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STATUTORY INSTRUMENTS

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**2002 No. 1825**

**HONG KONG  
EXTRADITION**

**The Extradition (Overseas Territories)  
(Application to Hong Kong) Order 2002**

<i>Made</i>	- - - -	<i>16th July 2002</i>
<i>Laid before Parliament</i>		<i>26th July 2002</i>
<i>Coming into force</i>	- -	<i>16th August 2002</i>

At the Court at Buckingham Palace, the 16th day of July 2002

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 32(2A) of the Extradition Act 1989(1), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**1.**—(1) This Order may be cited as the Extradition (Overseas Territories) (Application to Hong Kong) Order 2002.

(2) This Order shall come into force on 16th August 2002.

(3) In this Order, “the principal Order” means the Extradition (Overseas Territories) Order 2002, and the expressions “listed territory” and “relevant listed territory” have the meanings respectively assigned to them by section 35 of the Extradition Act 1989 as set out in Schedule 2 to that Order.

**2.** For the purposes of extradition as between a listed territory and the Hong Kong Special Administrative Region of the People's Republic of China, the provisions of the Extradition Act 1989, as extended to that territory by virtue of Article 2 of the principal Order and set out (as amended) in its Schedule 2 shall have effect under the law of that territory subject to the amendments set out in the Schedule to this Order.

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(1) 1989 c. 33; section 32(2A) was inserted by S.I.2002/1824.

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**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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*A. K. Galloway*  
Clerk of the Privy Council

## SCHEDULE

Article 2

### AMENDMENTS TO SCHEDULE 2 OF THE PRINCIPAL ORDER

1. After section 1(2) (liability to extradition), there shall be inserted the following subsection:

“(2A) Subject to the provisions of this Act, a person in a listed territory who—

  - (a) is accused in the Hong Kong Special Administrative Region of an extradition crime, or
  - (b) is alleged to be unlawfully at large after conviction for such an offence in that Region,

may be arrested and returned to that Region in accordance with extradition procedures under Part III of this Act.”.
- 2.—(1) Section 2 (meaning of “extradition crime”) shall be amended as follows.
  - (2) In subsection (1)—
    - (a) in paragraph (a)—
      - (i) for the words “or a British overseas territory” there shall be substituted the words “, a British overseas territory or the Hong Kong Special Administrative Region”, and
      - (ii) after the words “or British overseas territory” there shall be inserted the words “, or of the Hong Kong Special Administrative Region”, and
    - (b) in paragraph (b) after the words “British overseas territory” there shall be inserted the words, “or of the Hong Kong Special Administrative Region,”.
  - (3) In subsection (3)(a), after the words “British overseas territory” there shall be inserted the words “or the Hong Kong Special Administrative Region”.
  - (4) In subsection (4)—
    - (a) at the end of paragraph (b) the word “and” shall be omitted, and
    - (b) after the words “in that dependency” in paragraph (d) there shall be added:

“; and
    - (e) conduct in a vessel, aircraft or hovercraft of the Hong Kong Special Administrative Region shall be treated as if it were conduct in the Hong Kong Special Administrative Region.”.
- 3.—(1) In section 6 (general restrictions on return), there shall be inserted immediately following subsection (1) the following subsection:

“(2) A person who is alleged to be unlawfully at large after conviction of an extradition crime shall not be returned to the Hong Kong Special Administrative Region or committed or kept in custody for the purposes of return to that Region if it appears to an appropriate authority—

  - (a) that the conviction was obtained in his absence; and
  - (b) that it would not be in the interests of justice to return him on the ground of that conviction.”.
  - (3) In subsections (4) and (7), after the words “British overseas territory” there shall be inserted the words “or with the Hong Kong Special Administrative Region”.
  4. In section 7 (extradition request and authority to proceed)—
    - (a) in subsection (1), after “Government of Ireland”, there shall be inserted “or the Government of the Hong Kong Special Administrative Region.”;

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- (b) in subsection (2)(c), after the words “British overseas territory”, there shall be inserted the words “or in the Hong Kong Special Administrative Region”.
5. In section 9 (proceedings for committal), after subsection (5) there shall be inserted—
- “(5A) In exercising the power conferred by subsection (5) above in a case where the extradition request is made by or on behalf of the Government of Hong Kong Special Administrative Region the court shall not fix a period ending more than 60 days after the day of the person’s arrest, unless the exceptional circumstances of the case justify a longer period.”.
6. In section 10 (statement of case by court), after subsection (12), there shall be inserted—
- “(14) This section shall apply to the Hong Kong Special Administrative Region in the same way as it applies to a Commonwealth country or British overseas territory.”.
7. In section 12(2) (order for return), after the words “British overseas territory” there shall be inserted the words “or to the Hong Kong Special Administrative Region”.
8. Section 19 shall have effect as if (a) the references therein to a country from which a person is returned to a listed territory were references (in relation to such a return) to the Hong Kong Special Administrative Region; and (b) the reference in section 19(3) to “45 days” was a reference to “40 days”.
9. In section 20 (restoration of persons not tried or acquitted) in subsection (2) after the words “overseas territory from which he was returned”, there shall be added the words “, or to the Hong Kong Special Administrative Region,”.
10. In section 21 (persons serving sentences outside country of conviction), in subsection (1)(a), there shall be inserted after “Governor of a British overseas territory” the words “or by or on behalf of the Government of the Hong Kong Special Administrative Region”.
11. After section 27 (evidence) there shall be inserted the following section:
- “**27A.**—(1) In extradition proceedings in relation to a person whose return has been requested by or on behalf of the Government of the Hong Kong Special Administrative Region documents from that Region may be authenticated by the oath of a witness, but shall in any case be deemed duly authenticated—
- (a) if they purport to be signed by a judge, magistrate or officer of the Hong Kong Special Administrative Region; and
- (b) if they purport to be certified by being sealed—
- (i) with an official or public seal of the Hong Kong Special Administrative Region, or
- (ii) by an officer of that Region.
- (2) Judicial notice shall be taken of such certification as is mentioned in subsection (1) (b) above, and documents authenticated by such certification shall be received in evidence without further proof.”
12. In section 28(2) (form of warrants and orders), for the words “and British overseas territories” there shall be substituted the words “, British overseas territories and the Hong Kong Special Administrative Region”.
13. In section 35 (interpretation), in subsection (1), after the definition of “extradition request” there shall be inserted—
- ““Hong Kong Special Administrative Region” means the Hong Kong Special Administrative Region of the People’s Republic of China;”.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, which comes into force on 16th August 2002, amends the Extradition Act [1989 \(c. 33\)](#) as applied by the Extradition (Overseas Territories) Order 2002, so that the Act as so amended will apply for the purposes of extradition as between the British overseas territories to which that Order applies and the Hong Kong Special Administrative Region of the People's Republic of China.