

SCHEDULE

POWER OF ARREST FOR EXTRADITION PURPOSES

PART 2

CONSEQUENTIAL AMENDMENTS

Police and Criminal Evidence Act 1984

- 7 In section 65 of the Police and Criminal Evidence Act 1984 (questioning and treatment of persons by police: supplementary), in the definition of “extradition arrest power”, at the end insert—
“(e) section 74A of that Act;”.

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))

- 8 In Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (questioning and treatment of persons by police: interpretation), in the definition of “extradition arrest power”, at the end insert—
“(e) section 74A of that Act.”

Nationality, Immigration and Asylum Act 2002

- 9 In section 94 of the Nationality, Immigration and Asylum Act 2002 (appeal from within United Kingdom: unfounded human rights or protection claim), in subsection (6A), after paragraph (c) insert—
“(ca) is the subject of a certificate under section 74B of that Act.”

Extradition Act 2003

- 10 The Extradition Act 2003 is amended as follows.
- 11 (1) Section 76 (date of extradition hearing: arrest under provisional warrant) is amended as follows.
- (2) In the heading, after “provisional warrant” insert “or under section 74A”.
- (3) In subsection (1)—
- (a) in paragraph (a), after “provisional warrant” insert “or under section 74A”;
- (b) in paragraph (b), after “section 74(10)” insert “or 74E(4)”.
- 12 In section 76A (person charged with offence in United Kingdom before extradition hearing), in subsection (1)(a), for “or 74(3)” substitute “, 74(3) or 74A(3)”.
- 13 In section 76B (person serving sentence in United Kingdom before extradition hearing), in subsection (1)(a), for “or 74(3)” substitute “, 74(3) or 74A(3)”.
- 14 In section 127 (consent to extradition: general), in subsection (2), after “provisional warrant” insert “or under section 74A”.
- 15 (1) Section 136 (persons serving sentences outside territory where convicted) is amended as follows.

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(2) In subsection (1)—

- (a) in paragraph (a) omit “or” at the end;
- (b) in paragraph (b), at the end insert “, or
- (c) a request for the person’s arrest is made by an authority of a specified category 2 territory (within the meaning of section 74B(7)) and the request contains the statement referred to in subsection (2).”

(3) In subsection (3)—

- (a) in paragraph (b), after “subsection (1)(b)” insert “or (c) (as the case may be)”;
- (b) after paragraph (b) insert—
 - “(c) section 74C(1)(b) has effect as if the reference to the statement referred to in subsection (4) of that section were a reference to the statement in subsection (2) of this section;
 - (d) section 74C(5) has effect as if paragraph (c) were omitted and as if in paragraph (d)—
 - (i) “the category 2 territory” read “the convicting territory”;
 - (ii) “if the person has been sentenced for the offence” were omitted.”

(4) In subsection (4)—

- (a) after paragraph (a) insert—
 - “(aa) section 74(7)(a) has effect as if “accused of the commission of an offence in a category 2 territory or that he is alleged to be unlawfully at large after conviction of an offence by a court in a category 2 territory” read “alleged to be unlawfully at large from a prison in the imprisoning territory after conviction of an offence in the convicting territory”;
- (b) after paragraph (c) insert—
 - “(ca) section 74B(1)(b) has effect as if sub-paragraph (i) were omitted and as if for sub-paragraph (ii) there were substituted—
 - “(ii) the person is alleged to be unlawfully at large from a prison in the imprisoning territory after conviction of an offence in the convicting territory”;
 - (cb) section 74B(1)(c) has effect as if “a serious extradition offence” read “a serious extradition offence in relation to the convicting territory”;
 - (cc) section 74E(1)(a) has effect as if “accused of the commission of an offence in a category 2 territory or are alleged to be unlawfully at large after conviction of an offence by a court in a category 2 territory” read “alleged to be unlawfully at large from a prison in the imprisoning territory after conviction of an offence in the convicting territory”;
 - (cd) section 74E(2)(a) has effect as if “the category 2 territory in which the person is accused of the commission of an offence

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or is alleged to have been convicted of an offence” read “the imprisoning territory”;

- 16 In section 162 (entry and search of premises on arrest), in subsection (3)(d), after “provisional warrant” insert “or under section 74A”.
- 17 In section 164 (entry and search of premises after arrest), in subsection (3)(d), after “provisional warrant” insert “or under section 74A”.
- 18 In section 172 (delivery of seized property), in subsection (4)(d), after “provisional warrant” insert “or section 74A.”
- 19 In section 174 (interpretation), in subsection (2), after paragraph (d) insert—
“(e) section 74A.”
- 20 In section 193 (parties to international conventions), in subsection (4)(a), after “74(11)(b)” insert “, 74A to 74E”.
- 21 In section 194 (special extradition arrangements), in subsection (4)(a), after “74(11)(b)” insert “, 74A to 74E”.
- 22 (1) Section 206B (live links: supplementary) is amended as follows.
(2) In subsection (6)(b), for “or 74(3)” substitute “, 74(3) or 74A(3)”.(3) In subsection (7), for “or 74(3)” substitute “, 74(3) or 74A(3)”.
- 23 (1) In section 206C (live links: interpretation), subsection (4) is amended as follows.
(2) In paragraph (c) omit “or” at the end.
(3) In paragraph (d), at the end insert “; or
(e) a certificate is issued under section 74B in respect of the person.”
- 24 (1) In section 208 (national security), subsection (9) is amended as follows.
(2) In paragraph (b), for “or under a provisional warrant” substitute “, under a provisional warrant or under section 74A”.(3) In paragraph (c), after “74” insert “, 74D, 74E”.
- 25 (1) Section 216 (other interpretive provisions) is amended as follows.
(2) After subsection (2) insert—
“(2A) References in sections 74B and 74C to the designated authority must be read in accordance with section 74B(4).”
(3) In subsection (3), at the start insert “Other”.
- 26 In section 223 (orders and regulations), after subsection (6) insert—
“(6A) No regulations under section 74B(8) may be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.”

UK Borders Act 2007

- 27 The UK Borders Act 2007 is amended as follows.
- 28 In section 2 (detention), in subsections (1) and (1A), at the end of paragraph (a) (but before “or”) insert—

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“(aa) is the subject of a certificate under section 74B of the Extradition Act 2003.”.

29 In section 33 (exceptions to automatic deportation), in subsection (5), after paragraph (c) insert—

“(ca) is the subject of a certificate under section 74B of that Act.”.

Criminal Justice (Scotland) Act 2016 (asp 1)

30 In section 57A of the Criminal Justice (Scotland) Act 2016 (arrest without warrant otherwise than in respect of an offence), in subsection (3)(e), for “section 5” substitute “sections 5 and 74A”.

Further consequential provision

- 31 (1) The Secretary of State may by regulations make further provision that is consequential on the amendments made by this Schedule.
- (2) Regulations under this paragraph may amend, repeal or revoke any provision made by primary legislation.
- (3) Regulations under this paragraph may make transitional, saving or incidental provision.
- (4) Regulations under this paragraph are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this paragraph that amend, repeal or revoke a provision of primary legislation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) Any other statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this paragraph, “primary legislation” means—
- (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) an Act or Measure of Senedd Cymru, or
 - (d) Northern Ireland legislation.