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STATUTORY INSTRUMENTS

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**2013 No. 1554**

**The Criminal Procedure Rules 2013**

**PART 17**

**EXTRADITION**

*DISCHARGE AFTER FAILURE TO COMPLY WITH A TIME LIMIT*

**Defendant's application to be discharged**

**17.16.**—(1) This rule applies where a defendant wants to be discharged—

- (a) because of a failure—
  - (i) to give the defendant a copy of any warrant under which the defendant is arrested as soon as practicable after arrest,
  - (ii) to bring the defendant before the court as soon as practicable after arrest under a warrant,
  - (iii) to bring the defendant before the court no more than 48 hours after provisional arrest under Part 1 of the Extradition Act 2003;
- (b) following the expiry of a time limit for—
  - (i) service of a warrant to which Part 1 of the 2003 Act applies, after provisional arrest under that Part of the Act (48 hours, under section 6 of the Act<sup>(1)</sup>, unless the court otherwise directs),
  - (ii) service of an extradition request to which Part 2 of the Act applies, after provisional arrest under that Part of the Act (45 days, under section 74 of the Act<sup>(2)</sup>, unless the Secretary of State has otherwise ordered for this purpose),
  - (iii) receipt of an undertaking that the defendant will be returned to complete a sentence in the United Kingdom, where the court required such an undertaking (21 days, under section 37 of the Act<sup>(3)</sup>),
  - (iv) making an extradition order, after the defendant has consented to extradition under Part 1 of the Act (10 days, under section 46 of the Act<sup>(4)</sup>),
  - (v) extradition, where an extradition order has been made under Part 1 of the Act and any appeal by the defendant has failed (10 days, under sections 35, 36 and 47 of the Act<sup>(5)</sup>, unless the court otherwise directs),

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(1) 2003 c. 41; section 6 was amended by section 77 of the Policing and Crime Act 2009 (c. 26).  
(2) 2003 c. 41; section 74 was amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48).  
(3) 2003 c. 41; section 37 was amended by paragraphs 9 and 10 of Schedule 13 to the Police and Justice Act 2006 (c. 48).  
(4) 2003 c. 41; section 46 was amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48).  
(5) 2003 c. 41; section 35 was amended by paragraph 9 of Schedule 13 to the Police and Justice Act 2006 (c. 48). Section 36 was amended by section 40 of, and paragraph 81 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4).

- (vi) extradition, where an extradition order has been made under Part 2 of the Act and any appeal by the defendant has failed (28 days, under sections 117 and 118 of the Act<sup>(6)</sup>),
  - (vii) the resumption of extradition proceedings, where those proceedings were adjourned pending disposal of another extradition claim which has concluded (21 days, under section 180 of the Act),
  - (viii) extradition, where extradition has been deferred pending the disposal of another extradition claim which has concluded (21 days, under section 181 of the Act), or
  - (ix) re-extradition, where the defendant has been returned to the United Kingdom to serve a sentence before serving a sentence overseas (as soon as practicable, under section 187 of the Act<sup>(7)</sup>); or
- (c) because an extradition hearing does not begin on the date arranged by the court.
- (2) Unless the court otherwise directs—
- (a) such a defendant must apply in writing and serve the application on—
    - (i) the court officer, and
    - (ii) the prosecutor;
  - (b) the application must explain the grounds on which it is made; and
  - (c) the court officer must arrange a hearing as soon as practicable, and in any event no later than the second business day after an application is served.

*[Note. See sections 4(4) & (5), 6(6) & (7), 8(7) & (8)(8), 35(5), 36(8), 37(7), 46(8)(9), 47(4), 72(5) & (6), 74(5), (6) & (10), 75(4), 76(5), 117(3), 118(7), 180(4) & (5), 181(4) & (5) and 187(3) of the Extradition Act 2003.]*

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(6) 2003 c. 41; section 118 was amended by section 40 of, and paragraph 81 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4).

(7) 2003 c. 41; section 187 was amended by paragraph 15 of Schedule 13 to the Police and Justice Act 2006 (c. 48).

(8) 2003 c. 41; section 8 was amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48).

(9) 2003 c. 41; section 46 was amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48).