

Status: Point in time view as at 09/06/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Criminal Justice and Immigration Act 2008, Cross Heading: Repatriation of Prisoners Act 1984 (c. 47) is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 26

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 2

OTHER AMENDMENTS

Repatriation of Prisoners Act 1984 (c. 47)

- 9 The Repatriation of Prisoners Act 1984 has effect subject to the following amendments.

Commencement Information

- II** Sch. 26 para. 9 in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(i)

VALID FROM 14/07/2008

- 10 Before section 1 insert— “ Transfer of prisoners to or from the United Kingdom ”.

VALID FROM 14/07/2008

- 11 (1) Section 1 (issue of warrant for transfer) is amended as follows.
- (2) In subsections (2) and (3) for “warrant under this Act” substitute “ warrant under this section ”.
- (3) In subsection (4)—
- (a) for “warrant under this Act” (in both places) substitute “ warrant under this section ”;
- (b) in paragraph (b) omit the words “under this Act”.
- (4) In subsection (5) (as it applies in cases in which the relevant Minister is the Scottish Ministers and in cases in which the relevant Minister is the Secretary of State) for “warrant under this Act” substitute “ warrant under this section ”.
- (5) In subsection (6) after “warrant” (in the first place it appears) insert “ under this section ”.
- (6) In subsection (7)(b) after “under” insert “ any of ”.
- (7) In subsection (8)—

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- (a) after “similar to” insert “ any of ”;
- (b) after “respect to” insert “—
 - (a) ”; and
- (c) at the end insert “; or
 - (b) the transfer between different countries and territories (or different parts of a country or territory) of responsibility for the detention and release of persons who are required to be so detained in one of those countries or territories (or parts of a country or territory) but are present in the other country or territory (or part of a country or territory).”

- 12 (1) Section 2 (transfer out of the United Kingdom) is amended as follows.
- (2) In subsection (1) after “warrant” insert “ under section 1 ”.
- (3) In subsection (4)—
- (a) in paragraph (a) for “warrant under this Act” substitute “ warrant under section 1 ”; and
 - (b) in paragraph (b)(i) (as it continues to have effect in relation to prisoners sentenced for offences committed before 4th April 2005) after “33(1)(b)” insert “ , (1A) ”.
- (4) In subsection (7) for “warrant under this Act” substitute “ warrant under section 1 ”.

Commencement Information

I2 Sch. 26 para. 12(1)(3)(b) in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(i)

VALID FROM 14/07/2008

- 13 (1) Section 3 (transfer into the United Kingdom) is amended as follows.
- (2) In subsection (1), after “a warrant” insert “ under section 1 ”.
- (3) In subsections (2), (4) and (6), for “warrant under this Act” substitute “ warrant under section 1 ”.
- (4) In subsection (7)—
- (a) at the beginning insert “ Part 1 of ”; and
 - (b) for “warrant under this Act” substitute “ warrant under section 1 ”.
- (5) Subsection (10) is omitted.

VALID FROM 14/07/2008

- 14 (1) Section 4 (temporary return) is amended as follows
- (2) In subsection (1)—
- (a) for “warrant under this Act” substitute “ warrant under section 1 ”;

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- (b) in paragraph (a), after “Kingdom” (in the second place it appears) insert “, or from which responsibility for his detention and release has previously been transferred to the United Kingdom,”;
- (c) in paragraph (b), after “transferred” insert “, or to which responsibility for his detention and release has previously been transferred,”.

(3) In subsection (2)—

- (a) for “a warrant under this Act” substitute “ a warrant under section 1 ”;
- (b) for “earlier warrant under this Act” substitute “ earlier warrant under section 1 or section 4A ”.

(4) In subsection (3)—

- (a) for “issued under this Act” substitute “ issued under section 1 ”;
- (b) after “an earlier warrant” insert “ under section 1 or section 4A ”.

(5) In subsection (4) for “warrant under this Act” substitute “ warrant under section 1 ”.

(6) After subsection (5) insert—

“(6) Any reference in subsection (5)(a) to the prisoner having previously been transferred into or from Scotland includes a reference to responsibility for his detention and release having previously been transferred to or from the Scottish Ministers (as the case may be).”.

VALID FROM 14/07/2008

- 15 Before section 5 (operation of warrant and retaking prisoners) insert— “ Supplementary and general provisions ”.

VALID FROM 14/07/2008

16 (1) Section 5 (operation of warrant and retaking prisoners) is amended as follows.

(2) In subsection (1)—

- (a) for “under this Act” substitute “ under section 1 ”; and
- (b) after “this section” insert “ (apart from subsection (9)) ”.

(3) After subsection (8) insert—

“(9) Where—

- (a) a warrant under section 4A has been issued, and
- (b) the relevant person is a person to whom subsection (3) of that section applies,

subsections (2) to (8) above apply for the purposes of that warrant (but with the modifications contained in subsection (10)), except (without prejudice to section 4C(4) or any enactment contained otherwise than in this Act) in relation to any time when the relevant person is required to be detained in accordance with provisions contained in the warrant by virtue of section 4C(1)(b).

(10) In their application for the purposes of a warrant under section 4A those subsections shall have effect as if—

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- (a) any reference to the warrant under section 1 (however expressed) were a reference to the warrant under section 4A;
- (b) any reference to the prisoner were a reference to the relevant person;
- (c) in subsection (4)—
 - (i) in paragraph (a) for “that person” there were substituted “the authorised person”; and
 - (ii) paragraph (b) were omitted; and
- (d) in subsection (8)(a) for “transfer of a prisoner to or from Scotland” there were substituted “transfer of responsibility for the detention and release of the relevant person to the Scottish Ministers”.

VALID FROM 14/07/2008

- 17 (1) Section 6 (revocation etc. of warrants) is amended as follows.
- (2) In subsection (1)—
- (a) for “warrant under this Act” (in the first place they appear) substitute “warrant under section 1”;
 - (b) in paragraph (b) for “this Act” substitute “that section”.
- (3) After subsection (1) insert—
- “(1A) Subject to section 4A(8), if at any time it appears to the relevant Minister appropriate, in order that effect may be given to any such arrangements as are mentioned in section 4A(5)(a) for a warrant under section 4A to be revoked or varied, he may as the case may require—
- (a) revoke that warrant; or
 - (b) revoke that warrant and issue a new warrant under section 4A containing provision superseding some or all of the provisions of the previous warrant.”
- (4) In subsections (2) and (3) after “subsection (1)(b)” insert “or (1A)(b)”.
- (5) In subsection (5)(a), for the words from “where” to the end substitute “in a case where—
- (i) the warrant was issued under section 1 and provides for the transfer of the prisoner to or from Scotland; or
 - (ii) the warrant was issued under section 4A and provides for the transfer of responsibility for the detention and release of the relevant person to those Ministers;”.

VALID FROM 14/07/2008

- 18 (1) Section 8 is amended as follows.
- (2) In subsection (1) after the definition of “the prisoner” insert “; and
 “the relevant person” has the meaning given by section 4A(5)(b).”
- (3) In subsection (3)—

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- (a) in paragraph (a) after “section 1(1)(a)” insert “ or 4A(5)(a) ”;
- (b) in paragraph (b) for “such a party” substitute “ a party to such international arrangements as are mentioned in section 1(1)(a) ”;
- (c) after paragraph (b) (but before the “or” after that paragraph) insert—
 - “(ba) that the appropriate authority of a country or territory which is a party to such international arrangements as are mentioned in section 4A(5)(a) has agreed to the transfer of responsibility for the detention and release of a particular person in accordance with those arrangements.”.

- 19 (1) The Schedule (operation of certain enactments in relation to the prisoner) is amended as follows.
- (2) For the cross-heading before paragraph 1 substitute— “ Part 1 Warrants under section 1 Application of Part 1 ”.
- (3) In paragraph 1—
- (a) at the beginning insert “ This Part of ”;
 - (b) after “under” insert “ section 1 of ”; and
 - (c) after “; and in” insert “ this Part of ”.
- (4) In paragraph 2 (as it applies in England and Wales in relation to offences committed before 4 April 2005)—
- (a) in sub-paragraph (1A)(a) (which defines the enactments relating to release on licence) after “33(1)(b) insert “ , (1A) ”; and
 - (b) after sub-paragraph (2) insert—
 - “(2A) If the warrant specifies that the offence or any of the offences in relation to which a determinate sentence is to be served corresponds to murder or an offence specified in Schedule 15 to the Criminal Justice Act 2003 (specified violent or sexual offences), any reference (however expressed) in Part 2 of the Criminal Justice Act 1991 to a person sentenced for an offence specified in that Schedule is to be read as including a reference to the prisoner.”
- (5) In paragraph 2 (as it applies in England and Wales in relation to offences committed on or after 4 April 2005), after sub-paragraph (3) insert—
- “(3A) If the warrant specifies that the offence or any of the offences in relation to which a determinate sentence is to be served corresponds to murder or an offence specified in Schedule 15 to the Criminal Justice Act 2003 (specified violent or sexual offences), any reference (however expressed) in Chapter 6 of Part 12 of that Act to a person sentenced for an offence specified in that Schedule is to be read as including a reference to the prisoner.”
- (6) After paragraph 8 insert—

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“PART 2

WARRANTS UNDER SECTION 4A TRANSFERRING RESPONSIBILITY TO THE RELEVANT MINISTER

- 9 This Part of this Schedule applies where a warrant is issued under section 4A providing for the transfer of responsibility for the detention and release of the relevant person to the relevant Minister (within the meaning of that section).
- 10 Paragraphs 2 to 8 above apply as they apply where a warrant is issued under section 1, but with the following modifications.
- 11 Any reference to “the relevant provisions” is to be read as a reference to the provisions contained in the warrant by virtue of section 4C(1)(b).
- 12 (1) Any reference to the prisoner is to be read as a reference to the relevant person.
- (2) Sub-paragraph (1) does not apply to the words “a short-term or long-term prisoner” in paragraph 2(3) (as it applies in Scotland to repatriated prisoners any of whose sentences were imposed on or after 1 October 1993).
- 13 In paragraph 2 (as it applies in Scotland to repatriated prisoners any of whose sentences were imposed on or after 1 October 1993) the reference to prisoners repatriated to Scotland is to be read as a reference to any relevant person—
- (a) in whose case the warrant under section 4A transfers responsibility for his detention and release from a country or territory outside the British Islands to the Scottish Ministers; and
- (b) whose sentence or any of whose sentences in that country or territory were imposed on or after 1 October 1993.
- 14 The reference in paragraph 7 to the time of the prisoner's transfer into the United Kingdom is to be read as a reference to the time at which the warrant under section 4A was issued.”

Commencement Information

I3 Sch. 26 para. 19(1)(4) in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(i) (with art. 4)

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