (5) For the purposes of subsection (1), a reference to the information contained in the article 26 alert includes a reference to any information sent with that information relating to the case in question.
- (6) For the purposes of this section—
- (a) an article 26 alert is an alert issued pursuant to article 26 of the Council Decision on the establishment, operation and use of the second generation Schengen Information System of 12 June 2007,
  - (b) references to information being transmitted by electronic means do not include facsimile transmission, and
  - (c) information is received in a qualifying form if it is received in a form in which it is intelligible and which is capable of being used for subsequent reference.<sup>F20</sup>

#### Textual Amendments

**F20** S. 204 substituted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 67, 116**; [S.I. 2009/3096](#), **art. 3(j)** (with [art. 4](#))

#### Commencement Information

**I37** 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))

## 205 Written statements and admissions

- (1) The provisions mentioned in subsection (2) apply in relation to proceedings under this Act as they apply in relation to proceedings for an offence.
- (2) The provisions are—
- (a) section 9 of the Criminal Justice Act 1967 (c. 80) (proof by written statement in criminal proceedings);
  - (b) section 10 of the Criminal Justice Act 1967 (proof by formal admission in criminal proceedings);
  - (c) section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (c. 28) (proof by written statement in criminal proceedings);
  - (d) section 2 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (proof by formal admission in criminal proceedings).
- (3) As applied by subsection (1) in relation to proceedings under this Act, section 10 of the Criminal Justice Act 1967 and section 2 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 have effect as if—

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- (a) references to the defendant were to the person whose extradition is sought (or who has been extradited);
- (b) references to the prosecutor were to the category 1 or category 2 territory concerned;
- (c) references to the trial were to the proceedings under this Act for the purposes of which the admission is made;
- (d) references to subsequent criminal proceedings were to subsequent proceedings under this Act.

#### Commencement Information

**I38** 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))

## 206 Burden and standard of proof

- (1) This section applies if, in proceedings under this Act, a question arises as to burden or standard of proof.
- (2) The question must be decided by applying any enactment or rule of law that would apply if the proceedings were proceedings for an offence.
- (3) Any enactment or rule of law applied under subsection (2) to proceedings under this Act must be applied as if—
  - (a) the person whose extradition is sought (or who has been extradited) were accused of an offence;
  - (b) the category 1 or category 2 territory concerned were the prosecution.
- (4) Subsections (2) and (3) are subject to any express provision of this Act.
- (5) In this section “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

#### Commencement Information

**I39** 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))

*[<sup>F21</sup>Live links*

#### Textual Amendments

**F21** Ss. 206A-206C inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 78, 116**; [S.I. 2009/3096](#), **art. 3(u)**

## 206A Use of live links at certain hearings

- (1) This section applies in relation to—
  - (a) a hearing before the appropriate judge in proceedings under Part 1, other than—



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- (i) an extradition hearing within the meaning of that Part;
    - (ii) a hearing under section 54 or 56, and
  - (b) a hearing before the appropriate judge in proceedings under Part 2, other than an extradition hearing within the meaning of that Part.
- (2) If satisfied that the person affected by an extradition claim is likely to be in custody during the hearing, the appropriate judge may give a live link direction at any time before the hearing.
  - (3) A live link direction is a direction that, if the person is being held in custody at the time of the hearing, any attendance at the hearing is to be through a live link from the place at which the person is held.
  - (4) Such a direction—
    - (a) may be given on the appropriate judge's own motion or on the application of a party to the proceedings, and
    - (b) may be given in relation to all subsequent hearings to which this section applies, or to such hearing or hearings to which this section applies as may be specified or described in the direction.
  - (5) The appropriate judge may give such a direction only if satisfied that it is not contrary to the interests of justice to give the direction.
  - (6) A person affected by an extradition claim is to be treated as present in court when, by virtue of a live link direction, the person attends a hearing through a live link.

#### **206B Live links: supplementary**

- (1) The appropriate judge may rescind a live link direction at any time before or during a hearing to which it relates.
- (2) The appropriate judge must not give a live link direction or rescind such a direction unless the parties to the proceedings have been given the opportunity to make representations.
- (3) If a hearing takes place in relation to the giving or rescinding of a live link direction, the appropriate judge may require or permit any party to the proceedings who wishes to make representations to do so through a live link.
- (4) If in a case where an appropriate judge has power to give a live link direction but decides not to do so, the appropriate judge must—
  - (a) state in open court the reasons for not doing so, and
  - (b) cause those reasons to be entered in the register of proceedings.
- (5) Subsection (7) applies if—
  - (a) an application for a live link direction is made under section 206A(4) in relation to a qualifying hearing but the application is refused, or
  - (b) a live link direction is given in relation to a qualifying hearing but the direction is rescinded before the hearing takes place.
- (6) A hearing is a qualifying hearing—
  - (a) in relation to proceedings under Part 1, if it is a hearing by virtue of which section 4(3) would be complied with;

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- (b) in relation to proceedings under Part 2, if it is a hearing by virtue of which section 72(3) or 74(3) would be complied with.
- (7) The requirement in section 4(3), 72(3) or 74(3) (as the case requires) to bring the person as soon as practicable before the appropriate judge is to be read as a requirement to bring the person before that judge as soon as practicable after the application is refused or the direction is rescinded.

## 206C Live links: interpretation

- (1) This section applies for the purposes of section 206A and subsections (2) and (3) also apply for the purposes of section 206B.
- (2) In relation to proceedings under Part 1, section 67 applies for determining the appropriate judge.
- (3) In relation to proceedings under Part 2, section 139 applies for determining the appropriate judge.
- (4) A person is affected by an extradition claim if—
  - (a) a Part 1 warrant is issued in respect of the person;
  - (b) the person is arrested under section 5;
  - (c) a request for the person's extradition is made; or
  - (d) a warrant under section 73 is issued in respect of the person.
- (5) References to being in custody include—
  - (a) in England and Wales, references to being in police detention within the meaning of the Police and Criminal Evidence Act 1984;
  - (b) in Northern Ireland, references to being in police detention within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989;
  - (c) in Scotland, references to detention under section 14 of the Criminal Procedure (Scotland) Act 1995.
- (6) “Live link” means an arrangement by which a person, while absent from the place where the hearing is being held, is able—
  - (a) to see and hear the appropriate judge, and other persons,
  - (b) to be seen and heard by the judge, other persons,
 and for this purpose any impairment of eyesight or hearing is to be disregarded.]

### *Other miscellaneous provisions*

#### **Commencement Information**

**I40** 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))

## 207 Extradition for more than one offence

The Secretary of State may by order provide for this Act to have effect with specified modifications in relation to a case where—

- (a) a Part 1 warrant is issued in respect of more than one offence;

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- (b) a request for extradition is made in respect of more than one offence.

#### Commencement Information

**I41** 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))

## 208 National security

- (1) This section applies if the Secretary of State believes that the conditions in subsections (2) to (4) are satisfied in relation to a person.
- (2) The first condition is that the person's extradition is sought or will be sought under Part 1 or Part 2 in respect of an offence.
- (3) The second condition is that—
  - (a) in engaging in the conduct constituting (or alleged to constitute) the offence the person was acting for the purpose of assisting in the exercise of a function conferred or imposed by or under an enactment, or
  - (b) as a result of an authorisation given by the Secretary of State the person is not liable under the criminal law of any part of the United Kingdom for the conduct constituting (or alleged to constitute) the offence.
- (4) The third condition is that the person's extradition in respect of the offence would be against the interests of national security.
- (5) The Secretary of State may certify that the conditions in subsections (2) to (4) are satisfied in relation to the person.
- (6) If the Secretary of State issues a certificate under subsection (5) he may—
  - (a) direct that a Part 1 warrant issued in respect of the person and in respect of the offence is not to be proceeded with, or
  - (b) direct that a request for the person's extradition in respect of the offence is not to be proceeded with.
- (7) If the Secretary of State issues a certificate under subsection (5) he may order the person's discharge (instead of or in addition to giving a direction under subsection (6)).
- (8) These rules apply if the Secretary of State gives a direction under subsection (6)(a) in respect of a warrant—
  - (a) if the designated authority has not issued a certificate under section 2 in respect of the warrant it must not do so;
  - (b) if the person is arrested under the warrant or under section 5 there is no requirement for him to be brought before the appropriate judge and he must be discharged;
  - (c) if the person is brought before the appropriate judge under section 4 or 6 the judge is no longer required to proceed or continue proceeding under sections 7 and 8;
  - (d) if the extradition hearing has begun the judge is no longer required to proceed or continue proceeding under sections 10 to 25;
  - (e) if the person has consented to his extradition, the judge is no longer required to order his extradition;

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- (f) if an appeal to the High Court or [<sup>F22</sup>Supreme Court]<sup>F22</sup> has been brought, the court is no longer required to hear or continue hearing the appeal;
  - (g) if the person's extradition has been ordered there is no requirement for him to be extradited.
- (9) These rules apply if the Secretary of State gives a direction under subsection (6)(b) in respect of a request—
- (a) if he has not issued a certificate under section 70 in respect of the request he is no longer required to do so;
  - (b) if the person is arrested under a warrant issued under section 71 or under a provisional warrant there is no requirement for him to appear or be brought before the appropriate judge and he must be discharged;
  - (c) if the person appears or is brought before the appropriate judge the judge is no longer required to proceed or continue proceeding under sections 72, 74, 75 and 76;
  - (d) if the extradition hearing has begun the judge is no longer required to proceed or continue proceeding under sections 78 to 91;
  - (e) if the person has given his consent to his extradition to the appropriate judge, the judge is no longer required to send the case to the Secretary of State for his decision whether the person is to be extradited;
  - (f) if an appeal to the High Court or [<sup>F22</sup>Supreme Court]<sup>F22</sup> has been brought, the court is no longer required to hear or continue hearing the appeal;
  - (g) if the person's extradition has been ordered there is no requirement for him to be extradited.
- (10) These must be made under the hand of the Secretary of State—
- (a) a certificate under subsection (5);
  - (b) a direction under subsection (6);
  - (c) an order under subsection (7).
- (11) The preceding provisions of this section apply to Scotland with these modifications—
- (a) in subsection (9)(a) for “he has” substitute “ the Scottish Ministers have ” and for “he is” substitute “ they are ”;
  - (b) in subsection (9)(e) for “Secretary of State for his” substitute “ Scottish Ministers for their ”.
- (12) In subsection (3) the reference to an enactment includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

#### Textual Amendments

**F22** Words in s. 208 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(4\)\(o\)](#); [S.I. 2009/1604, art. 2\(d\)](#)

#### Commencement Information

**I42** 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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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

## 209 Reasonable force

A person may use reasonable force, if necessary, in the exercise of a power conferred by this Act.

### Commencement Information

**I43** 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))

## 210 Rules of court

- (1) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings under this Act.
- (2) In Scotland any rules of court under this Act are to be made by Act of Adjournal.

### Commencement Information

**I44** 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))

## 211 Service of notices

Service of a notice on a person under section 54, 56, 58, 129, 130 or 131 may be effected in any of these ways—

- (a) by delivering the notice to the person;
- (b) by leaving it for him with another person at his last known or usual place of abode;
- (c) by sending it by post in a letter addressed to him at his last known or usual place of abode.

### Commencement Information

**I45** 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))

## 212 Article 95 alerts: transitional provision

<sup>F23</sup>(1) This section applies in a case where an article 95 alert is issued at the request of an authority of a category 1 territory.

- (2) The reference in section 2(2) to an arrest warrant issued by a judicial authority of a category 1 territory is to be read—
  - (a) as if it were a reference to the alert issued at the request of the authority, and
  - (b) as if the alert included any information sent with it which relates to the case.

(2A) The references in section 63(1) to an arrest warrant are to be read in accordance with paragraphs (a) and (b) of subsection (2) above.]

<sup>F23</sup>(3) [<sup>F24</sup>In consequence of] <sup>F24</sup> subsection (2), this Act has effect with these modifications—

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (a) in sections 2(7) and (8), 28(1), 30(1) and (4)(d), 32(2)(b), 33(6)(b), 35(4)(b), 36(3)(b), 47(3)(b), 49(3)(b), 190(3) and 191(2)(a) for “authority which issued the Part 1 warrant” substitute “ authority at the request of which the alert was issued ”;
  - (b) omit section 5;
  - (c) in sections 33(4)(b), 42(2)(a), 43(2)(a) and (4) and 61(1)(d) and (e), for “authority which issued the warrant” substitute “ authority at the request of which the alert was issued ”;
  - (d) in section 66(2), for the words from “believes” to the end substitute “ believes is the authority at the request of which the alert was issued ”.
- (4) An article 95 alert is an alert issued pursuant to article 95 of the Convention implementing the Schengen agreement of 14th June 1985.

#### **Textual Amendments**

**F23** S. 212(1)-(2A) substituted (25.1.2010) for s. 212(1)(2) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 68\(2\)](#), 116; [S.I. 2009/3096](#), [art. 3\(k\)](#) (with [art. 4](#))

**F24** Words in s. 212(3) substituted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 68\(3\)](#), 116; [S.I. 2009/3096](#), [art. 3\(k\)](#) (with [art. 4](#))

#### **Commencement Information**

**I46** 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\(2\)](#))

### *Interpretation*

#### **Commencement Information**

**I47** 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\(2\)](#))

## **213 Disposal of Part 1 warrant and extradition request**

- (1) A Part 1 warrant issued in respect of a person is disposed of—
- (a) when an order is made for the person’s discharge in respect of the warrant and there is no further possibility of an appeal;
  - (b) when the person is taken to be discharged in respect of the warrant;
  - (c) when an order is made for the person’s extradition in pursuance of the warrant and there is no further possibility of an appeal.
- (2) A request for a person’s extradition is disposed of—
- (a) when an order is made for the person’s discharge in respect of the request and there is no further possibility of an appeal;
  - (b) when the person is taken to be discharged in respect of the request;
  - (c) when an order is made for the person’s extradition in pursuance of the request and there is no further possibility of an appeal.
- (3) There is no further possibility of an appeal against an order for a person’s discharge or extradition—

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- (a) when the period permitted for giving notice of an appeal to the High Court ends, if notice is not given before the end of that period;
  - (b) when the decision of the High Court on an appeal becomes final, if there is no appeal to the [F25Supreme Court]<sup>F25</sup> against that decision;
  - (c) when the decision of the [F25Supreme Court]<sup>F25</sup> on an appeal is made, if there is such an appeal.
- (4) The decision of the High Court on an appeal becomes final—
- (a) when the period permitted for applying to the High Court for leave to appeal to the [F25Supreme Court]<sup>F25</sup> ends, if there is no such application;
  - (b) when the period permitted for applying to the [F25Supreme Court]<sup>F25</sup> for leave to appeal to it ends, if the High Court refuses leave to appeal and there is no application to the [F25Supreme Court]<sup>F25</sup> for leave to appeal;
  - (c) when the [F25Supreme Court]<sup>F25</sup> refuses leave to appeal to it;
  - (d) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the [F25Supreme Court]<sup>F25</sup> is granted, if no such appeal is brought before the end of that period.
- (5) These must be ignored for the purposes of subsections (3) and (4)—
- (a) any power of a court to extend the period permitted for giving notice of appeal or for applying for leave to appeal;
  - (b) any power of a court to grant leave to take a step out of time.
- (6) Subsections (3) to (5) do not apply to Scotland.

#### Textual Amendments

**F25** Words in s. 213 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(4\)\(p\)](#); [S.I. 2009/1604, art. 2\(d\)](#)

#### Commencement Information

**I48** 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\(2\)](#))

## 214 Disposal of charge

- (1) A charge against a person is disposed of—
- (a) if the person is acquitted in respect of it, when he is acquitted;
  - (b) if the person is convicted in respect of it, when there is no further possibility of an appeal against the conviction.
- (2) There is no further possibility of an appeal against a conviction—
- (a) when the period permitted for giving notice of application for leave to appeal to the Court of Appeal against the conviction ends, if the leave of the Court of Appeal is required and no such notice is given before the end of that period;
  - (b) when the Court of Appeal refuses leave to appeal against the conviction, if the leave of the Court of Appeal is required and notice of application for leave is given before the end of that period;
  - (c) when the period permitted for giving notice of appeal to the Court of Appeal against the conviction ends, if notice is not given before the end of that period;

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (d) when the decision of the Court of Appeal on an appeal becomes final, if there is no appeal to the [F26Supreme Court]<sup>F26</sup> against that decision;
  - (e) when the decision of the [F26Supreme Court]<sup>F26</sup> on an appeal is made, if there is such an appeal.
- (3) The decision of the Court of Appeal on an appeal becomes final—
- (a) when the period permitted for applying to the Court of Appeal for leave to appeal to the [F26Supreme Court]<sup>F26</sup> ends, if there is no such application;
  - (b) when the period permitted for applying to the [F26Supreme Court]<sup>F26</sup> for leave to appeal to it ends, if the Court of Appeal refuses leave to appeal and there is no application to the [F26Supreme Court]<sup>F26</sup> for leave to appeal;
  - (c) when the [F26Supreme Court]<sup>F26</sup> refuses leave to appeal to it;
  - (d) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the [F26Supreme Court]<sup>F26</sup> is granted, if no such appeal is brought before the end of that period.
- (4) These must be ignored for the purposes of subsections (2) and (3)—
- (a) any power of a court to extend the period permitted for giving notice of appeal or of application for leave to appeal or for applying for leave to appeal;
  - (b) any power of a court to grant leave to take a step out of time.
- (5) Subsections (2) to (4) do not apply to Scotland.

#### Textual Amendments

**F26** Words in s. 214 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 81\(4\)\(q\)](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

#### Commencement Information

**I49** 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))

## 215 European framework list

- (1) The European framework list is the list of conduct set out in Schedule 2.
- (2) The Secretary of State may by order amend Schedule 2 for the purpose of ensuring that the list of conduct set out in the Schedule corresponds to the list of conduct set out in article 2.2 of the European framework decision.
- (3) The European framework decision is the framework decision of the Council of the European Union made on 13 June 2002 on the European arrest warrant and the surrender procedures between member states (2002/584/JHA).

#### Commencement Information

**I50** 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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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

## 216 Other interpretative provisions

- (1) References to a category 1 territory must be read in accordance with section 1.
- (2) References to a category 2 territory must be read in accordance with section 69.
- (3) References to the designated authority must be read in accordance with section 2(9).
- (4) References to a Part 1 warrant must be read in accordance with section 2.
- (5) References to a Part 3 warrant must be read in accordance with section 142.
- (6) References to a valid request for a person’s extradition must be read in accordance with section 70.
- <sup>F27</sup>(6A) . . . . .
- (7) “Asylum claim” has the meaning given by section 113(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41).
- <sup>F28</sup>(7A) “Civilian subject to service discipline ” has the same meaning as in the Armed Forces Act 2006. ]
- (8) A customs officer is a person commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979 (c. 2).
- (9) “High Court” in relation to Scotland means the High Court of Justiciary.
- (10) In relation to Scotland, references to an appeal being discontinued are to be construed as references to its being abandoned.
- (11) “Police officer” in relation to Northern Ireland has the same meaning as in the Police (Northern Ireland) Act 2000 (c. 32).
- (12) A provisional warrant is a warrant issued under section 73(3).
- <sup>F29</sup>(13) “ Service policeman ” <sup>F30</sup> has the meaning given by section 375(1) of the Armed Forces Act 2006 ] .
- (13A) “ Subject to service law ” has the same meaning as in that Act. ]
- (15) This section and sections 213 to 215 apply for the purposes of this Act.

### Textual Amendments

- F27** S. 216(6A) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 11\(3\)](#); S.I. 2012/2906, art. 2(h)
- F28** S. 216(7A) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 378, 383, Sch. 16 para. 205\(a\)](#); S.I. 2009/812, art. 3 (with transitional provisions (24.4.2009 for certain purposes otherwise 31.10.2009) in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F29** S. 216(13)(13A) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) for s. 216(13) (14) by [Armed Forces Act 2006 \(c. 52\), ss. 378, 383, Sch. 16 para. 205\(b\)](#); S.I. 2009/812, art. 3 (with transitional provisions (24.4.2009 for certain purposes otherwise 31.10.2009) in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F30** Words in s. 216(13) substituted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\), s. 32\(3\), Sch. 4 para. 2](#); S.I. 2012/669, art. 4(e)

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

#### **Commencement Information**

**I51** 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))

### *General*

#### **217 Form of documents**

The Secretary of State may by regulations prescribe the form of any document required for the purposes of this Act.

#### **Commencement Information**

**I52** 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))

#### **218 Existing legislation on extradition**

These Acts shall cease to have effect—

- (a) the Backing of Warrants (Republic of Ireland) Act 1965 (c. 45);
- (b) the Extradition Act 1989 (c. 33).

#### **Commencement Information**

**I53** 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))

#### **219 Amendments**

- (1) Schedule 3 contains miscellaneous and consequential amendments.
- (2) The Secretary of State may by order make—
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,
 which he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act.
- (3) An order under subsection (2) may, in particular—
  - (a) provide for any provision of this Act which comes into force before another such provision has come into force to have effect, until that other provision has come into force, with such modifications as are specified in the order, and
  - (b) amend, repeal or revoke any enactment other than one contained in an Act passed in a Session after that in which this Act is passed.
- (4) The amendments that may be made under subsection (3)(b) are in addition to those made by or under any other provision of this Act.

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

#### Commencement Information

**I54** 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))

## 220 Repeals

Schedule 4 contains repeals.

#### Commencement Information

**I55** 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))

## 221 Commencement

The preceding provisions of this Act come into force in accordance with provision made by the Secretary of State by order.

#### Subordinate Legislation Made

**P1** [S. 221](#) power fully exercised: 1.1.2004 appointed by [{S.I. 2003/3103}](#), art. 2 (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3312](#) and [S.I. 2003/3258](#))

## 222 Channel Islands and Isle of Man

An Order in Council may provide for this Act to extend to any of the Channel Islands or the Isle of Man with the modifications (if any) specified in the Order.

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

**C4** [S. 222](#) extended (1.5.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 151\(2\)\(c\)](#), **153(2)**

## 223 Orders and regulations

- (1) References in this section to subordinate legislation are to—
  - (a) an order of the Secretary of State under this Act (other than an order within subsection (2));
  - (b) an order of the Treasury under this Act;
  - (c) regulations under this Act.
- (2) The orders referred to in subsection (1)(a) are—
  - (a) an order for a person's extradition or discharge;
  - (b) an order deferring proceedings on a warrant or request;
  - (c) an order deferring a person's extradition in pursuance of a warrant or request.
- (3) Subordinate legislation—

*Status: Point in time view as at 03/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 5. (See end of Document for details)*

- (a) may make different provision for different purposes;
- (b) may include supplementary, incidental, saving or transitional provisions.
- (4) A power to make subordinate legislation is exercisable by statutory instrument [<sup>F31</sup>(subject to subsection (10))].
- (5) No order mentioned in subsection (6) may be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (6) The orders are—
- (a) an order under any of these provisions—
- section 1(1);
  - [<sup>F32</sup>section 62B(3);]
  - section 69(1);
  - section 71(4);
  - section 73(5);
  - section 74(11)(b);
  - section 84(7);
  - section 86(7);
  - [<sup>F32</sup>section 135B(3)];
  - section 142(9);
  - section 173(4);
  - section 215(2);
- (b) an order under section 219(2) which contains any provision (whether alone or with other provisions) amending or repealing any Act or provision of an Act.
- (7) A statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament if it contains subordinate legislation other than an order mentioned in subsection (6) or an order under section 221.
- (8) A territory may be designated by being named in an order made by the Secretary of State under this Act or by falling within a description set out in such an order.
- (9) An order made by the Secretary of State under section 1(1) or 69(1) may provide that this Act has effect in relation to a territory designated by the order with specified modifications.
- [<sup>F33</sup>(10) The power of the Department of Justice in Northern Ireland to make regulations under section 61(8)(b) or 134(8)(b) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 <sup>M1</sup>.
- (11) Regulations made by the Department of Justice are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954). ]

#### Textual Amendments

**F31** Words in s. 223(4) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(5), **Sch. 18 para. 70(5)(a)** (with arts. 28-31); [S.I. 2010/977](#), **art. 1(2)**

**F32** Words in s. 223(6) inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 7 para. 19** (with Sch. 7 Pt. 4); [S.I. 2012/2412](#), art. 2(g)

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**F33** S. 223(10)(11) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(5), **Sch. 18 para. 70(5)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

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**Marginal Citations**

**M1** [S.I. 1979/1573 \(N.I. 12\)](#).

**224 Orders in Council**

- (1) An Order in Council under section 177 or 178 is subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) An Order in Council under this Act—
  - (a) may make different provision for different purposes;
  - (b) may include supplementary, incidental, saving or transitional provisions.

**225 Finance**

The following are to be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Lord Chancellor under this Act;
- (b) any increase attributable to this Act in the sums payable out of money provided by Parliament under any other enactment.

**226 Extent**

- (1) Sections 157 to 160, 166 to 168, 171, 173 and 205 do not extend to Scotland.
- (2) Sections 154, 198, 200 and 201 extend to England and Wales only.
- (3) Sections 183 and 199 extend to Scotland only.
- (4) Sections 184 and 185 extend to Northern Ireland only.

**227 Short title**

This Act may be cited as the Extradition Act 2003.

**Status:**

Point in time view as at 03/12/2012.

**Changes to legislation:**

There are currently no known outstanding effects for the Extradition Act 2003, Part 5.