



Extradition Act 2003

2003 CHAPTER 41

PART 1

EXTRADITION TO CATEGORY 1 TERRITORIES

Consent to extradition

45 Consent to extradition

- (1) A person arrested under a Part 1 warrant may consent to his extradition to the category 1 territory in which the warrant was issued.
- (2) A person arrested under section 5 may consent to his extradition to the category 1 territory referred to in subsection (1) of that section.
- (3) If a person consents to his extradition under this section he must be taken to have waived any right he would have (apart from the consent) not to be dealt with in the category 1 territory for an offence committed before his extradition.
- (4) Consent under this section—
 - (a) must be given before the appropriate judge;
 - (b) must be recorded in writing;
 - (c) is irrevocable.
- (5) A person may not give his consent under this section unless—
 - (a) he is legally represented before the appropriate judge at the time he gives consent, or
 - (b) he is a person to whom subsection (6) applies.
- (6) This subsection applies to a person if—
 - (a) he has been informed of his right to apply for legal aid and has had the opportunity to apply for legal aid, but he has refused or failed to apply;
 - (b) he has applied for legal aid but his application has been refused;
 - (c) he was granted legal aid but the legal aid was withdrawn.

Status: This is the original version (as it was originally enacted).

- (7) In subsection (6) “legal aid” means—
- (a) in England and Wales, a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service;
 - (b) in Scotland, such legal aid as is available by virtue of section 183(a) of this Act;
 - (c) in Northern Ireland, such free legal aid as is available by virtue of sections 184 and 185 of this Act.
- (8) For the purposes of subsection (5) a person is to be treated as legally represented before the appropriate judge if (and only if) he has the assistance of counsel or a solicitor to represent him in the proceedings before the appropriate judge.

46 Extradition order following consent

- (1) This section applies if a person consents to his extradition under section 45.
- (2) The judge must remand the person in custody or on bail.
- (3) If the judge remands the person in custody he may later grant bail.
- (4) If the judge has not fixed a date under section 8 on which the extradition hearing is to begin he is not required to do so.
- (5) If the extradition hearing has begun the judge is no longer required to proceed or continue proceeding under sections 10 to 25.
- (6) The judge must within the period of 10 days starting with the day on which consent is given order the person’s extradition to the category 1 territory.
- (7) Subsection (6) has effect subject to sections 48 and 51.
- (8) If subsection (6) is not complied with and the person applies to the judge to be discharged the judge must order his discharge.

47 Extradition to category 1 territory following consent

- (1) This section applies if the appropriate judge makes an order under section 46(6) for a person’s extradition to a category 1 territory.
- (2) The person must be extradited to the category 1 territory before the end of the required period.
- (3) The required period is—
 - (a) 10 days starting with the day on which the order is made, or
 - (b) if the judge and the authority which issued the Part 1 warrant agree a later date, 10 days starting with the later date.
- (4) If subsection (2) is not complied with and the person applies to the judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.
- (5) If before the person is extradited to the category 1 territory the judge is informed by the designated authority that the Part 1 warrant has been withdrawn—
 - (a) subsection (2) does not apply, and
 - (b) the judge must order the person’s discharge.

48 Other warrant issued following consent

- (1) This section applies if—
 - (a) a person consents under section 45 to his extradition to a category 1 territory, and
 - (b) the conditions in subsection (2) are satisfied before the judge orders his extradition under section 46(6).
- (2) The conditions are that—
 - (a) the judge is informed that another Part 1 warrant has been issued in respect of the person;
 - (b) the warrant falls to be dealt with by the judge or by a judge who is the appropriate judge in another part of the United Kingdom;
 - (c) the warrant has not been disposed of.
- (3) Section 46(6) does not apply but the judge may—
 - (a) order the person's extradition in pursuance of his consent, or
 - (b) order further proceedings on the warrant under consideration to be deferred until the other warrant has been disposed of.
- (4) Subsection (3) is subject to section 51.
- (5) In applying subsection (3) the judge must take account in particular of these matters—
 - (a) the relative seriousness of the offences concerned;
 - (b) the place where each offence was committed (or was alleged to have been committed);
 - (c) the date on which each warrant was issued;
 - (d) whether, in the case of each offence, the person is accused of its commission (but not alleged to have been convicted) or is alleged to be unlawfully at large after conviction.

49 Other warrant issued: extradition to category 1 territory

- (1) This section applies if the appropriate judge makes an order under section 48(3)(a) for a person's extradition to a category 1 territory.
- (2) The person must be extradited to the category 1 territory before the end of the required period.
- (3) The required period is—
 - (a) 10 days starting with the day on which the order is made, or
 - (b) if the judge and the authority which issued the Part 1 warrant agree a later date, 10 days starting with the later date.
- (4) If subsection (2) is not complied with and the person applies to the judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.
- (5) If before the person is extradited to the category 1 territory the judge is informed by the designated authority that the Part 1 warrant has been withdrawn—
 - (a) subsection (2) does not apply, and
 - (b) the judge must order the person's discharge.

50 Other warrant issued: proceedings deferred

- (1) This section applies if the appropriate judge makes an order under section 48(3)(b) for further proceedings on a Part 1 warrant to be deferred.
- (2) The judge must remand the person in respect of whom the warrant was issued in custody or on bail.
- (3) If the judge remands the person in custody he may later grant bail.
- (4) If an order is made under section 180 for proceedings on the warrant to be resumed, the period specified in section 46(6) must be taken to be 10 days starting with the day on which the order under section 180 is made.

51 Extradition request following consent

- (1) This section applies if—
 - (a) a person in respect of whom a Part 1 warrant is issued consents under section 45 to his extradition to the category 1 territory in which the warrant was issued, and
 - (b) the condition in subsection (2) is satisfied before the judge orders his extradition under section 46(6) or 48(3)(a).
- (2) The condition is that the judge is informed that—
 - (a) a certificate has been issued under section 70 in respect of a request for the person's extradition;
 - (b) the request has not been disposed of.
- (3) The judge must not make an order under section 46(6) or 48(3) until he is informed what order has been made under section 179(2).
- (4) If the order under section 179(2) is for further proceedings on the warrant to be deferred until the request has been disposed of, the judge must remand the person in custody or on bail.
- (5) If the judge remands the person in custody he may later grant bail.
- (6) If—
 - (a) the order under section 179(2) is for further proceedings on the warrant to be deferred until the request has been disposed of, and
 - (b) an order is made under section 180 for proceedings on the warrant to be resumed,the period specified in section 46(6) must be taken to be 10 days starting with the day on which the order under section 180 is made.
- (7) If the order under section 179(2) is for further proceedings on the request to be deferred until the warrant has been disposed of, the period specified in section 46(6) must be taken to be 10 days starting with the day on which the judge is informed of the order.

52 Undertaking in relation to person serving sentence

- (1) This section applies if—
 - (a) the appropriate judge makes an order under section 46(6) or 48(3)(a) for a person's extradition to a category 1 territory;

- (b) the person is serving a sentence of imprisonment or another form of detention in the United Kingdom.
- (2) The judge may make the order for extradition subject to the condition that extradition is not to take place before he receives an undertaking given on behalf of the category 1 territory in terms specified by him.
- (3) The terms which may be specified by the judge in relation to a person accused in a category 1 territory of the commission of an offence include terms—
 - (a) that the person be kept in custody until the conclusion of the proceedings against him for the offence and any other offence in respect of which he is permitted to be dealt with in the category 1 territory;
 - (b) that the person be returned to the United Kingdom to serve the remainder of his sentence on the conclusion of those proceedings.
- (4) The terms which may be specified by the judge in relation to a person alleged to be unlawfully at large after conviction of an offence by a court in a category 1 territory include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for—
 - (a) the offence, and
 - (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.
- (5) If the judge makes an order for extradition subject to a condition under subsection (2) the required period for the purposes of sections 47(2) and 49(2) is 10 days starting with the day on which the judge receives the undertaking.

53 Extradition following deferral for competing claim

- (1) This section applies if—
 - (a) an order is made under section 46(6) or 48(3)(a) for a person to be extradited to a category 1 territory in pursuance of a Part 1 warrant;
 - (b) before the person is extradited to the territory an order is made under section 44(4)(b) or 179(2)(b) for the person's extradition in pursuance of the warrant to be deferred;
 - (c) the appropriate judge makes an order under section 181(2) for the person's extradition in pursuance of the warrant to cease to be deferred.
- (2) The required period for the purposes of sections 47(2) and 49(2) is 10 days starting with the day on which the order under section 181(2) is made.