



Repatriation of Prisoners Act 1984

1984 CHAPTER 47

[^{F1}Transfer of responsibility for detention and release of offender present outside the country or territory in which he is required to be detained

[^{F1}4A Issue of warrant transferring responsibility for detention and release of offender

- (1) This section enables responsibility for the detention and release of a person to whom subsection (2) or (3) applies to be transferred between the relevant Minister in the United Kingdom and the appropriate authority in a country or territory outside the British Islands.
- (2) A person falls within this subsection if that person—
 - (a) is a person to whom section 1(7) applies by virtue of—
 - (i) an order made in the course of the exercise by a court or tribunal in any part of the United Kingdom of its criminal jurisdiction; or
 - (ii) any of the provisions of this Act or any similar provisions of the law of any part of the United Kingdom; and
 - (b) is present in a country or territory outside the British Islands.
- (3) A person falls within this subsection if that person—
 - (a) is a person to whom section 1(7) applies by virtue of—
 - (i) an order made in the course of the exercise by a court or tribunal in a country or territory outside the British Islands of its criminal jurisdiction; or
 - (ii) any provisions of the law of such a country or territory which are similar to any of the provisions of this Act; and
 - (b) is present in the United Kingdom.
- (4) Terms used in subsection (2)(a) and (3)(a) have the same meaning as in section 1(7).
- (5) Subject to the following provisions of this section, where—
 - (a) the United Kingdom is a party to international arrangements providing for the transfer between the United Kingdom and a country or territory outside the

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British Islands of responsibility for the detention and release of persons to whom subsection (2) or (3) applies,

- (b) the relevant Minister and the appropriate authority of that country or territory have each agreed to the transfer under those arrangements of responsibility for the detention and release of a particular person to whom subsection (2) or (3) applies (in this Act referred to as “the relevant person”), and
- (c) in a case in which the terms of those arrangements provide for the transfer of responsibility to take place only with the relevant person's consent, that consent has been given,

the relevant Minister shall issue a warrant providing for the transfer of responsibility for the detention and release of the relevant person from [^{F2}the relevant Minister] (where subsection (2) applies) or to [^{F2}the relevant Minister] (where subsection (3) applies).

- (6) The relevant Minister shall not issue a warrant under this section providing for the transfer of responsibility for the detention and release of a person to the relevant Minister unless—
 - (a) that person is a British citizen;
 - (b) the transfer appears to the relevant Minister to be appropriate having regard to any close ties which that person has with the United Kingdom.
- (7) The relevant Minister shall not issue a warrant under this section where, after the duty in subsection (5) has arisen, circumstances arise or are brought to his attention which in his opinion make it inappropriate that the transfer of responsibility should take place.
- (8) The relevant Minister shall not issue a warrant under this section (other than one superseding an earlier warrant) unless he is satisfied that all reasonable steps have been taken to inform the relevant person in writing in his own language—
 - (a) of the substance, so far as relevant to the case, of the international arrangements in accordance with which it is proposed to transfer responsibility for his detention and release;
 - (b) of the effect in relation to the relevant person of the warrant which it is proposed to issue under this section;
 - (c) in the case of a person to whom subsection (2) applies, of the effect in relation to his case of so much of the law of the country or territory concerned as has effect with respect to transfers under those arrangements of responsibility for his detention and release;
 - (d) in the case of a person to whom subsection (3) applies, of the effect in relation to his case of the law relating to his detention under that warrant and subsequent release (including the effect of any enactment or instrument under which he may be released earlier than provided for by the terms of the warrant); and
 - (e) of the powers of the relevant Minister under section 6;

and the relevant Minister shall not issue a warrant superseding an earlier warrant under this section unless the requirements of this subsection were fulfilled in relation to the earlier warrant.

- (9) A consent given for the purposes of subsection (5)(c) shall not be capable of being withdrawn after a warrant under this section has been issued in respect of the relevant person; and, accordingly, a purported withdrawal of that consent after that time shall not affect the validity of the warrant, or of any provision which by virtue of section 6

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subsequently supersedes provisions of that warrant, or of any direction given in relation to the prisoner under section 4B(3).

(10) In this section “relevant Minister” means—

- (a) the Scottish Ministers in a case where the person who is the subject of the proposed transfer of responsibility is—
 - (i) a person to whom subsection (2) applies who is for the time being required to be detained at a place in Scotland; or
 - (ii) a person to whom subsection (3) applies, if it is proposed that he will be detained at a place in Scotland;
- ^{F3}(aa) [the Department of Justice in Northern Ireland in a case where the person who is the subject of the proposed transfer of responsibility is—
 - (i) a person to whom subsection (2) applies who is for the time being required to be detained at a place in Northern Ireland; or
 - (ii) a person to whom subsection (3) applies, if it is proposed that he will be detained at a place in Northern Ireland;]
- (b) the Secretary of State, in any other case.]

Textual Amendments

- F1** Ss. 4A-4C and cross-heading inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008](#) (c. 4), **ss. 94**, 153(7); S.I. 2008/1586, art. 2(1), Sch. 1 para. 38
- F2** Words in s. 4A(5) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010](#) (S.I. 2010/976), art. 1(2), **Sch. 8 para. 5(a)** (with arts. 28-31)
- F3** S. 4A(10)(aa) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010](#) (S.I. 2010/976), art. 1(2), **Sch. 8 para. 5(b)** (with arts. 28-31)

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