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STATUTORY INSTRUMENTS

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**2014 No. 1610**

**The Criminal Procedure Rules 2014**

**PART 17**

**EXTRADITION**

*EXTRADITION UNDER PART 1 OF THE EXTRADITION ACT 2003*

**Extradition hearing**

**17.6.**—(1) This rule applies at the extradition hearing arranged by the court under rule 17.5.

(2) In the following sequence, the court must decide—

- (a) whether the offence specified in the warrant is an extradition offence;
- (b) whether a bar to extradition applies, namely—
  - (i) the rule against double jeopardy,
  - (ii) absence of prosecution decision,
  - (iii) extraneous considerations,
  - (iv) the passage of time,
  - (v) the defendant's age,
  - (vi) speciality,
  - (vii) earlier extradition or transfer to the United Kingdom, or
  - (viii) forum;
- (c) where the warrant alleges that the defendant is unlawfully at large after conviction, whether conviction was in the defendant's presence and if not—
  - (i) whether the defendant was absent deliberately,
  - (ii) if the defendant was not absent deliberately, whether the defendant would be entitled to a retrial (or to a review of the conviction, amounting to a retrial);
- (d) whether extradition would be—
  - (i) compatible with the defendant's human rights, and
  - (ii) proportionate;
- (e) whether it would be unjust or oppressive to extradite the defendant because of his or her physical or mental condition;
- (f) after deciding each of (a) to (e) above, before progressing to the next, whether to order the defendant's discharge;
- (g) whether to order the temporary transfer of the defendant to the territory to which the defendant's extradition is sought.

- (3) If the court discharges the defendant, the court must consider any ancillary application, including an application about—
- (a) reporting restrictions; or
  - (b) costs.
- (4) If the court does not discharge the defendant, the court must—
- (a) exercise its power to order the defendant’s extradition;
  - (b) explain, in terms the defendant can understand (with help, if necessary), that the defendant may appeal to the High Court within the next 7 days; and
  - (c) consider any ancillary application, including an application about—
    - (i) bail pending extradition,
    - (ii) reporting restrictions, or
    - (iii) costs.
- (5) If the court orders the defendant’s extradition, the court must order its postponement where—
- (a) the defendant has been charged with an offence in the United Kingdom; or
  - (b) the defendant has been sentenced to imprisonment or detention in the United Kingdom.

*[Note. See sections 10, 11, 20, 21, 21B, 25, 26, 36A, 36B, 64 and 65 of the Extradition Act 2003(1).*

*Part 16 contains rules about reporting restrictions. Part 76 contains rules about costs.]*

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(1) 2003 c. 41; section 11 was amended by paragraphs 3 and 4 of Schedule 13 to the Police and Justice Act 2006 (c. 48) and by paragraphs 1 and 2 of Schedule 20 to the Crime and Courts Act 2013 (c. 22). It is further amended by sections 156, 157 and 158 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), with effect from dates to be appointed. Section 21 was amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48). Section 21B is inserted by section 159 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), section 26 is amended by section 160 of that Act, sections 36A and 36B are inserted by section 161 of that Act and sections 64 and 65 are substituted by section 164 of that Act, all with effect from dates to be appointed.