

POLICING AND CRIME ACT 2009

EXPLANATORY NOTES

TERRITORIAL EXTENT AND APPLICATION

Part 6 – Extradition

Return to overseas territory

Section 72 Return from category 1 territory

356. **Section 72** inserts a new section 59 into the Extradition Act 2003. This section applies to cases where a person is serving a sentence of imprisonment in the UK, is then extradited to a category 1 territory under a European Arrest Warrant and then returns to the UK. The section sets out what happens when this person returns to the UK to serve the remainder of the UK sentence or otherwise returns to the UK. Subsection (2) provides that time spent outside the UK as a result of the extradition is not deducted from the UK sentence when the person returns. Subsections (3) and (4), however, make it clear that time spent in custody abroad should be deducted from a UK sentence where the person was held in custody in connection with the extradition offence or any other offence in respect of which they could be dealt with as a result of the extradition request and that person was not convicted of the offence in question.
357. Subsection (5) provides that if the person extradited to a category 1 territory then returns to the UK and is not entitled to be released from detention pursuant to their UK sentence, then they are liable to be detained and should be treated as unlawfully at large if at large. Subsection (6) deals with cases where a person returning to the UK is entitled to be released from detention on licence. Subsection (6)(a) states that if a licence was in force at the time of extradition then the licence will be suspended during their absence from the UK but will have effect on return. Subsection (7) also provides that if no licence was imposed when the person was extradited, then the person in question may be detained in any place in which they could have been detained prior to extradition. Subsection (8) then provides that a constable or immigration officer may take this person into custody for the purpose of conveying them to the place of detention referred to in subsection (7). Subsection (9) provides that where a person has been taken into custody and detained under these powers they must be released on licence within five days of being taken into custody under this section. Subsection (10) provides that in calculating the period of five days, no account should be taken of weekends and public holidays. Subsection (11) defines when a person is to be regarded as entitled to be released from detention. Subsection (12) makes it clear that the powers set out in subsection (8) are exercisable throughout the UK.

Section 73 Return from category 2 country

358. **Section 73** inserts a new section 132 into the Extradition Act 2003. This section applies to cases where a person serving a sentence of imprisonment in the UK, is then extradited to a territory designated by order under Part 2 of the 2003 Act (a category 2 territory) and subsequently returns to the UK. The section sets out what happens when this person returns to the UK to serve the remainder of the UK sentence or otherwise returns to the

*These notes refer to the Policing and Crime Act 2009
(c.26) which received Royal Assent on 12 November 2009*

UK. Subsection (2) provides that time spent outside the UK as a result of the extradition is not deducted from the UK sentence when the person returns. Subsections (3) and (4), however, make it clear that time spent in custody abroad should be deducted from a UK sentence where the person was held in custody in connection with the extradition offence or any other offence in respect of which they could be dealt with as a result of the extradition request and that person was not convicted of the offence in question.

359. Subsection (5) provides that if the person extradited to a category 2 territory then returns to the UK and is not entitled to be released from detention pursuant to their UK sentence, then they are liable to be detained and should be treated as unlawfully at large if at large. Subsection (6) deals with cases where a person returning to the UK is entitled to be released from detention on licence. Subsection (6)(a) provides that if a licence was in force at the time of extradition then the licence will be suspended during their absence from the UK but will have effect on return. Subsection (7) also provides that if no licence was imposed when the person was extradited, then the person in question may be detained in any place in which they could have been detained prior to extradition. Subsection (8) then provides that a constable or immigration officer may take this person into custody for the purpose of conveying them to the place of detention referred to in subsection (7). Subsection (9) provides that where a person has been taken into custody and detained under these powers they must be released on licence within five days of being taken into custody under this section. Subsection (10) provides that in calculating the period of five days, no account should be taken of weekends and public holidays. Subsection (11) defines when a person is to be regarded as entitled to be released from detention. Subsection (12) makes it clear that the powers set out in subsection (8) are exercisable throughout the UK.