
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 50

EXTRADITION

EXTRADITION UNDER PART 2 OF THE EXTRADITION ACT 2003

Issue of arrest warrant

- 50.8.**—(1) This rule applies where the Secretary of State serves on the court officer—
- (a) an extradition request to which Part 2 of the Extradition Act 2003 applies;
 - (b) a certificate given by the Secretary of State that the request was received in the way approved for the request; and
 - (c) a copy of any Order in Council which applies to the request.
- (2) In the following sequence, the court must decide—
- (a) whether the offence in respect of which extradition is requested is an extradition offence; and
 - (b) whether there is sufficient evidence, or (where the Secretary of State has so ordered, for this purpose) information, to justify the issue of a warrant of arrest.
- (3) The court may issue an arrest warrant—
- (a) without giving the parties an opportunity to make representations; and
 - (b) without a hearing, or at a hearing in public or in private.

[Note. See sections 70, 71, 137 and 138 of the Extradition Act 2003(1).]

Preliminary hearing after arrest

- 50.9.**—(1) This rule applies where a defendant is first brought before the court after arrest under a warrant to which rule 50.8 applies.
- (2) In the following sequence, the court must—
- (a) explain, in terms the defendant can understand (with help, if necessary)—
 - (i) the content of the extradition request, and
 - (ii) that the defendant may consent to extradition, and how that may be done and with what effect;
 - (b) arrange for an extradition hearing to begin—

(1) 2003 c. 41; section 70 was amended by paragraphs 1 and 17 of Schedule 13 to the Police and Justice Act 2006 (c. 48). Section 71 was amended by paragraph 202 of Schedule 16 to the Armed Forces Act 2006 (c. 52). Section 137 was amended by sections 164 and 181 of, and paragraph 117 of Schedule 11 to, the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Section 138 was amended by sections 164 and 181 of, and paragraph 118 of Schedule 11 to, the 2014 Act.

- (i) no more than 2 months later, or
- (ii) if either party so applies, at such a later date as the court decides is in the interests of justice;
- (c) consider any ancillary application, including an application about bail pending the extradition hearing; and
- (d) give any direction as is appropriate to the needs of the case about the introduction of evidence at the extradition hearing.

[Note. See sections 72 and 75 of the Extradition Act 2003(2).

Under section 127 of the 2003 Act(3) 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.]

Issue of provisional arrest warrant

50.10.—(1) This rule applies where a presenting officer wants a justice of the peace to issue a provisional arrest warrant under Part 2 of the Extradition Act 2003, pending receipt of an extradition request.

- (2) The presenting officer must—
 - (a) serve an application for a warrant on the court officer; and
 - (b) verify that application on oath or affirmation.
- (3) In the following sequence, the justice must decide—
 - (a) whether the alleged offence is an extradition offence; and
 - (b) whether there is sufficient evidence, or (where the Secretary of State has so ordered, for this purpose) information, to justify the issue of a warrant of arrest.

[Note. See sections 73, 137 and 138 of the Extradition Act 2003(4).]

Preliminary hearing after provisional arrest

50.11.—(1) This rule applies where a defendant is first brought before the court after arrest under a provisional arrest warrant to which rule 50.10 applies.

- (2) The court must—
 - (a) explain, in terms the defendant can understand (with help, if necessary)—
 - (i) the allegation in respect of which the warrant was issued, and
 - (ii) that the defendant may consent to extradition, and how that may be done and with what effect; and
 - (b) consider any ancillary application, including an application about bail pending receipt of the extradition request.

(2) 2003 c. 41; section 72 was amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48).

(3) 2003 c. 41; section 127 was amended by paragraphs 62 and 64 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(4) 2003 c. 41; section 73 was amended by paragraph 203 of Schedule 16 to the Armed Forces Act 2006 (c. 52). Section 137 was amended by sections 164 and 181 of, and paragraph 117 of Schedule 11 to, the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Section 138 was amended by sections 164 and 181 of, and paragraph 118 of Schedule 11 to, the 2014 Act.

[Note. See section 74 of the Extradition Act 2003(5). Under section 127 of the Act, 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.]

Arrangement of extradition hearing after provisional arrest

- 50.12.**—(1) This rule applies when the Secretary of State serves on the court officer—
- (a) a request for extradition in respect of which a defendant has been arrested under a provisional arrest warrant to which rule 50.10 applies;
 - (b) a certificate given by the Secretary of State that the request was received in the way approved for the request; and
 - (c) a copy of any Order in Council which applies to the request.
- (2) Unless a time limit for service of the request has expired, the court must—
- (a) give directions for an extradition hearing to begin—
 - (i) no more than 2 months after service of the request, or
 - (ii) if either party so applies, at such a later date as the court decides is in the interests of justice;
 - (b) consider any ancillary application, including an application about bail pending the extradition hearing; and
 - (c) give such directions as are required for the preparation and conduct of the extradition hearing.

[Note. See section 76 of the Extradition Act 2003.]

Extradition hearing

- 50.13.**—(1) This rule applies at the extradition hearing directed under rule 50.9 or rule 50.12.
- (2) In the following sequence, the court must decide—
- (a) whether the documents served on the court officer by the Secretary of State include—
 - (i) those listed in rule 50.8(1) or rule 50.12(1), as the case may be,
 - (ii) particulars of the person whose extradition is requested,
 - (iii) particulars of the offence specified in the request, and
 - (iv) as the case may be, a warrant for the defendant's arrest, or a certificate of the defendant's conviction and (if applicable) sentence, issued in the requesting territory;
 - (b) whether the defendant is the person whose extradition is requested;
 - (c) whether the offence specified in the request is an extradition offence;
 - (d) whether the documents served on the court officer by the Secretary of State have been served also on the defendant;
 - (e) whether a bar to extradition applies, namely—
 - (i) the rule against double jeopardy,
 - (ii) extraneous considerations,
 - (iii) the passage of time,

- (iv) hostage-taking considerations, or
 - (v) forum;
 - (f) where the request accuses the defendant of an offence, whether there is evidence which would be sufficient to make a case requiring an answer by the defendant if the extradition proceedings were a trial (unless the Secretary of State has otherwise ordered, for this purpose);
 - (g) where the request accuses the defendant of being unlawfully at large after conviction, whether the defendant was—
 - (i) convicted in his or her presence, or
 - (ii) absent deliberately;
 - (h) where the request accuses the defendant of being unlawfully at large after conviction, and the defendant was absent but not deliberately—
 - (i) whether the defendant would be entitled to a retrial (or to a review of the conviction amounting to a retrial), and
 - (ii) if so, whether there is evidence which would be sufficient to make a case requiring an answer by the defendant if the extradition proceedings were a trial (unless the Secretary of State has otherwise ordered, for this purpose);
 - (i) whether extradition would be compatible with the defendant’s human rights;
 - (j) whether it would be unjust or oppressive to extradite the defendant because of his or her physical or mental condition; and
 - (k) after deciding each of (a) to (j) above, before progressing to the next, whether to order the defendant’s discharge.
- (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 send the case to the Secretary of State to decide whether to extradite the defendant;
 - (b) explain, in terms the defendant can understand (with help, if necessary), that—
 - (i) the defendant may appeal to the High Court not more than 14 days after being informed of the Secretary of State’s decision, and
 - (ii) any such appeal brought before the Secretary of State’s decision has been made will not be heard until after that decision; and
 - (c) consider any ancillary application, including an application about—
 - (i) bail pending extradition,
 - (ii) reporting restrictions, or
 - (iii) costs.
- (5) If the Secretary of State 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 78, 79, 84, 85, 86, 87, 91, 92, 137 and 138 of the Extradition Act 2003(6). Part 6 contains rules about reporting restrictions. Part 45 contains rules about costs.]

Discharge where extradition request withdrawn

50.14.—(1) This rule applies where the Secretary of State gives the court officer notice that the extradition request has been withdrawn—

- (a) after the start of the hearing under rule 50.9 or 50.11; and
- (b) before the court—
 - (i) sends the case to the Secretary of State to decide whether to extradite the defendant, or
 - (ii) discharges the defendant.

(2) The court must exercise its power to discharge the defendant.

[Note. See section 122 of the Extradition Act 2003.]

(6) 2003 c. 41; section 79 was amended by paragraphs 4 and 5 of Schedule 20 to the Crime and Courts Act 2013 (c. 22). Section 103 was amended by section 160 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Section 118A and 118B were inserted by section 161 of the 2014 Act. Section 137 was amended by sections 164 and 181 of, and paragraph 117 of Schedule 11 to, the 2014 Act. Section 138 was amended by sections 164 and 181 of, and paragraph 118 of Schedule 11 to, the 2014 Act.