
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 50

EXTRADITION

DISCHARGE AFTER FAILURE TO COMPLY WITH A TIME LIMIT

Defendant's application to be discharged

50.16.—(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,^{F1} ...
- (iii) to bring the defendant before the court no more than 48 hours after provisional arrest under Part 1 of the Extradition Act 2003;

[^{F2}(iv) to give the defendant a copy of any certificate enabling provisional arrest without a warrant under section 74A of the 2003 Act as soon as practicable after arrest, or

(v) to bring the defendant before the court as soon as practicable after arrest under that section;]

[^{F3}(b) because of a defect in a certificate enabling arrest without a warrant under section 74A of the 2003 Act;

(c) because there were no reasonable grounds on which there could have been issued a certificate enabling arrest without a warrant under section 74A of the 2003 Act;]

[^{F4}(d)] 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⁽¹⁾, 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⁽²⁾, 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⁽³⁾),

(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).

- (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(4)),
- (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(5), unless the court otherwise directs),
- (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(6)),
- (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(7)); or

[^{F5}(e)] 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 magistrates' court officer,
 - (ii) the High Court officer, where paragraph [^{F6}(1)(d)(v)] applies, and
 - (iii) 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), [^{F7}74D(10),] 75(4), 76(5), 117(3), 118(7), 180(4) & (5), 181(4) & (5) and 187(3) of the Extradition Act 2003.]

Textual Amendments

- F1** Word in rule 50.16(1)(a)(ii) omitted (8.2.2021) by virtue of [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, [29\(e\)\(i\)](#)
- F2** Rule 50.16(1)(a)(iv)(v) inserted (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, [29\(e\)\(ii\)](#)
- F3** Rule 50.16(1)(b)(c) inserted (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, [29\(e\)\(iv\)](#)
- F4** Rule 50.16(1)(d): rule 50.16(1)(b) renumbered as rule 50.16(1)(d) (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, [29\(e\)\(iii\)](#)

- (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).
- (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).

- F5** Rule 50.16(1)(e): rule 50.16(1)(c) renumbered as rule 50.16(1)(e) (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, **29(e)(iii)**
- F6** Word in rule 50.16(2)(a)(ii) substituted (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, **29(e)(v)**
- F7** Word in rule 50.16 inserted (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, **29(e)(vi)**

Commencement Information

- I1** Rule 50.16 in force at 5.10.2020, see Preamble

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, Section 50.16.