



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 3

#### EXTRADITION TO THE UNITED KINGDOM

##### Commencement Information

- II** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103, art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

##### *Extradition from category 1 territories*

##### Commencement Information

- I2** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103, art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

#### **142 Issue of Part 3 warrant**

- (1) The appropriate judge may issue a Part 3 warrant in respect of a person if—
- (a) a constable or an appropriate person applies to the judge for a Part 3 warrant, and
  - (b) the condition in subsection (2) [<sup>F1</sup>, or the condition in subsection (2A),]<sup>F1</sup> is satisfied.

[<sup>F2</sup>(2) The condition is that—

- (a) there are reasonable grounds for believing that the person has committed an extradition offence, and
- (b) a domestic warrant has been issued in respect of the person.

(2A) The condition is that—

*Status: Point in time view as at 28/03/2009. This version of this part contains provisions that are not valid for this point in time.*

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- (a) there are reasonable grounds for believing that the person is unlawfully at large after conviction of an extradition offence by a court in the United Kingdom, and
  - (b) either a domestic warrant has been issued in respect of the person or the person may (if unlawfully at large as mentioned in paragraph (a)) be arrested without a warrant.]
- <sup>F2</sup>(3) A Part 3 warrant is an arrest warrant which contains—
- (a) the statement referred to in subsection (4) or the statement referred to in subsection (5), and
  - (b) the certificate referred to in subsection (6).
- (4) The statement is one that—
- (a) the person in respect of whom the warrant is issued is accused in the United Kingdom of the commission of an extradition offence specified in the warrant, and
  - (b) the warrant is issued with a view to his arrest and extradition to the United Kingdom for the purpose of being prosecuted for the offence.
- (5) The statement is one that—
- (a) the person in respect of whom the warrant is issued [<sup>F3</sup>has been convicted]<sup>F3</sup> of an extradition offence specified in the warrant by a court in the United Kingdom, and
  - (b) the warrant is issued with a view to his arrest and extradition to the United Kingdom for the purpose of being sentenced for the offence or of serving a sentence of imprisonment or another form of detention imposed in respect of the offence.
- (6) The certificate is one certifying—
- (a) whether the conduct constituting the extradition offence specified in the warrant falls within the European framework list;
  - (b) whether the offence is an extra-territorial offence;
  - (c) what is the maximum punishment that may be imposed on conviction of the offence or (if the person has been sentenced for the offence) what sentence has been imposed.
- (7) The conduct which falls within the European framework list must be taken for the purposes of subsection (6)(a) to include conduct which constitutes—
- (a) an attempt, conspiracy or incitement to carry out conduct falling within the list, or
  - (b) aiding, abetting, counselling or procuring the carrying out of conduct falling within the list.
- <sup>F4</sup>(8) A domestic warrant is a warrant for the arrest or apprehension of a person which is issued under any of the provisions referred to in subsection (8A), or at common law by a Crown Court judge in Northern Ireland.
- (8A) The provisions are—
- (a) section 72 of the Criminal Justice Act 1967;
  - (b) section 7 of the Bail Act 1976;
  - (c) section 51 of the Judicature (Northern Ireland) Act 1978;
  - (d) section 1 of the Magistrates' Courts Act 1980;

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- (e) Article 20 or 25 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26));
- (f) the Criminal Procedure (Scotland) Act 1995.]

<sup>F4</sup>(9) An appropriate person is a person of a description specified in an order made by the Secretary of State for the purposes of this section.

(10) Subsection (1)(a) applies to Scotland with the substitution of “ a procurator fiscal ” for “a constable or an appropriate person”.

#### Textual Amendments

- F1** Words in s. 142(1)(b) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 21\(1\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F2** S. 142(2)(2A) substituted (15.1.2007) for s. 142(2) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 21\(2\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F3** Words in s. 142(5)(a) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 1\(3\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F4** S. 142(8)(8A) substituted (15.1.2007) for s. 142(8) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 22](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)

#### Modifications etc. (not altering text)

- C1** S. 142(7)(a) modified (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 62(2), 94, [Sch. 6 para. 46](#) (with [Sch. 13 para. 5](#)); S.I. 2008/2504, [art. 2\(a\)](#)

#### Commencement Information

- I3** Act wholly in force at 1.1.2004, see s. 221 and S.I. 2003/3103, [art. 2](#) (subject to [arts. 3-5](#)) (as amended by S.I. 2003/3258 art. 2(2) and S.I. 2003/3312 art. 2(2))

### 143 Undertaking in relation to person serving sentence

- (1) This section applies if—
  - (a) a Part 3 warrant is issued in respect of a person;
  - (b) the person is serving a sentence of imprisonment or another form of detention in a category 1 territory;
  - (c) the person’s extradition to the United Kingdom from the category 1 territory in pursuance of the warrant is made subject to a condition that an undertaking is given on behalf of the United Kingdom with regard to his treatment in the United Kingdom or his return to the category 1 territory (or both).
- (2) The Secretary of State may give an undertaking to a person acting on behalf of the category 1 territory with regard to either or both of these things—
  - (a) the treatment in the United Kingdom of the person in respect of whom the warrant is issued;
  - (b) the return of that person to the category 1 territory.
- (3) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person accused in the United Kingdom of the commission of an offence include terms—
  - (a) that the person be kept in custody until the conclusion of the proceedings against him for the offence and any other offence in respect of which he is permitted to be dealt with in the United Kingdom;

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- (b) that the person be returned to the category 1 territory to serve the remainder of his sentence on the conclusion of those proceedings.
- (4) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person [F5 who has been convicted]F5 of an offence by a court in the United Kingdom include terms that the person be returned to the category 1 territory to serve the remainder of his sentence after serving any sentence imposed on him in the United Kingdom.
- (5) If the Part 3 warrant was issued by a sheriff, the preceding provisions of this section apply as if the references to the Secretary of State were to the Scottish Ministers.

#### Textual Amendments

**F5** Words in s. 143(4) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 2\(5\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

**I4** Act wholly in force at 1.1.2004, see [s. 221](#) and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

## 144 Return to extraditing territory to serve sentence

- (1) This section applies if—
- (a) a Part 3 warrant is issued in respect of a person;
  - (b) the warrant states that it is issued with a view to his extradition to the United Kingdom for the purpose of being prosecuted for an offence;
  - (c) he is extradited to the United Kingdom from a category 1 territory in pursuance of the warrant;
  - (d) he is extradited on the condition that, if he is convicted of the offence and a sentence of imprisonment or another form of detention is imposed in respect of it, he must be returned to the category 1 territory to serve the sentence;
  - (e) he is convicted of the offence and a sentence of imprisonment or another form of detention is imposed in respect of it.
- (2) The person must be returned to the category 1 territory to serve the sentence as soon as is reasonably practicable after the sentence is imposed.
- (3) If subsection (2) is complied with the punishment for the offence must be treated as remitted but the person's conviction for the offence must be treated as a conviction for all other purposes.
- (4) If subsection (2) is not complied with and the person applies to the appropriate judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.

#### Commencement Information

**I5** Act wholly in force at 1.1.2004, see [s. 221](#) and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

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## 145 Service of sentence in territory executing Part 3 warrant

- (1) This section applies if—
  - (a) a Part 3 warrant is issued in respect of a person;
  - (b) the certificate contained in the warrant certifies that a sentence has been imposed;
  - (c) an undertaking is given on behalf of a category 1 territory that the person will be required to serve the sentence in the territory;
  - (d) on the basis of the undertaking the person is not extradited to the United Kingdom from the category 1 territory.
- (2) The punishment for the offence must be treated as remitted but the person's conviction for the offence must be treated as a conviction for all other purposes.

### Commencement Information

**I6** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

## 146 Dealing with person for other offences

- (1) This section applies if a person is extradited to the United Kingdom from a category 1 territory in pursuance of a Part 3 warrant.
- (2) The person may be dealt with in the United Kingdom for an offence committed before his extradition only if—
  - (a) the offence is one falling within subsection (3), or
  - (b) the condition in subsection (4) is satisfied.
- (3) The offences are—
  - (a) the offence in respect of which the person is extradited;
  - (b) an offence disclosed by the information provided to the category 1 territory in respect of that offence;
  - (c) an extradition offence in respect of which consent to the person being dealt with is given on behalf of the territory [<sup>F6</sup>in response to a request made by the appropriate judge]<sup>F6</sup>;
  - (d) an offence which is not punishable with imprisonment or another form of detention;
  - (e) an offence in respect of which the person will not be detained in connection with his trial, sentence or appeal;
  - (f) an offence in respect of which the person waives the right that he would have (but for this paragraph) not to be dealt with for the offence.
- (4) The condition is that the person has been given an opportunity to leave the United Kingdom and—
  - (a) he has not done so before the end of the permitted period, or
  - (b) he has done so before the end of the permitted period and has returned to the United Kingdom.
- (5) The permitted period is 45 days starting with the day on which the person arrives in the United Kingdom.

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 3. (See end of Document for details)*

#### **Textual Amendments**

- F6** Words in s. 146(3)(c) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 23](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### **Commencement Information**

- I7** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

### **147 Effect of consent to extradition to the United Kingdom**

- (1) This section applies if—
- (a) a person is extradited to the United Kingdom from a category 1 territory in pursuance of a Part 3 warrant;
  - (b) the person consented to his extradition to the United Kingdom in accordance with the law of the category 1 territory.
- (2) Section 146(2) does not apply if the conditions in subsection (3) or the conditions in subsection (4) are satisfied.
- (3) The conditions are that—
- (a) under the law of the category 1 territory, the effect of the person's consent is to waive his right under section 146(2);
  - (b) the person has not revoked his consent in accordance with that law, if he is permitted to do so under that law.
- (4) The conditions are that—
- (a) under the law of the category 1 territory, the effect of the person's consent is not to waive his right under section 146(2);
  - (b) the person has expressly waived his right under section 146(2) in accordance with that law;
  - (c) the person has not revoked his consent in accordance with that law, if he is permitted to do so under that law;
  - (d) the person has not revoked the waiver of his right under section 146(2) in accordance with that law, if he is permitted to do so under that law.

#### **Commencement Information**

- I8** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

### **148 Extradition offences**

- (1) Conduct constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
- (a) the conduct occurs in the United Kingdom;
  - (b) the conduct is punishable under the law of the relevant part of the United Kingdom with imprisonment or another form of detention for a term of 12 months or a greater punishment.

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- (2) Conduct also constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
  - (a) the conduct occurs outside the United Kingdom;
  - (b) the conduct constitutes an extra-territorial offence punishable under the law of the relevant part of the United Kingdom with imprisonment or another form of detention for a term of 12 months or a greater punishment.
- (3) But subsections (1) and (2) do not apply in relation to conduct of a person if—
  - (a) he [<sup>F7</sup>has been convicted]<sup>F7</sup> by a court in the United Kingdom of the offence constituted by the conduct, and
  - (b) he has been sentenced for the offence.
- (4) Conduct also constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
  - (a) the conduct occurs in the United Kingdom;
  - (b) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the United Kingdom in respect of the conduct.
- (5) Conduct also constitutes an extradition offence in relation to the United Kingdom if these conditions are satisfied—
  - (a) the conduct occurs outside the United Kingdom;
  - (b) the conduct constitutes an extra-territorial offence;
  - (c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the United Kingdom in respect of the conduct.
- (6) The relevant part of the United Kingdom is the part of the United Kingdom in which the relevant proceedings are taking place.
- (7) The relevant proceedings are the proceedings in which it is necessary to decide whether conduct constitutes an extradition offence.
- (8) Subsections (1) to (5) apply for the purposes of sections 142 to 147.

#### Textual Amendments

- F7** Words in s. 148(3)(a) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 2\(6\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

- I9** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

## 149 The appropriate judge

- (1) The appropriate judge is—
  - (a) in England and Wales, a District Judge (Magistrates' Courts), a justice of the peace or a judge entitled to exercise the jurisdiction of the Crown Court;
  - (b) in Scotland, a sheriff;

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(c) in Northern Ireland, a justice of the peace, a resident magistrate or a Crown Court judge.

(2) This section applies for the purposes of sections 142 to 147.

**Commencement Information**

**I10** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), **art. 2** (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

*Extradition from category 2 territories*

**Commencement Information**

**I11** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), **art. 2** (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

**150 Dealing with person for other offences: Commonwealth countries etc.**

- (1) This section applies if—
- (a) a person is extradited to the United Kingdom from a category 2 territory under law of the territory corresponding to Part 2 of this Act, and
  - (b) the territory is a Commonwealth country, a British overseas territory or the Hong Kong Special Administrative Region of the People’s Republic of China.
- (2) The person may be dealt with in the United Kingdom for an offence committed before his extradition only if—
- (a) the offence is one falling within subsection (3), or
  - (b) the condition in subsection (6) is satisfied.
- (3) The offences are—
- (a) the offence in respect of which the person is extradited;
  - (b) a lesser offence disclosed by the information provided to the category 2 territory in respect of that offence;
  - (c) an offence in respect of which consent to the person being dealt with is given by or on behalf of the relevant authority.
- (4) An offence is a lesser offence in relation to another offence if the maximum punishment for it is less severe than the maximum punishment for the other offence.
- (5) The relevant authority is—
- (a) if the person has been extradited from a Commonwealth country, the government of the country;
  - (b) if the person has been extradited from a British overseas territory, the person administering the territory;
  - (c) if the person has been extradited from the Hong Kong Special Administrative Region of the People’s Republic of China, the government of the Region.
- (6) The condition is that the protected period has ended.



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- (7) The protected period is 45 days starting with the first day after his extradition to the United Kingdom on which the person is given an opportunity to leave the United Kingdom.
- (8) A person is dealt with in the United Kingdom for an offence if—
  - (a) he is tried there for it;
  - (b) he is detained with a view to trial there for it.

#### Commencement Information

**I12** Act wholly in force at 1.1.2004, see s. 221 and S.I. 2003/3103, art. 2 (subject to arts. 3-5) (as amended by S.I. 2003/3258 art. 2(2) and S.I. 2003/3312 art. 2(2))

### 151 Dealing with person for other offences: other category 2 territories

- (1) This section applies if—
  - (a) a person is extradited to the United Kingdom from a category 2 territory under law of the territory corresponding to Part 2 of this Act, and
  - (b) the territory is not one falling within section 150(1)(b).
- (2) The person may be dealt with in the United Kingdom for an offence committed before his extradition only if—
  - (a) the offence is one falling within subsection (3), or
  - (b) the condition in subsection (4) is satisfied.
- (3) The offences are—
  - (a) the offence in respect of which the person is extradited;
  - (b) an offence disclosed by the information provided to the category 2 territory in respect of that offence;
  - (c) an offence in respect of which consent to the person being dealt with is given on behalf of the territory.
- (4) The condition is that—
  - (a) the person has returned to the territory from which he was extradited, or
  - (b) the person has been given an opportunity to leave the United Kingdom.
- (5) A person is dealt with in the United Kingdom for an offence if—
  - (a) he is tried there for it;
  - (b) he is detained with a view to trial there for it.

#### Commencement Information

**I13** Act wholly in force at 1.1.2004, see s. 221 and S.I. 2003/3103, art. 2 (subject to arts. 3-5) (as amended by S.I. 2003/3258 art. 2(2) and S.I. 2003/3312 art. 2(2))

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 3. (See end of Document for details)*

### General<sup>F8</sup>

#### Textual Amendments

**F8** S. 155A inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 24](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

**I14** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

### [<sup>F9</sup>151A Dealing with person for other offences

- (1) This section applies if a person is extradited to the United Kingdom from a territory which is not—
  - (a) a category 1 territory, or
  - (b) a territory falling within section 150(1)(b).
- (2) The person may be dealt with in the United Kingdom for an offence committed before the person's extradition only if—
  - (a) the offence is one falling within subsection (3), or
  - (b) the condition in subsection (4) is satisfied.
- (3) The offences are—
  - (a) the offence in respect of which the person is extradited;
  - (b) an offence disclosed by the information provided to the territory in respect of that offence;
  - (c) an offence in respect of which consent to the person being dealt with is given on behalf of the territory.
- (4) The condition is that—
  - (a) the person has returned to the territory from which the person was extradited, or
  - (b) the person has been given an opportunity to leave the United Kingdom.
- (5) A person is dealt with in the United Kingdom for an offence if—
  - (a) the person is tried there for it;
  - (b) the person is detained with a view to trial there for it.]

#### Textual Amendments

**F9** S. 151A inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 76\(3\)](#), 116; [S.I. 2009/3096](#), [art. 3\(s\)](#) (with [art. 4](#))

### 152 Remission of punishment for other offences

- (1) This section applies if—
  - (a) a person is extradited to the United Kingdom from—
    - (i) a category 1 territory under law of the territory corresponding to Part 1 of this Act, or

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- (ii) a category 2 territory under law of the territory corresponding to Part 2 of this Act;
  - (b) before his extradition he has been convicted of an offence in the United Kingdom;
  - (c) he has not been extradited in respect of that offence.
- (2) The punishment for the offence must be treated as remitted but the person's conviction for the offence must be treated as a conviction for all other purposes.

#### Commencement Information

**I15** Act wholly in force at 1.1.2004, see s. 221 and S.I. 2003/3103, art. 2 (subject to arts. 3-5) (as amended by S.I. 2003/3258 art. 2(2) and S.I. 2003/3312 art. 2(2))

### 153 Return of person acquitted or not tried

- (1) This section applies if—
- (a) a person is accused in the United Kingdom of the commission of an offence;
  - (b) the person is extradited to the United Kingdom in respect of the offence from—
    - (i) a category 1 territory under law of the territory corresponding to Part 1 of this Act, or
    - (ii) a category 2 territory under law of the territory corresponding to Part 2 of this Act;
  - (c) the condition in subsection (2) or the condition in subsection (3) is satisfied.
- (2) The condition is that—
- (a) proceedings against the person for the offence are not begun before the end of the required period, which is 6 months starting with the day on which the person arrives in the United Kingdom on his extradition, and
  - (b) before the end of the period of 3 months starting immediately after the end of the required period the person asks the Secretary of State to return him to the territory from which he was extradited.
- (3) The condition is that—
- (a) at his trial for the offence the person is acquitted or is discharged under any of the provisions specified in subsection (4), and
  - (b) before the end of the period of 3 months starting immediately after the date of his acquittal or discharge the person asks the Secretary of State to return him to the territory from which he was extradited.
- (4) The provisions are—
- (a) section 12(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);
  - (b) section 246(1), (2) or (3) of the Criminal Procedure (Scotland) Act 1995 (c. 46);
  - (c) Article 4(1) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)).
- (5) The Secretary of State must arrange for him to be sent back, free of charge and with as little delay as possible, to the territory from which he was extradited to the United Kingdom in respect of the offence.

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 3. (See end of Document for details)*

- (6) If the accusation in subsection (1)(a) relates to the commission of an offence in Scotland, subsections (2)(b), (3)(b) and (5) apply as if the references to the Secretary of State were references to the Scottish Ministers.

#### Commencement Information

**I16** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

VALID FROM 25/01/2010

#### <sup>F10</sup>153A Undertaking in relation to person serving sentence

- (1) This section applies if—
- (a) a person is accused in the United Kingdom of the commission of an offence or has been convicted of an offence by or before a court in the United Kingdom;
  - (b) a Part 3 warrant is issued in respect of the person or the Secretary of State makes a request for the extradition of the person;
  - (c) the person is serving a sentence of imprisonment or another form of detention in a territory;
  - (d) the person's extradition to the United Kingdom from the territory in pursuance of the warrant or request is made subject to a condition that an undertaking is given by or on behalf of the United Kingdom with regard to the person's treatment in the United Kingdom or return to the territory (or both).
- (2) The Secretary of State may give an undertaking to a person acting on behalf of the territory with regard to either or both of these things—
- (a) the treatment in the United Kingdom of the person in respect of whom the warrant is issued or the request for extradition is made;
  - (b) the return of that person to the territory.
- (3) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person accused in the United Kingdom of the commission of an offence include terms—
- (a) that the person be kept in custody until the conclusion of the proceedings against the person for the offence and any other offence in respect of which the person is permitted to be dealt with in the United Kingdom;
  - (b) that the person be returned to the territory to serve the remainder of the sentence on the conclusion of those proceedings.
- (4) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person who has been convicted of an offence by or before a court in the United Kingdom include terms that the person be returned to the territory to serve the remainder of the sentence after the person would otherwise be released from detention pursuant to the sentence imposed in the United Kingdom (whether or not on licence).

**Status:** Point in time view as at 28/03/2009. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Extradition Act 2003, Part 3. (See end of Document for details)

- (5) If a person is to be returned to a territory by virtue of an undertaking given under subsection (2), the undertaking is sufficient authority for a constable—
- (a) to remove the person from any prison or other institution where the person is detained;
  - (b) to keep the person in custody until returned;
  - (c) to convey the person to the territory.

#### Textual Amendments

**F10** Ss. 153A-153D inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 74\(3\)](#), 116; S.I. [2009/3096](#), [art. 3\(q\)](#)

VALID FROM 25/01/2010

#### 153B Return of person in pursuance of undertaking

- (1) This section applies if—
- (a) an undertaking is given under section 153A(2) as to the return of a person to a territory;
  - (b) the person is returned to the territory in pursuance of the undertaking;
  - (c) the person is returned to the United Kingdom to serve the remainder of any sentence imposed in the United Kingdom or the person otherwise returns to the United Kingdom.
- (2) Time during which the person was outside the United Kingdom as a result of the undertaking given under section 153A(2) does not count as time served by the person as part of the sentence.
- (3) If the person is not entitled to be released from detention pursuant to the sentence—
- (a) the person is liable to be detained in pursuance of the sentence, and
  - (b) if at large, the person must be treated as being unlawfully at large.
- (4) If the person is entitled to be released from detention on licence pursuant to the sentence—
- (a) if the person was released on licence at the time of return to the territory, the licence is suspended until the person's return to the United Kingdom;
  - (b) if the person was not released on licence at that time, subsections (5) to (8) apply in relation to the person (“the offender”).
- (5) The offender is liable to be detained, on return to the United Kingdom, in any place in which the offender could have been detained pursuant to the sentence before the time of return to the territory.
- (6) A constable or immigration officer may—
- (a) take the offender into custody, and
  - (b) convey the offender to the place mentioned in subsection (5).
- (7) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.

*Status: Point in time view as at 28/03/2009. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 3. (See end of Document for details)*

- (8) In calculating a period of 5 days for the purposes of subsection (7) no account is to be taken of any day mentioned in any of paragraphs (a) to (d) of section 59(10).
- (9) The powers conferred on a constable by subsection (6) are exercisable in any part of the United Kingdom.
- (10) For the purposes of this section—
- (a) a person is entitled to be released from detention if there is—
    - (i) a duty to release the person under section 33(1), (1A) or (2) of the Criminal Justice Act 1991,
    - (ii) a duty to release the person under section 244 of the Criminal Justice Act 2003 (other than temporarily on licence pursuant to an intermittent custody order under section 183(1)(b) of the Criminal Justice Act 2003),
    - (iii) a duty to release the person under section 1, 1AA or 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 or section 5, 11(2), 13, 19 or 23 of the Custodial Sentences and Weapons (Scotland) Act 2007, or
    - (iv) a duty to release the person under section 1 of the Northern Ireland (Remission of Sentences) Act 1995, Article 26 of the Criminal Justice (Northern Ireland) Order 1996 or Article 17 or 18(8) of the Criminal Justice (Northern Ireland) Order 2008;
  - (b) an immigration officer is a person who is an immigration officer within the meaning of the Immigration Act 1971.

#### Textual Amendments

**F10** Ss. 153A-153D inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 74(3)**, 116; S.I. 2009/3096, **art. 3(q)**

VALID FROM 25/01/2010

#### **153C Return to extraditing territory to serve sentence**

- (1) This section applies if—
- (a) a person is extradited to the United Kingdom from a territory for the purposes of being prosecuted for an offence;
  - (b) the person's extradition is made subject to a condition that an undertaking is given by or on behalf of the United Kingdom as to the person's return to the territory.
- (2) The Secretary of State may give an undertaking to a person acting on behalf of the territory as to the person's return to the territory.
- (3) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person include terms that if the person is convicted of the offence and a sentence of imprisonment or another form of detention is imposed in respect of it, the person is to be returned to the territory to serve the sentence.

*Status:* Point in time view as at 28/03/2009. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Extradition Act 2003, Part 3. (See end of Document for details)

- (4) A person who is to be returned to a territory by virtue of an undertaking given under subsection (2) must be returned as soon as is reasonably practicable after the sentence is imposed and any other proceedings in respect of the offence are concluded.
- (5) If subsection (4) is complied with the sentence for the offence is treated as served but the person's conviction for the offence must be treated as a conviction for all other purposes.
- (6) The sentence for the offence is treated as served under subsection (5) only in so far as it consists of the sentence of imprisonment or another form of detention mentioned in subsection (3).
- (7) Subsection (8) applies if—
  - (a) subsection (4) is not complied with, and
  - (b) the person applies to the court which imposed the sentence to expedite return to the territory.
- (8) The court must order return by such date as is specified in the order unless reasonable cause is shown for the delay.
- (9) If a person is to be returned by virtue of an undertaking given under subsection (2), a constable may—
  - (a) remove the person from any prison or other institution where the person is detained;
  - (b) keep the person in custody until returned;
  - (c) convey the person to the territory to which the person is to be returned.

#### Textual Amendments

**F10** Ss. 153A-153D inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 74\(3\)](#), 116; S.I. [2009/3096](#), [art. 3\(q\)](#)

VALID FROM 25/01/2010

#### **153D Sections 153A and 153C etc: supplementary**

- (1) Nothing in section 153A or 153C requires the return of a person to a territory in a case in which the Secretary of State is not satisfied that the return is compatible with the Convention rights within the meaning of the Human Rights Act 1998 or with the United Kingdom's obligations under the Refugee Convention.
- (2) References in sections 153A and 153C and subsection (1) above to the Secretary of State are to be read as references to the Scottish Ministers in a case in which—
  - (a) a Part 3 warrant was issued in respect of the person to be returned, and
  - (b) the warrant was issued by a sheriff.
- (3) The reference in subsection (1) to the Refugee Convention is to the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention.]

*Status: Point in time view as at 28/03/2009. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 3. (See end of Document for details)*

#### Textual Amendments

**F10** Ss. 153A-153D inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 74\(3\)](#), 116; [S.I. 2009/3096](#), [art. 3\(q\)](#)

### 154 Restriction on bail where undertaking given by Secretary of State

- (1) This section applies in relation to a person if—
- (a) the Secretary of State has given an undertaking in connection with the person’s extradition to the United Kingdom, and
  - (b) the undertaking includes terms that the person be kept in custody until the conclusion of any proceedings against him in the United Kingdom for an offence.
- (2) A court, judge or justice of the peace may grant bail to the person in the proceedings only if the court, judge or justice of the peace considers that there are exceptional circumstances which justify it.

#### Commencement Information

**I17** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

### 155 Service personnel

The Secretary of State may by order provide for the preceding provisions of this Part to have effect with specified modifications in relation to a case where the person whose extradition is sought or ordered is subject to [<sup>F11</sup>service law.]<sup>F11</sup>.

#### Textual Amendments

**F11** Words in s. 155 substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 378, 383](#), [Sch. 16 para. 204](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions (24.4.2009 for certain purposes otherwise 31.10.2009) in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

#### Commencement Information

**I18** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

### [<sup>F8</sup>155A Category 1 territories not applying framework decision to old cases

- (1) This section applies to a category 1 territory that deals with European extradition requests otherwise than in accordance with the system provided for in the European framework decision if they relate to acts committed before a particular date (“the relevant date”).
- (2) In the case of a territory to which this section applies, the Secretary of State has the same powers to request a person’s extradition in relation to acts committed before the relevant date as he would have in the case of a category 2 territory.



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**Status:** Point in time view as at 28/03/2009. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Extradition Act 2003, Part 3. (See end of Document for details)

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(3) The Secretary of State may by order provide that, in the case of an extradition request which—

- (a) is made to a specified category 1 territory to which this section applies, and
- (b) relates to acts committed before the relevant date,

this Part is to have effect as if that territory were a category 2 territory, and with such modifications as may be specified.

(4) In this section—

“European extradition request” means a request for extradition made by the United Kingdom or a category 1 territory;

“European framework decision” means the framework decision of the Council of the European Union made on 13 June 2002 on the European arrest warrant and the surrender procedures between member states (2002/584/JHA);

“specified”, in relation to an order under this section, means specified in the order.]

**Status:**

Point in time view as at 28/03/2009. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Extradition Act 2003, Part 3.