
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 50

EXTRADITION

SECTION 2: EXTRADITION PROCEEDINGS IN A MAGISTRATES' COURT

Exercise of magistrates' court's powers

50.3.—(1) The general rule is that the magistrates' court must exercise its powers at a hearing in public, but—

- (a) that is subject to any power the court has to—
 - (i) impose reporting restrictions,
 - (ii) withhold information from the public, or
 - (iii) order a hearing in private; and
- (b) despite the general rule the court may, without a hearing—
 - (i) give any directions to which rule 50.4 applies (Case management in the magistrates' court and duty of court officer), or
 - (ii) determine an application which these Rules allow to be determined by a magistrates' court without a hearing in a case to which this Part does not apply.

(2) If the court so directs, a party may attend by live link any hearing except an extradition hearing under rule 50.6 or 50.13.

- (3) Where the defendant is absent from a hearing—
 - (a) the general rule is that the court must proceed as if the defendant—
 - (i) were present, and
 - (ii) opposed extradition on any ground of which the court has been made aware;
 - (b) the general rule does not apply if the defendant is under 18;
 - (c) the general rule is subject to the court being satisfied that—
 - (i) the defendant had reasonable notice of where and when the hearing would take place,
 - (ii) the defendant has been made aware that the hearing might proceed in his or her absence, and
 - (iii) there is no good reason for the defendant's absence; and
 - (d) the general rule does not apply but the court may exercise its powers in the defendant's absence where—
 - (i) the court discharges the defendant,

- (ii) the defendant is represented and the defendant's presence is impracticable by reason of his or her ill health or disorderly conduct, or
 - (iii) on an application under rule 50.32 (Application for consent to deal with another offence or for consent to further extradition), the defendant is represented or the defendant's presence is impracticable by reason of his or her detention in the territory to which he or she has been extradited.
- (4) The court may exercise its power to adjourn—
 - (a) if either party asks, or on its own initiative; and
 - (b) in particular—
 - (i) to allow there to be obtained information that the court requires,
 - (ii) following a provisional arrest under Part 1 of the Extradition Act 2003, pending receipt of the warrant,
 - (iii) following a provisional arrest under Part 2 of the Act, pending receipt of the extradition request,
 - (iv) if the court is informed that the defendant is serving a custodial sentence in the United Kingdom,
 - (v) if it appears to the court that the defendant is not fit to be extradited, unless the court discharges the defendant for that reason,
 - (vi) where a court dealing with a warrant to which Part 1 of the Act applies is informed that another such warrant has been received in the United Kingdom,
 - (vii) where a court dealing with a warrant to which Part 1 of the Act applies is informed of a request for the temporary transfer of the defendant to the territory to which the defendant's extradition is sought, or a request for the defendant to speak to the authorities of that territory, or
 - (viii) during a hearing to which rule 50.32 applies (Application for consent to deal with another offence or for consent to further extradition).
- (5) The court must exercise its power to adjourn if informed that the defendant has been charged with an offence in the United Kingdom.
- (6) The general rule is that, before exercising a power to which this Part applies, the court must give each party an opportunity to make representations, unless that party is absent without good reason.
- (7) The court may—
 - (a) shorten a time limit or extend it (even after it has expired), unless that is inconsistent with other legislation;
 - (b) direct that a notice or application be served on any person; and
 - (c) allow a notice or application to be in a different form to one set out in the Practice Direction, or to be presented orally.
- (8) A party who wants an extension of time within which to serve a notice or make an application must—
 - (a) apply for that extension of time when serving that notice or making that application; and
 - (b) give the reasons for the application for an extension of time.

[Note. See sections 8A, 8B, 9, 21B, 22, 23, 25 and 44 of the Extradition Act 2003(1) (powers in relation to extradition under Part 1 of the Act) and sections 76A, 76B, 77, 88, 89 and 91 of the Act(2) (powers in relation to extradition under Part 2 of the Act). Under sections 9 and 77 of the Act, at the extradition hearing the court has the same powers (as nearly as may be) as a magistrates' court would have if the proceedings were the summary trial of an allegation against the defendant: see also rule 24.12(3) (Trial and sentence in a magistrates' court; procedure where the defendant is absent).

Under sections 206A to 206C of the 2003 Act(3), the court may require a defendant to attend by live link a preliminary hearing to which rule 50.5, 50.9 or 50.11 applies, any hearing for the purposes of rule 50.12 and the hearing to which rule 50.32 applies.

Part 6 contains rules about reporting and access restrictions.

Part 14 contains rules about bail. Rules 14.2(3) and 14.7(7)(c) allow an application to be determined without a hearing in the circumstances to which those rules apply.

The principal time limits are prescribed by the Extradition Act 2003: see rule 50.16.]

Case management in the magistrates' court and duty of court officer

50.4.—(1) The magistrates' court and the parties have the same duties and powers as under Part 3 (Case management), subject to—

- (a) rule 50.2 (Special objective in extradition proceedings); and
 - (b) paragraph (2) of this rule.
- (2) Rule 3.6 (Application to vary a direction) does not apply to a decision to extradite or discharge.
- (3) Where this rule applies, active case management by the court includes—
- (a) if the court requires information from the authorities in the requesting territory—
 - (i) nominating a court officer, the designated authority which certified the arrest warrant where Part 1 of the Extradition Act 2003 Act applies, a party or other person to convey that request to those authorities, and
 - (ii) in a case in which the terms of that request need to be prepared in accordance with directions by the court, giving such directions accordingly; and
 - (b) giving such directions as are required where, under section 21B of the Extradition Act 2003(4), the parties agree—
 - (i) to the temporary transfer of the defendant to the requesting territory, or
 - (ii) that the defendant should speak with representatives of an authority in that territory.
- (4) Where this rule applies, active assistance by the parties includes—
- (a) applying for any direction needed as soon as reasonably practicable; and
 - (b) concisely explaining the reasons for any application for the court to direct—
 - (i) the preparation of a request to which paragraph (3)(a) applies, or

(1) 2003 c. 41; sections 8A and 8B were inserted by section 69 of the Policing and Crime Act 2009 (c. 26). Sections 9 and 44 were amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48). Section 21B was inserted by section 159 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Section 22 was amended by section 71 of the Policing and Crime Act 2009 (c. 26). Section 23 was amended by paragraph 7 of Schedule 13 to the Police and Justice Act 2006 (c. 48) and section 71 of the Policing and Crime Act 2009 (c. 26).

(2) 2003 c. 41; sections 76A and 76B were inserted by section 70 of the Policing and Crime Act 2009 (c. 26). Section 77 was amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48). Section 88 was amended by section 71 of the Policing and Crime Act 2009 (c. 26). Section 89 was amended by paragraph 7 of Schedule 13 to the Police and Justice Act 2006 (c. 48) and section 71 of the Policing and Crime Act 2009 (c. 26).

(3) 2003 c. 41; sections 206A, 206B and 206C were inserted by section 78 of the Policing and Crime Act 2009 (c. 26).

(4) 2003 c. 41; section 21B was inserted by section 159 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).

- (ii) the making of arrangements to which paragraph (3)(b) applies.
- (5) Where this rule applies, active assistance by the presenting officer includes—
 - (a) taking reasonable steps to ensure that the defendant will be able to understand (with help, if necessary)—
 - (i) what is alleged by the warrant, if Part 1 of the 2003 Act applies, or
 - (ii) the content of the extradition request, if Part 2 of the Act applies; and
 - (b) providing in writing identification of the equivalent offence or offences under the law of England and Wales for the conduct being relied on if—
 - (i) this is raised for the defence as an issue and the court considers it necessary to identify the equivalent offence or offences in writing, or
 - (ii) the defendant is not represented.
- (6) The court officer must—
 - (a) as soon as practicable, serve notice of the court’s decision to extradite or discharge—
 - (i) on the defendant,
 - (ii) on the designated authority which certified the arrest warrant, where Part 1 of the 2003 Act applies, and
 - (iii) on the Secretary of State, where Part 2 of the Act applies; and
 - (b) give the court such assistance as it requires.

[Note. Part 3 contains rules about case management which apply at an extradition hearing and during preparation for that hearing. This rule must be read in conjunction with those rules.

Under section 21B of the Extradition Act 2003 (Request for temporary transfer etc.), where Part 1 of the Act applies, and in the circumstances described in that section, the parties may agree to the defendant’s temporary transfer to the requesting territory, or may agree that the defendant will speak to representatives of an investigating, prosecuting or judicial authority in that territory. On the making by a party of a request to such effect the court must if necessary adjourn the proceedings for 7 days while the other party considers it. If the parties then agree to proceed with the proposed transfer or discussion the court must adjourn the proceedings for however long seems necessary.]