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STATUTORY INSTRUMENTS

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**2021 No. 40**

**The Criminal Procedure (Amendment) Rules 2021**

**Amendments to the Criminal Procedure Rules**

**29.** In Part 50 (Extradition)—

- (a) in rule 50.1 (When this Part applies), from the second paragraph of the note to the rule omit “including a Member State of the European Union”;
- (b) in rule 50.3 (Exercise of magistrates’ court’s powers), in paragraph (4)—
  - (i) in sub-paragraph (b)(iii), after “arrest” insert “with a warrant”,
  - (ii) renumber sub-paragraphs (b)(iv) to (viii) as (b)(v) to (ix) respectively, and
  - (iii) after sub-paragraph (b)(iii) insert—
    - “(iv) following a provisional arrest without a warrant under Part 2 of the Act, pending receipt of evidence or information required by the court.”;
- (c) in rule 50.11 (Preliminary hearing after provisional arrest)—
  - (i) for paragraph (1) substitute—
    - “(1) This rule applies where a defendant is first brought before the court after arrest—
      - (a) under a provisional arrest warrant to which rule 50.10 applies; or
      - (b) under section 74A of the Extradition Act 2003(1), without a warrant.”,
    - (ii) renumber paragraph (2) as paragraph (3),
    - (iii) after paragraph (1) insert—
      - “(2) Where paragraph (1)(b) applies the court must first—
        - (a) on the basis of such evidence or information as is produced to the court, decide whether a warrant to which rule 50.10 applies would be issued if the defendant were not already under arrest; and
        - (b) if no such warrant would be issued, order the defendant’s discharge.”,
    - (iv) for paragraph (3) as thus renumbered substitute—
      - “(3) Unless the court orders the defendant’s discharge under paragraph (2), the court must—
        - (a) explain, in terms the defendant can understand (with help, if necessary)—
          - (i) the allegation in respect of which the defendant has been arrested, and
          - (ii) that the defendant may consent to extradition, and how that may be done and with what effect; and
        - (b) consider any ancillary application, including an application about bail pending receipt of the extradition request.”, and

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(1) 2003 c. 41; section 74A was inserted by paragraphs 1 and 2 of the Schedule to the Extradition (Provisional Arrest) Act 2020 (c. 18).

- (v) in the note to the rule, for “See section 74 of the Extradition Act 2003(2)” substitute “See sections 74, 74A, 74B, 74C, 74D and 74E of the Extradition Act 2003(3)”;
- (d) in rule 50.12 (Arrangement of extradition hearing after provisional arrest), for paragraph (1)(a) substitute—
  - “(a) a request for extradition in respect of which a defendant has been arrested—
    - (i) under a provisional arrest warrant to which rule 50.10 applies, or
    - (ii) under section 74A of the Extradition Act 2003, without a warrant;”;
- (e) in rule 50.16 (Defendant’s application to be discharged)—
  - (i) at the end of paragraph (1)(a)(ii) omit “or”,
  - (ii) after paragraph (1)(a)(iii) insert—
    - “(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;”;
  - (iii) renumber paragraphs (1)(b) and (c) as (1)(d) and (e) respectively,
  - (iv) after paragraph (1)(a) insert—
    - “(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;”;
  - (v) in paragraph (2)(a)(ii), for “(1)(b)(v)” substitute “(1)(d)(v)”, and
  - (vi) in the note to the rule, after “74(5), (6) & (10),” insert “74D(10),”;
- (f) in the table of contents, for the heading “Discharge after failure to comply with a time limit” substitute “Discharge after failure to comply with a time limit, etc.”.

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(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; sections 74B, 74C, 74D and 74E were inserted by paragraphs 1 and 2 of the Schedule to the Extradition (Provisional Arrest) Act 2020 (c. 18).