

**EXPLANATORY MEMORANDUM TO THE  
EXTRADITION ACT 2003 (AMENDMENT TO DESIGNATIONS)  
ORDER 2005**

1. This explanatory memorandum is laid before Parliament by Command of Her Majesty.

**2. Description**

The above instrument is made in order to amend the Extradition Act 2003 (Designation of Part 1 Territories) Order 2003 and the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003.

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

None.

**4. Legislative Background:**

- i) **General:** The Extradition Act 2003 (the Act) provides for two distinct sets of procedures to apply to incoming extradition requests. Part 1 is a more simplified and streamlined system, which does not involve ministers. Part 2 of the Act covers other territories that the United Kingdom has extradition relations with who are not operating the simplified procedure.

The Extradition Act 2003 (Designation of Part 1 Territories) Order 2003 and the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 designated countries under sections 1 and 69 of the Extradition Act 2003. A further order, The Extradition Act 2003 (Amendment to Designations) Order 2004 amended those designations to re-designate those Part Two territories that implemented the Framework Decision on the European arrest warrant (“the Framework Decision”). Since that order came into force on 27 July 2004, a further five Member States have implemented the Framework Decision and now need to be re-designated as Part One territories to allow the UK to operate the simplified procedure with them.

In addition, this Order amends article 3 of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 by adding a provision that designates the Hong Kong Special Administrative Region for the purposes of section 71(4) and 73(5) of the Act.

This Order also amends Article 4(2) of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 to add various new territories with relevant time limits as well as amending time limits for some territories that have already been designated under this section of the Act.

- ii) **EU legislation:** The instrument further implements the Framework Decision on the European Arrest Warrant. The United Kingdom has been operating the European

Arrest Warrant since 1 January 2004 with those Member States who had implemented the Framework Decision in to their domestic law. 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**

The designations have effect for the whole of the United Kingdom.

## **6. European Convention on Human Rights**

Caroline Flint, Parliamentary Under-Secretary of State at the Home Office, has made the following statement regarding Human Rights:

In my view the provisions of the Extradition Act 2003 (Amendment to Designations) Order 2005 are compatible with the Convention Rights.

## **7. Policy background:**

Part 1 of the Act introduced a simplified extradition system, which gave effect to the Framework Decision on the European arrest warrant. Additional Member States have now transposed the Framework Decision in to their domestic legislation and it is necessary to re-designate these territories under Section 1 of the Act. This will enable the United Kingdom to operate the European arrest warrant with these Member States.

The instrument also adds a provision designating the Hong Kong Special Administrative Region (HKSAR) to reflect the provisions contained in the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Hong Kong Special Administrative Region of the People's Republic of China for the Surrender of Fugitive Offenders. This means that any requests for extradition received from HKSAR need only contain "information" not "evidence". However, prima facie evidence of guilt is still required before extradition can be granted. The time-limit for the receipt of papers from HKSAR following any provisional arrest will be 60 days.

In addition, the instrument amends Article 4(2) of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 to include Argentina, Brazil, Columbia, El Salvador, Guatemala, and Mexico with the relevant time limit. It also amends the existing time-limits for Chile, Panama and Uruguay in relation to provisional arrest requests in the earlier Order. The time limits listed in this instrument are the period in which relevant documents have to be received by the judge when a person is arrested under a provisional warrant.

## **8. Impact:**

No Regulatory Impact Assessment has been prepared because no impact on the private or voluntary sector is foreseen.

**9. Contact:** Karen Townsend  
Judicial Co-operation Unit

Room 462  
50 Queen Anne's Gate  
London SW1H 9AT

☎: 020 7273 4550

✉: [Karen.Townsend@homeoffice.gsi.gov.uk](mailto:Karen.Townsend@homeoffice.gsi.gov.uk)