

POLICING AND CRIME ACT 2009

EXPLANATORY NOTES

TERRITORIAL EXTENT AND APPLICATION

Part 6 – Extradition

Alerts

Section 67 Article 26 alerts

339. These provisions are designed to ensure that the UK is in a position to deal with alerts transmitted via the second generation Schengen Information System (“SIS II”) which request the arrest of a person for extradition purposes.
340. SIS II is a computer database containing information relating to individuals, vehicles and lost and stolen objects. The current expectation is that the UK will begin sending and receiving data via SIS II from April 2011. This data will include the details of persons wanted for arrest for extradition purposes (“article 26 alerts”) which will have been entered on SIS II following the issue of a European Arrest Warrant (“an EAW”) in the relevant member state.
341. Section 204 of the Extradition Act 2003 (the “2003 Act”) previously allowed Part 1 warrants transmitted to the UK by electronic means to be dealt with as if they were Part 1 warrants transmitted in hard copy. Section 67 amends section 204 of the 2003 Act so as to ensure that where an article 26 alert, together with an arrest warrant issued by a territory designated by order under Part 1 of the 2003 Act (a “category 1 territory”), is transmitted to a designated authority in an intelligible electronic form, that information (together with any other information accompanying it) falls to be considered by the designated authority in determining whether it amounts to a Part 1 warrant which may be certified under section 2 of the 2003 Act.
342. *Section 67* also makes similar provision in relation to arrest warrants transmitted in an intelligible electronic form in cases where no article 26 alert has been issued. This is to ensure that any warrants sent outside of SIS II which are transmitted by electronic means will also fall to be considered for certification under section 2 of the 2003 Act.

Section 68 – Article 95 Alerts

343. Section 212 of the Extradition Act 2003 previously allowed article 95 alerts issued before 1 January 2004 to be dealt with as if they were Part 1 warrants. Section 68 amends these provisions so that *all* article 95 alerts issued at the request of an authority of a category 1 territory fall to be regarded as arrest warrants issued by that authority. This will ensure that information contained in an article 95 alert (together with any information transmitted with it) will fall to be considered by the designated authority in determining whether it amounts to a Part 1 warrant which may be certified under section 2 of the Extradition Act 2003. This will allow the UK to meet its obligation to validate existing article 95 alerts prior to the UK beginning to send and receive data via SIS II.