



Policing and Crime Act 2009

2009 CHAPTER 26

VALID FROM 25/01/2010

PART 6

EXTRADITION

Alerts

67 Article 26 alerts

For section 204 of the Extradition Act 2003 (c. 41) (Part 1 warrant: transmission by other electronic means) substitute—

“204 Warrant issued by category 1 territory: transmission by other electronic means

- (1) This section applies if—
 - (a) an arrest warrant is issued by an authority of a category 1 territory in a case in which an article 26 alert is issued,
 - (b) the information contained in the warrant and the alert are transmitted to the designated authority by electronic means, and
 - (c) that information is received by the designated authority in a qualifying form.
- (2) This section also applies if—
 - (a) an arrest warrant is issued by an authority of a category 1 territory in a case in which no article 26 alert is issued,
 - (b) the information contained in the warrant is transmitted to the designated authority by electronic means, and
 - (c) that information is received by the designated authority in a qualifying form.

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- (3) The reference in section 2(2) to an arrest warrant issued by a judicial authority of a category 1 territory is to be read as if it were a reference to the information received by the designated authority.
- (4) The references in section 63(1) to an arrest warrant are to be read as if they were references to the information received by the designated authority.
- (5) For the purposes of subsection (1), a reference to the information contained in the article 26 alert includes a reference to any information sent with that information relating to the case in question.
- (6) For the purposes of this section—
 - (a) an article 26 alert is an alert issued pursuant to article 26 of the Council Decision on the establishment, operation and use of the second generation Schengen Information System of 12 June 2007,
 - (b) references to information being transmitted by electronic means do not include facsimile transmission, and
 - (c) information is received in a qualifying form if it is received in a form in which it is intelligible and which is capable of being used for subsequent reference.”

68 Article 95 alerts

- (1) Section 212 of the Extradition Act 2003 (c. 41) (the title to which becomes “Article 95 alerts”) is amended as follows.
- (2) For subsections (1) and (2) substitute—
 - “(1) This section applies in a case where an article 95 alert is issued at the request of an authority of a category 1 territory.
 - (2) The reference in section 2(2) to an arrest warrant issued by a judicial authority of a category 1 territory is to be read—
 - (a) as if it were a reference to the alert issued at the request of the authority, and
 - (b) as if the alert included any information sent with it which relates to the case.
 - (2A) The references in section 63(1) to an arrest warrant are to be read in accordance with paragraphs (a) and (b) of subsection (2) above.”
- (3) In subsection (3) for “As applied by” substitute “In consequence of”.

Deferral of extradition

69 Extradition to category 1 territory

After section 8 of the Extradition Act 2003 insert—

“8A Person charged with offence in United Kingdom before extradition hearing

- (1) This section applies if—

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- (a) a person has been brought before the appropriate judge under section 4(3) or 6(2) but the extradition hearing has not begun; and
 - (b) the judge is informed that the person is charged with an offence in the United Kingdom.
- (2) The judge must order further proceedings in respect of the extradition to be adjourned until one of these occurs—
- (a) the charge is disposed of;
 - (b) the charge is withdrawn;
 - (c) proceedings in respect of the charge are discontinued;
 - (d) an order is made for the charge to lie on the file, or in relation to Scotland, the diet is deserted *pro loco et tempore*.
- (3) If a sentence of imprisonment or another form of detention is imposed in respect of the offence charged, the judge may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

8B Person serving sentence in United Kingdom before extradition hearing

- (1) This section applies if—
- (a) a person has been brought before the appropriate judge under section 4(3) or 6(2) but the extradition hearing has not begun; and
 - (b) the judge is informed that the person is in custody serving a sentence of imprisonment or another form of detention in the United Kingdom.
- (2) The judge may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).
- (3) In a case where further proceedings in respect of the extradition are adjourned under subsection (2)—
- (a) section 131 of the Magistrates' Courts Act 1980 (remand of accused already in custody) has effect as if a reference to 28 clear days in subsection (1) or (2) of that section were a reference to six months;
 - (b) Article 47(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (period of remand in custody) has effect as if a reference to 28 days in—
 - (i) sub-paragraph (a)(iii), or
 - (ii) the words after sub-paragraph (b),
 were a reference to six months.”

70 Extradition to category 2 territory

After section 76 of the Extradition Act 2003 (c. 41) insert—

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“76A Person charged with offence in United Kingdom before extradition hearing

- (1) This section applies if—
 - (a) a person has been brought before the appropriate judge under section 72(3) or 74(3) but the extradition hearing has not begun; and
 - (b) the judge is informed that the person is charged with an offence in the United Kingdom.
- (2) The judge must order further proceedings in respect of the extradition to be adjourned until one of these occurs—
 - (a) the charge is disposed of;
 - (b) the charge is withdrawn;
 - (c) proceedings in respect of the charge are discontinued;
 - (d) an order is made for the charge to lie on the file, or in relation to Scotland, the diet is deserted *pro loco et tempore*.
- (3) If a sentence of imprisonment or another form of detention is imposed in respect of the offence charged, the judge may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

76B Person serving sentence in United Kingdom before extradition hearing

- (1) This section applies if—
 - (a) a person has been brought before the appropriate judge under section 72(3) or 74(3) but the extradition hearing has not begun; and
 - (b) the judge is informed that the person is in custody serving a sentence of imprisonment or another form of detention in the United Kingdom.
- (2) The judge may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).
- (3) In a case where further proceedings in respect of the extradition are adjourned under subsection (2)—
 - (a) section 131 of the Magistrates' Courts Act 1980 (remand of accused already in custody) has effect as if a reference to 28 clear days in subsection (1) or (2) of that section were a reference to six months;
 - (b) Article 47(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (period of remand in custody) has effect as if a reference to 28 days in—
 - (i) sub-paragraph (a)(iii), or
 - (ii) the words after sub-paragraph (b),were a reference to six months.”

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71 Person charged with offence or serving sentence of imprisonment

- (1) The Extradition Act 2003 (c. 41) is amended as follows.
- (2) In section 22(3) (power to adjourn extradition hearing in Part 1 case) for “the sentence has been served” substitute “ the person is released from detention pursuant to the sentence (whether on licence or otherwise) ”.
- (3) In section 23 (person serving sentence in Part 1 case)—
 - (a) in subsection (1), after “issued is” insert “ in custody ”, and
 - (b) in subsection (2), for “the sentence has been served” substitute “ the person is released from detention pursuant to the sentence (whether on licence or otherwise) ”.
- (4) In section 88(3) (power to adjourn extradition hearing in Part 2 case) for “the sentence has been served” substitute “ the person is released from detention pursuant to the sentence (whether on licence or otherwise) ”.
- (5) In section 89 (person serving sentence in Part 2 case)—
 - (a) in subsection (1) after “person is” insert “ in custody ”, and
 - (b) in subsection (2) for “the sentence has been served” substitute “ the person is released from detention pursuant to the sentence (whether on licence or otherwise) ”.
- (6) In section 97(3) (power to defer decision on extradition) for “the sentence has been served” substitute “ the person is released from detention pursuant to the sentence (whether on licence or otherwise) ”.
- (7) In section 98 (person serving sentence in Part 2 case: reference by judge)—
 - (a) in subsection (1)(b) after “person is” insert “ in custody ”, and
 - (b) in subsection (2) for “the sentence has been served” substitute “ the person is released from detention pursuant to the sentence (whether on licence or otherwise) ”.
- (8) In section 102(3) (meaning of “appropriate day” where decision deferred) for the words from “until the person” to the end substitute “ , the appropriate day is the day on which the person is released from detention pursuant to the sentence (whether on licence or otherwise). ”
- (9) In section 197A (extradition of serving prisoner) after “a person who is” insert “ in custody ”.
- (10) In section 216 (interpretation) after subsection (6) insert—

“(6A) References to releasing a person from detention pursuant to a sentence do not include releasing a person temporarily on licence pursuant to an intermittent custody order under section 183(1)(b) of the Criminal Justice Act 2003.”

Return to overseas territory

72 Return from category 1 territory

For section 59 of the Extradition Act 2003 substitute—

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“59 Return of person to serve remainder of sentence

- (1) This section applies if—
 - (a) a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom is extradited to a category 1 territory in accordance with this Part;
 - (b) the person is returned to the United Kingdom to serve the remainder of the sentence or the person otherwise returns to the United Kingdom.
- (2) Time during which the person was outside the United Kingdom as a result of the extradition does not count as time served by the person as part of the sentence.
- (3) But subsection (2) does not apply if—
 - (a) the person was extradited for the purpose of being prosecuted for an offence, and
 - (b) the person has not been convicted of the offence or of any other offence in respect of which the person was permitted to be dealt with in the category 1 territory.
- (4) In a case falling within subsection (3), time during which the person was outside the United Kingdom as a result of the extradition counts as time served by the person as part of the sentence if (and only if) it was spent in custody in connection with the offence or any other offence in respect of which the person was permitted to be dealt with in the territory.
- (5) In a case where the person is not entitled to be released from detention pursuant to the sentence—
 - (a) the person is liable to be detained in pursuance of the sentence, and
 - (b) if at large, the person must be treated as being unlawfully at large.
- (6) In a case where the person is entitled to be released from detention on licence pursuant to the sentence—
 - (a) if the person was released on licence at the time of extradition, the licence is suspended until the person's return;
 - (b) if the person was not released on licence at that time, subsections (7) to (10) apply in relation to the person (“the offender”).
- (7) The offender is liable to be detained, on return, in any place in which the offender could have been detained pursuant to the sentence before the time of extradition.
- (8) A constable or immigration officer may—
 - (a) take the offender into custody, and
 - (b) convey the offender to the place mentioned in subsection (7).
- (9) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.
- (10) In calculating a period of 5 days for the purposes of subsection (9) no account is to be taken of—

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- (a) any Saturday or Sunday,
- (b) Christmas Day,
- (c) Good Friday, or
- (d) in any part of the United Kingdom, any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in that part of the United Kingdom.

(11) A person is entitled to be released from detention if there is—

- (a) a duty to release the person under section 33(1), (1A) or (2) of the Criminal Justice Act 1991,
- (b) a duty to release the person under section 244 of the Criminal Justice Act 2003 (other than temporarily on licence pursuant to an intermittent custody order under section 183(1)(b) of the Criminal Justice Act 2003),
- (c) a duty to release the person under section 1, 1AA or 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 or section 5, 11(2), 13, 19 or 23 of the Custodial Sentences and Weapons (Scotland) Act 2007, or
- (d) a duty to release the person under section 1 of the Northern Ireland (Remission of Sentences) Act 1995, Article 26 of the Criminal Justice (Northern Ireland) Order 1996 or Article 17 or 18(8) of the Criminal Justice (Northern Ireland) Order 2008.

(12) The powers conferred on a constable by subsection (8) are exercisable in any part of the United Kingdom.

(13) An immigration officer is a person who is an immigration officer within the meaning of the Immigration Act 1971.”

73 Return from category 2 territory

For section 132 of the Extradition Act 2003 substitute—

“132 Return of person to serve remainder of sentence

(1) This section applies if—

- (a) a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom is extradited to a category 2 territory in accordance with this Part;
- (b) the person is returned to the United Kingdom to serve the remainder of the sentence or the person otherwise returns to the United Kingdom.

(2) Time during which the person was outside the United Kingdom as a result of the extradition does not count as time served by the person as part of the sentence.

(3) But subsection (2) does not apply if—

- (a) the person was extradited for the purpose of being prosecuted for an offence, and

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- (b) the person has not been convicted of the offence or of any other offence in respect of which the person was permitted to be dealt with in the category 2 territory.
- (4) In a case falling within subsection (3), time during which the person was outside the United Kingdom as a result of the extradition counts as time served by the person as part of the sentence if (and only if) it was spent in custody in connection with the offence or any other offence in respect of which the person was permitted to be dealt with in the territory.
- (5) In a case where the person is not entitled to be released from detention pursuant to the sentence—
 - (a) the person is liable to be detained in pursuance of the sentence, and
 - (b) if at large, the person must be treated as being unlawfully at large.
- (6) In a case where the person is entitled to be released from detention on licence pursuant to the sentence—
 - (a) if the person was released on licence at the time of extradition, the licence is suspended until the person's return,
 - (b) if the person was not released on licence at that time, subsections (7) to (10) apply in relation to the person (“the offender”).
- (7) The offender is liable to be detained, on return, in any place in which the offender could have been detained pursuant to the sentence before the time of extradition.
- (8) A constable or immigration officer may—
 - (a) take the offender into custody, and
 - (b) convey the offender to the place mentioned in subsection (7).
- (9) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.
- (10) In calculating a period of 5 days for the purposes of subsection (9) no account is to be taken of any day mentioned in any of paragraphs (a) to (d) of section 59(10).
- (11) A person is entitled to be released from detention if there is—
 - (a) a duty to release the person under section 33(1), (1A) or (2) of the Criminal Justice Act 1991,
 - (b) a duty to release the person under section 244 of the Criminal Justice Act 2003 (other than temporarily on licence pursuant to an intermittent custody order under section 183(1)(b) of the Criminal Justice Act 2003),
 - (c) a duty to release the person under section 1, 1AA or 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 or section 5, 11(2), 13, 19 or 23 of the Custodial Sentences and Weapons (Scotland) Act 2007, or
 - (d) a duty to release the person under section 1 of the Northern Ireland (Remission of Sentences) Act 1995, Article 26 of the Criminal Justice (Northern Ireland) Order 1996 or Article 17 or 18(8) of the Criminal Justice (Northern Ireland) Order 2008.

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(12) The powers conferred on a constable by subsection (8) are exercisable in any part of the United Kingdom.

(13) An immigration officer is a person who is an immigration officer within the meaning of the Immigration Act 1971.”

Extradition to UK

74 Return to extraditing territory etc

(1) The Extradition Act 2003 (c. 41) is amended as follows.

(2) Omit sections 143 (undertaking in relation to person serving sentence) and 144 (return to extraditing territory to serve sentence).

(3) After section 153 insert—

“153A Undertaking in relation to person serving sentence

(1) This section applies if—

- (a) a person is accused in the United Kingdom of the commission of an offence or has been convicted of an offence by or before a court in the United Kingdom;
- (b) a Part 3 warrant is issued in respect of the person or the Secretary of State makes a request for the extradition of the person;
- (c) the person is serving a sentence of imprisonment or another form of detention in a territory;
- (d) the person's extradition to the United Kingdom from the territory in pursuance of the warrant or request is made subject to a condition that an undertaking is given by or on behalf of the United Kingdom with regard to the person's treatment in the United Kingdom or return to the territory (or both).

(2) The Secretary of State may give an undertaking to a person acting on behalf of the territory with regard to either or both of these things—

- (a) the treatment in the United Kingdom of the person in respect of whom the warrant is issued or the request for extradition is made;
- (b) the return of that person to the territory.

(3) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person accused in the United Kingdom of the commission of an offence include terms—

- (a) that the person be kept in custody until the conclusion of the proceedings against the person for the offence and any other offence in respect of which the person is permitted to be dealt with in the United Kingdom;
- (b) that the person be returned to the territory to serve the remainder of the sentence on the conclusion of those proceedings.

(4) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person who has been convicted of an offence by or before a court in the United Kingdom include terms that

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the person be returned to the territory to serve the remainder of the sentence after the person would otherwise be released from detention pursuant to the sentence imposed in the United Kingdom (whether or not on licence).

- (5) If a person is to be returned to a territory by virtue of an undertaking given under subsection (2), the undertaking is sufficient authority for a constable—
- (a) to remove the person from any prison or other institution where the person is detained;
 - (b) to keep the person in custody until returned;
 - (c) to convey the person to the territory.

153B Return of person in pursuance of undertaking

- (1) This section applies if—
- (a) an undertaking is given under section 153A(2) as to the return of a person to a territory;
 - (b) the person is returned to the territory in pursuance of the undertaking;
 - (c) the person is returned to the United Kingdom to serve the remainder of any sentence imposed in the United Kingdom or the person otherwise returns to the United Kingdom.
- (2) Time during which the person was outside the United Kingdom as a result of the undertaking given under section 153A(2) does not count as time served by the person as part of the sentence.
- (3) If the person is not entitled to be released from detention pursuant to the sentence—
- (a) the person is liable to be detained in pursuance of the sentence, and
 - (b) if at large, the person must be treated as being unlawfully at large.
- (4) If the person is entitled to be released from detention on licence pursuant to the sentence—
- (a) if the person was released on licence at the time of return to the territory, the licence is suspended until the person's return to the United Kingdom;
 - (b) if the person was not released on licence at that time, subsections (5) to (8) apply in relation to the person (“the offender”).
- (5) The offender is liable to be detained, on return to the United Kingdom, in any place in which the offender could have been detained pursuant to the sentence before the time of return to the territory.
- (6) A constable or immigration officer may—
- (a) take the offender into custody, and
 - (b) convey the offender to the place mentioned in subsection (5).
- (7) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.

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- (8) In calculating a period of 5 days for the purposes of subsection (7) no account is to be taken of any day mentioned in any of paragraphs (a) to (d) of section 59(10).
- (9) The powers conferred on a constable by subsection (6) are exercisable in any part of the United Kingdom.
- (10) For the purposes of this section—
 - (a) a person is entitled to be released from detention if there is—
 - (i) a duty to release the person under section 33(1), (1A) or (2) of the Criminal Justice Act 1991,
 - (ii) a duty to release the person under section 244 of the Criminal Justice Act 2003 (other than temporarily on licence pursuant to an intermittent custody order under section 183(1)(b) of the Criminal Justice Act 2003),
 - (iii) a duty to release the person under section 1, 1AA or 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 or section 5, 11(2), 13, 19 or 23 of the Custodial Sentences and Weapons (Scotland) Act 2007, or
 - (iv) a duty to release the person under section 1 of the Northern Ireland (Remission of Sentences) Act 1995, Article 26 of the Criminal Justice (Northern Ireland) Order 1996 or Article 17 or 18(8) of the Criminal Justice (Northern Ireland) Order 2008;
 - (b) an immigration officer is a person who is an immigration officer within the meaning of the Immigration Act 1971.

153C Return to extraditing territory to serve sentence

- (1) This section applies if—
 - (a) a person is extradited to the United Kingdom from a territory for the purposes of being prosecuted for an offence;
 - (b) the person's extradition is made subject to a condition that an undertaking is given by or on behalf of the United Kingdom as to the person's return to the territory.
- (2) The Secretary of State may give an undertaking to a person acting on behalf of the territory as to the person's return to the territory.
- (3) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person include terms that if the person is convicted of the offence and a sentence of imprisonment or another form of detention is imposed in respect of it, the person is to be returned to the territory to serve the sentence.
- (4) A person who is to be returned to a territory by virtue of an undertaking given under subsection (2) must be returned as soon as is reasonably practicable after the sentence is imposed and any other proceedings in respect of the offence are concluded.
- (5) If subsection (4) is complied with the sentence for the offence is treated as served but the person's conviction for the offence must be treated as a conviction for all other purposes.

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- (6) The sentence for the offence is treated as served under subsection (5) only in so far as it consists of the sentence of imprisonment or another form of detention mentioned in subsection (3).
- (7) Subsection (8) applies if—
 - (a) subsection (4) is not complied with, and
 - (b) the person applies to the court which imposed the sentence to expedite return to the territory.
- (8) The court must order return by such date as is specified in the order unless reasonable cause is shown for the delay.
- (9) If a person is to be returned by virtue of an undertaking given under subsection (2), a constable may—
 - (a) remove the person from any prison or other institution where the person is detained;
 - (b) keep the person in custody until returned;
 - (c) convey the person to the territory to which the person is to be returned.

153D Sections 153A and 153C etc: supplementary

- (1) Nothing in section 153A or 153C requires the return of a person to a territory in a case in which the Secretary of State is not satisfied that the return is compatible with the Convention rights within the meaning of the Human Rights Act 1998 or with the United Kingdom's obligations under the Refugee Convention.
- (2) References in sections 153A and 153C and subsection (1) above to the Secretary of State are to be read as references to the Scottish Ministers in a case in which—
 - (a) a Part 3 warrant was issued in respect of the person to be returned, and
 - (b) the warrant was issued by a sheriff.
- (3) The reference in subsection (1) to the Refugee Convention is to the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention.”
- (4) In section 153(1)(b) (return of person acquitted or not tried) for the words from “from” to the end substitute “ from a territory; ”.
- (5) In section 197(2) (powers on escape from custody) after “Part 2” insert “ , or kept in custody by virtue of a power under Part 3, ”.

75 Cases in which sentence treated as served

- (1) The Extradition Act 2003 (c. 41) is amended as follows.
- (2) In section 145(2) (sentence in territory executing Part 3 warrant) for “punishment for the offence must be treated as remitted” substitute “ sentence for the offence must be treated as served ”.
- (3) In section 152 (sentence in United Kingdom)—

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- (a) in subsection (1)(a) for the words from “from” to the end substitute “ from a territory; ”, and
- (b) in subsection (2) for “punishment for the offence must be treated as remitted” substitute “ sentence for the offence must be treated as served ”.

76 Dealing with person for other offences

- (1) The Extradition Act 2003 is amended as follows.
- (2) Omit section 151 (dealing with person for other offences: other category 2 territories).
- (3) Before section 152 insert—

“151A Dealing with person for other offences

- (1) This section applies if a person is extradited to the United Kingdom from a territory which is not—
 - (a) a category 1 territory, or
 - (b) a territory falling within section 150(1)(b).
- (2) The person may be dealt with in the United Kingdom for an offence committed before the person's extradition only if—
 - (a) the offence is one falling within subsection (3), or
 - (b) the condition in subsection (4) is satisfied.
- (3) The offences are—
 - (a) the offence in respect of which the person is extradited;
 - (b) an offence disclosed by the information provided to the territory in respect of that offence;
 - (c) an offence in respect of which consent to the person being dealt with is given on behalf of the territory.
- (4) The condition is that—
 - (a) the person has returned to the territory from which the person was extradited, or
 - (b) the person has been given an opportunity to leave the United Kingdom.
- (5) A person is dealt with in the United Kingdom for an offence if—
 - (a) the person is tried there for it;
 - (b) the person is detained with a view to trial there for it.”

Ancillary matters

77 Provisional arrest

- (1) Section 6 of the Extradition Act 2003 (c. 41) (requirements in relation to person subject to provisional arrest) is amended as follows.
- (2) For subsections (2) and (3) substitute—

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- “(2) The person must be brought before the appropriate judge within 48 hours starting with the time when the person is arrested.
- (2A) The documents specified in subsection (4) must be produced to the judge within 48 hours starting with the time when the person is arrested but this is subject to any extension under subsection (3B).
- (2B) Subsection (3) applies if—
- (a) the person has been brought before the judge in compliance with subsection (2); but
 - (b) documents have not been produced to the judge in compliance with subsection (2A).
- (3) The person must be brought before the judge when the documents are produced to the judge.
- (3A) While the person is before the judge in pursuance of subsection (2), the authority of the category 1 territory may apply to the judge for an extension of the 48 hour period mentioned in subsection (2A) by a further 48 hours.
- (3B) The judge may grant an extension if the judge decides that subsection (2A) could not reasonably be complied with within the initial 48 hour period.
- (3C) The judge must decide whether that subsection could reasonably be so complied with on a balance of probabilities.
- (3D) Notice of an application under subsection (3A) must be given in accordance with rules of court.”
- (3) After subsection (5) insert—
- “(5A) Subsection (5B) applies if—
- (a) the person is before the judge in pursuance of subsection (2); and
 - (b) the documents specified in subsection (4) have not been produced to the judge.
- (5B) The judge must remand the person in custody or on bail (subject to subsection (6)).”
- (4) In subsection (6) after “subsection (2)” insert “ , (2A) or (3) ”.
- (5) After subsection (8) insert—
- “(8A) In calculating a period of 48 hours for the purposes of this section no account is to be taken of—
- (a) any Saturday or Sunday;
 - (b) Christmas Day;
 - (c) Good Friday; or
 - (d) any day falling within subsection (8B).
- (8B) The following days fall within this subsection—
- (a) in Scotland, any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in the court of the appropriate judge;

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(b) in any part of the United Kingdom, any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in that part of the United Kingdom.”

(6) In section 7(1)(b) of the Extradition Act 2003 (c. 41) (application of provisions for verifying the identity of the person arrested) for “is arrested under section 5 and section 6(2)” substitute “arrested under section 5 is brought before the appropriate judge under section 6 and section 6(2A)”.

78 Use of live link in extradition proceedings

After section 206 of the Extradition Act 2003 insert—

“Live links

206A Use of live links at certain hearings

- (1) This section applies in relation to—
 - (a) a hearing before the appropriate judge in proceedings under Part 1, other than—
 - (i) an extradition hearing within the meaning of that Part;
 - (ii) a hearing under section 54 or 56, and
 - (b) a hearing before the appropriate judge in proceedings under Part 2, other than an extradition hearing within the meaning of that Part.
- (2) If satisfied that the person affected by an extradition claim is likely to be in custody during the hearing, the appropriate judge may give a live link direction at any time before the hearing.
- (3) A live link direction is a direction that, if the person is being held in custody at the time of the hearing, any attendance at the hearing is to be through a live link from the place at which the person is held.
- (4) Such a direction—
 - (a) may be given on the appropriate judge's own motion or on the application of a party to the proceedings, and
 - (b) may be given in relation to all subsequent hearings to which this section applies, or to such hearing or hearings to which this section applies as may be specified or described in the direction.
- (5) The appropriate judge may give such a direction only if satisfied that it is not contrary to the interests of justice to give the direction.
- (6) A person affected by an extradition claim is to be treated as present in court when, by virtue of a live link direction, the person attends a hearing through a live link.

206B Live links: supplementary

- (1) The appropriate judge may rescind a live link direction at any time before or during a hearing to which it relates.

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- (2) The appropriate judge must not give a live link direction or rescind such a direction unless the parties to the proceedings have been given the opportunity to make representations.
- (3) If a hearing takes place in relation to the giving or rescinding of a live link direction, the appropriate judge may require or permit any party to the proceedings who wishes to make representations to do so through a live link.
- (4) If in a case where an appropriate judge has power to give a live link direction but decides not to do so, the appropriate judge must—
 - (a) state in open court the reasons for not doing so, and
 - (b) cause those reasons to be entered in the register of proceedings.
- (5) Subsection (7) applies if—
 - (a) an application for a live link direction is made under section 206A(4) in relation to a qualifying hearing but the application is refused, or
 - (b) a live link direction is given in relation to a qualifying hearing but the direction is rescinded before the hearing takes place.
- (6) A hearing is a qualifying hearing—
 - (a) in relation to proceedings under Part 1, if it is a hearing by virtue of which section 4(3) would be complied with;
 - (b) in relation to proceedings under Part 2, if it is a hearing by virtue of which section 72(3) or 74(3) would be complied with.
- (7) The requirement in section 4(3), 72(3) or 74(3) (as the case requires) to bring the person as soon as practicable before the appropriate judge is to be read as a requirement to bring the person before that judge as soon as practicable after the application is refused or the direction is rescinded.

206C Live links: interpretation

- (1) This section applies for the purposes of section 206A and subsections (2) and (3) also apply for the purposes of section 206B.
- (2) In relation to proceedings under Part 1, section 67 applies for determining the appropriate judge.
- (3) In relation to proceedings under Part 2, section 139 applies for determining the appropriate judge.
- (4) A person is affected by an extradition claim if—
 - (a) a Part 1 warrant is issued in respect of the person;
 - (b) the person is arrested under section 5;
 - (c) a request for the person's extradition is made; or
 - (d) a warrant under section 73 is issued in respect of the person.
- (5) References to being in custody include—
 - (a) in England and Wales, references to being in police detention within the meaning of the Police and Criminal Evidence Act 1984;
 - (b) in Northern Ireland, references to being in police detention within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989;

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- (c) in Scotland, references to detention under section 14 of the Criminal Procedure (Scotland) Act 1995.
- (6) “Live link” means an arrangement by which a person, while absent from the place where the hearing is being held, is able—
 - (a) to see and hear the appropriate judge, and other persons,
 - (b) to be seen and heard by the judge, other persons,and for this purpose any impairment of eyesight or hearing is to be disregarded.”

Status:

Point in time view as at 12/01/2010. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 6.