

EXPLANATORY MEMORANDUM TO
THE EXTRADITION ACT 2003 (PART 3 DESIGNATION) (AMENDMENT)
ORDER 2005

2005 No.

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments

2. Description

The above instrument is made in order to amend the Extradition Act 2003 (Part 3 Designation) Order 2003. It is needed in order to reflect the anticipated changes to HM Customs and Excise and the Inland Revenue made in the Commissioners for Revenue and Customs Bill.

3. Matters of special interest to the Joint Committee on Statutory Instruments

This Order is laid before Parliament before the Commissioners for Revenue and Customs Bill has received Royal Assent. It is anticipated that this Bill will receive Royal Assent in March 2005 and will, on commencement, bring the new merged department into being on 1st April 2005. This timescale will not allow for sufficient time for the laying and debating of this affirmative Order between Royal Assent and the date on which it needs to come into force unless the Order is laid before Parliament before the Bill receives Royal Assent.

4. Legislative Background

- 1) **General:** Part 3 of the Extradition Act 2003 (the Act) provides for the making of outgoing extradition requests from the United Kingdom. Section 142 allows for the issuing of a Part 3 warrant which is a warrant that will comply with the requirements of a European Arrest Warrant. This allows the United Kingdom to issue European Arrest Warrants to other territories that have been designated under part 1 of the Act. In order to obtain a Part 3 warrant a constable or an appropriate person must apply to a judge. An appropriate person is one specified for the purposes of this section by Order. The Extradition Act 2003 (Part 3 Designation) Order 2003 specified 4 categories of persons as appropriate persons. The first category was “any Inland Revenue officer, of grade B1 or above, attached to the Inland Revenue Extradition Group” and the fourth category was “the Commissioners of Customs and Excise”.
- 2) As a result of the Commissioners for Revenue and Customs Bill, currently before Parliament and likely to receive Royal Assent in March, it is likely that a new department will replace HM Customs and Excise and the Inland Revenue with effect from 1st April 2005. In order to allow for officers in the new merged department to apply for a Part 3 warrant the Director of the Revenue and Customs Prosecution Office will need to be specified as an appropriate person.
- 3) This Order therefore makes that specification.

- 4) **EU legislation:** The instrument allows specified appropriate persons to apply for a Part 3 warrant which allows for a request for extradition to be made to any country operating the European Arrest Warrant (EAW). Countries operating the EAW have been designated under the provisions of Part 1 of the Act. The Council Framework decision on the EAW was adopted by the EU Council on 13 June 2002, having been cleared by the relevant scrutiny committee in the House of Commons on 12 December 2001 and by the House of Lords' committee on 23 April 2002.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

- 1) Caroline Flint, Parliamentary Under-Secretary of State at the Home Office, has made the following statement regarding Human Rights:
- 2) In my view the provisions of the Extradition Act 2003 (Part 3 Designation) (Amendment) Order 2005 are compatible with the Convention Rights.

7. Policy background:

- 1) Part 3 of the Act deals with outward extradition requests made from the United Kingdom to other territories. Section 142 provides for the issuing of a Part 3 warrant which is recognised as a European Arrest Warrant by other participating states. For the purposes of the United Kingdom, other participating states are those designated under Part 1 of the Act.
- 2) Under the EAW system, outgoing extradition requests are made by a judicial authority in one territory to the judicial authority in another territory. In the United Kingdom only constables and other specified appropriate persons can apply for a Part 3 warrant. The Extradition Act 2003 (Part 3 Designation) Order 2003 designated four categories of appropriate persons. These included officers in the Inland Revenue and Customs and Excise. Those two departments will be merged when the Commissioners for Revenue and Customs Bill receives Royal Assent and is brought into force.
- 3) This Order therefore reflects the anticipated change and will allow for officers of the new merged department to apply for Part 3 warrants. It does not allow for any new category of person to apply for such a warrant, it merely reflects the anticipated changes to two of the existing categories of designated appropriate persons. If the Order is brought into force there will in future only be three categories of appropriate persons who may apply for a Part 3 warrant.

8. Impact:

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact:

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