
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 50

EXTRADITION

EXTRADITION UNDER PART 1 OF THE EXTRADITION ACT 2003

Preliminary hearing after arrest

- 50.5.**—(1) This rule applies where the defendant is first brought before the court after—
- (a) arrest under a warrant to which Part 1 of the Extradition Act 2003 applies; or
 - (b) provisional arrest under Part 1 of the Act.
- (2) The presenting officer must—
- (a) serve on the court officer—
 - (i) the arrest warrant, and
 - (ii) a certificate, given by the authority designated by the Secretary of State, that the warrant was issued by an authority having the function of issuing such warrants in the territory to which the defendant’s extradition is sought; or
 - (b) apply at once for an extension of time within which to serve that warrant and that certificate.
- (3) An application under paragraph (2)(b) must—
- (a) explain why the requirement to serve the warrant and certificate at once could not reasonably be complied with; and
 - (b) include—
 - (i) any written material in support of that explanation, and
 - (ii) representations about bail pending service of those documents.
- (4) When the presenting officer serves the warrant and certificate, in the following sequence the court must—
- (a) decide whether the defendant is the person in respect of whom the warrant was issued;
 - (b) explain, in terms the defendant can understand (with help, if necessary)—
 - (i) the allegation made in the warrant, and
 - (ii) that the defendant may consent to extradition, and how that may be done and with what effect;
 - (c) give directions for an extradition hearing to begin—
 - (i) no more than 21 days after the defendant’s arrest, or

- (ii) if either party so applies, at such a later date as the court decides is in the interests of justice;
- (d) consider any ancillary application, including an application about bail pending the extradition hearing; and
- (e) give such directions as are required for the preparation and conduct of the extradition hearing.

[Note. See sections 4, 6, 7 and 8 of the Extradition Act 2003(1).

Under section 6 of the Act, following a provisional arrest pending receipt of a warrant the defendant must be brought before the court within 48 hours, and the warrant and certificate must be served within that same period. If they are not so served, the court may extend the time for service by a further 48 hours.

Under section 45 of the Act(2), a defendant's consent to extradition must be given before the court, must be recorded in writing, and is irrevocable. Consent may not be given unless the defendant has a legal representative with him or her when giving consent, or the defendant has failed or refused to apply for legal aid, or legal aid has been refused or withdrawn.

Part 14 contains rules about bail.]

Extradition hearing

- 50.6.**—(1) This rule applies at the extradition hearing arranged by the court under rule 50.5.
- (2) In the following sequence, the court must decide—
- (a) whether the offence specified in the warrant is an extradition offence;
 - (b) whether a bar to extradition applies, namely—
 - (i) the rule against double jeopardy,
 - (ii) absence of prosecution decision,
 - (iii) extraneous considerations,
 - (iv) the passage of time,
 - (v) the defendant's age,
 - (vi) speciality,
 - (vii) earlier extradition or transfer to the United Kingdom, or
 - (viii) forum;
 - (c) where the warrant alleges that the defendant is unlawfully at large after conviction, whether conviction was in the defendant's presence and if not—
 - (i) whether the defendant was absent deliberately, and
 - (ii) if the defendant was not absent deliberately, whether the defendant would be entitled to a retrial (or to a review of the conviction, amounting to a retrial);
 - (d) whether extradition would be—
 - (i) compatible with the defendant's human rights, and
 - (ii) proportionate;

(1) [2003 c. 41](#); section 6 was amended by section 77 of the Policing and Crime Act [2009 \(c. 26\)](#). Section 7 was amended by paragraph 16 of Schedule 13 to the Police and Justice Act [2006 \(c. 48\)](#) and section 77 of the Policing and Crime Act [2009 \(c. 26\)](#). Section 8 was amended by paragraph 16 of Schedule 13 to the Police and Justice Act [2006 \(c. 48\)](#) and section 155 of the Anti-social Behaviour, Crime and Policing Act [2014 \(c. 12\)](#).

(2) [2003 c. 41](#); section 45 was amended by paragraphs 62 and 63 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act [2012 \(c. 10\)](#) and section 163 of the Anti-social Behaviour, Crime and Policing Act [2014 \(c. 12\)](#).

- (e) whether it would be unjust or oppressive to extradite the defendant because of his or her physical or mental condition;
 - (f) after deciding each of (a) to (e) above, before progressing to the next, whether to order the defendant's discharge; and
 - (g) whether to order the temporary transfer of the defendant to the territory to which the defendant's extradition is sought.
- (3) If the court discharges the defendant, the court must consider any ancillary application, including an application about—
- (a) reporting restrictions; or
 - (b) costs.
- (4) If the court does not discharge the defendant, the court must—
- (a) exercise its power to order the defendant's extradition;
 - (b) explain, in terms the defendant can understand (with help, if necessary), that the defendant may appeal to the High Court within the next 7 days; and
 - (c) consider any ancillary application, including an application about—
 - (i) bail pending extradition,
 - (ii) reporting restrictions, or
 - (iii) costs.
- (5) If the court orders the defendant's extradition, the court must order its postponement where—
- (a) the defendant has been charged with an offence in the United Kingdom; or
 - (b) the defendant has been sentenced to imprisonment or detention in the United Kingdom.

[Note. See sections 10, 11, 20, 21, 21B, 25, 26, 36A, 36B, 64 and 65 of the Extradition Act 2003(3).

Part 6 contains rules about reporting restrictions. Part 45 contains rules about costs.]

Discharge where warrant withdrawn

50.7.—(1) This rule applies where the authority that certified the warrant gives the court officer notice that the warrant has been withdrawn—

- (a) after the start of the hearing under rule 50.5; and
 - (b) before the court orders the defendant's extradition or discharge.
- (2) The court must exercise its power to discharge the defendant.

[Note. See section 41 of the Extradition Act 2003.]

(3) **2003 c. 41**; section 11 was amended by paragraphs 3 and 4 of Schedule 13 to the Police and Justice Act **2006 (c. 48)**, paragraphs 1 and 2 of Schedule 20 to the Crime and Courts Act **2013 (c. 22)** and sections 156, 157, 158 and 181 of, and paragraph 104 of Schedule 11 to, the Anti-social Behaviour, Crime and Policing Act **2014 (c. 12)**. Section 21 was 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 26 was amended by section 160 of that Act, sections 36A and 36B were inserted by section 161 of that Act and sections 64 and 65 were substituted by section 164 of that Act.