



Extradition Act 2003

2003 CHAPTER 41

PART 1

EXTRADITION TO CATEGORY 1 TERRITORIES

The initial hearing

Commencement Information

- II** Act wholly in force at 1.1.2004, see [s. 221](#) and [S.I. 2003/3103, art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258 art. 2\(2\)](#) and [S.I. 2003/3312 art. 2\(2\)](#))

7 Identity of person arrested

- (1) This section applies if—
- (a) a person arrested under a Part 1 warrant is brought before the appropriate judge under section 4(3), or
 - (b) a person is arrested under section 5 and section 6(2) is complied with in relation to him.
- (2) The judge must decide whether the person brought before him is the person in respect of whom—
- (a) the warrant referred to in subsection (1)(a) was issued, or
 - (b) the warrant referred to in section 6(4) was issued.
- (3) The judge must decide the question in subsection (2) on a balance of probabilities.
- (4) If the judge decides the question in subsection (2) in the negative he must order the person's discharge.
- (5) If the judge decides that question in the affirmative he must proceed under section 8.

Status: Point in time view as at 15/01/2007. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Cross Heading: The initial hearing. (See end of Document for details)

- (6) In England and Wales, the judge has the same powers (as nearly as may be) as a magistrates' court would have if the proceedings were the summary trial of an information against the person.
- (7) In Scotland—
- (a) the judge has the same powers (as nearly as may be) as if the proceedings were summary proceedings in respect of an offence alleged to have been committed by the person; but
 - (b) in his making any decision under subsection (2) evidence from a single source shall be sufficient.
- (8) In Northern Ireland, the judge has the same powers (as nearly as may be) as a magistrates' court would have if the proceedings were the hearing and determination of a complaint against the person.
- (9) If the judge exercises his power to adjourn the proceedings he must remand the person in custody or on bail.
- (10) [^{F1}If the person is remanded in custody, the appropriate judge may]^{F1} later grant bail.

Textual Amendments

F1 Words in s. 7(10) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 16](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

Commencement Information

I2 Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

8 Remand etc.

- (1) If the judge is required to proceed under this section he must—
- (a) fix a date on which the extradition hearing is to begin;
 - (b) inform the person of the contents of the Part 1 warrant;
 - (c) give the person the required information about consent;
 - (d) remand the person in custody or on bail.
- (2) [^{F2}If the person is remanded in custody, the appropriate judge may]^{F2} later grant bail.
- (3) The required information about consent is—
- (a) that the person may consent to his extradition to the category 1 territory in which the Part 1 warrant was issued;
 - (b) an explanation of the effect of consent and the procedure that will apply if he gives consent;
 - (c) that consent must be given before the judge and is irrevocable.
- (4) The date fixed under subsection (1) must not be later than the end of the permitted period, which is 21 days starting with the date of the arrest referred to in section 7(1) (a) or (b).
- (5) If before the date fixed under subsection (1) (or this subsection) a party to the proceedings applies to the judge for a later date to be fixed and the judge believes it

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to be in the interests of justice to do so, he may fix a later date; and this subsection may apply more than once.

- (6) Subsections (7) and (8) apply if the extradition hearing does not begin on or before the date fixed under this section.
- (7) If the person applies to the judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.
- (8) If no application is made under subsection (7) the judge must order the person's discharge on the first occasion after the date fixed under this section when the person appears or is brought before the judge, unless reasonable cause is shown for the delay.

Textual Amendments

- F2** Words in s. 8(2) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 16](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

Commencement Information

- I3** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

VALID FROM 25/01/2010

[^{F3}8A 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 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).

Textual Amendments

- F3** [Ss. 8A 8B](#) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. 69, 116; [S.I. 2009/3096](#), [art. 3\(I\)](#) (with [art. 4](#))

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VALID FROM 25/01/2010

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.]

Textual Amendments

- F3** Ss. 8A 8B inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 69**, 116; S.I. 2009/3096, **art. 3(I)** (with art. 4)

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