

Status: Point in time view as at 03/12/2012. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Police and Justice Act 2006, SCHEDULE 13. (See end of Document for details)

SCHEDULES

SCHEDULE 13

Section 42

EXTRADITION

PART 1

AMENDMENTS TO THE EXTRADITION ACT 2003

Requests for extradition of persons unlawfully at large

- 1 (1) In section 2 (Part 1 warrant and certificate), in subsection (5)(a), for “is alleged to be unlawfully at large after conviction” there is substituted “has been convicted”.
- (2) In section 70 (request and certificate for extradition to category 2 territory)—
- (a) in subsection (3), after “subsection (4)” there is inserted “or the statement referred to in subsection (4A)”;
 - (b) for subsection (4) there is substituted—
“ (4) The statement is one that—
 - (a) the person is accused in the category 2 territory of the commission of an offence specified in the request, and
 - (b) the request is made with a view to his arrest and extradition to the category 2 territory for the purpose of being prosecuted for the offence.”
- (4A) The statement is one that—
- (a) the person has been convicted of an offence specified in the request by a court in the category 2 territory, and
 - (b) the request is made with a view to his arrest and extradition to the category 2 territory 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.”
- (3) In section 142 (issue of Part 3 warrant), in subsection (5)(a), for “is alleged to be unlawfully at large after conviction” there is substituted “has been convicted”.

Commencement Information

II Sch. 13 para. 1 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 2 (1) In section 14 (passage of time), for the words from “since” to the end there is substituted “since he is alleged to have—
- (a) committed the extradition offence (where he is accused of its commission), or

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- (b) become unlawfully at large (where he is alleged to have been convicted of it)".

(2) After section 68 there is inserted—

“68A Unlawfully at large

(1) A person is alleged to be unlawfully at large after conviction of an offence if—

- (a) he is alleged to have been convicted of it, and
- (b) his extradition is sought for the purpose of his being sentenced for the offence or of his serving a sentence of imprisonment or another form of detention imposed in respect of the offence.

(2) This section applies for the purposes of this Part, other than sections 14 and 63.”

(3) In section 82 (passage of time), for the words from “since” to the end there is substituted “since he is alleged to have—

- (a) committed the extradition offence (where he is accused of its commission), or
- (b) become unlawfully at large (where he is alleged to have been convicted of it)”.

(4) After section 140 there is inserted—

“140A Unlawfully at large

(1) A person is alleged to be unlawfully at large after conviction of an offence if—

- (a) he is alleged to have been convicted of it, and
- (b) his extradition is sought for the purpose of his being sentenced for the offence or of his serving a sentence of imprisonment or another form of detention imposed in respect of the offence.

(2) This section applies for the purposes of this Part, other than sections 82 and 136.”

(5) In section 143 (undertaking in relation to person serving sentence), in subsection (4), for “alleged to be unlawfully at large after conviction” there is substituted “ who has been convicted ”.

(6) In section 148 (extradition offences), in subsection (3)(a), for “is alleged to be unlawfully at large after conviction” there is substituted “ has been convicted ”.

(7) In section 179 (competing claims to extradition), after subsection (4) there is inserted—

“(5) For the purposes of this section a person is alleged to be unlawfully at large after conviction of an offence if—

- (a) he is alleged to have been convicted of it, and
- (b) his extradition is sought for the purpose of his being sentenced for the offence or of his serving a sentence of imprisonment or another form of detention imposed in respect of the offence.”

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- (8) In section 188 (re-extradition to category 1 territories), in subsection (1)(b)(i), for “was alleged to be unlawfully at large after conviction” there is substituted “ had been convicted ”.
- (9) In section 189 (re-extradition to category 2 territories), in subsection (1)(b), for “was alleged to be unlawfully at large after conviction” there is substituted “ had been convicted ”.

Commencement Information

I2 Sch. 13 para. 2 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Restriction on extradition following transfer from International Criminal Court

- 3 (1) In section 11 (bars to extradition)—
- (a) after paragraph (h) of subsection (1) there is inserted—
- “(i) the person's earlier transfer to the United Kingdom by the International Criminal Court.”;
- (b) in subsection (2), for “Sections 12 to 19” there is substituted “ Sections 12 to 19A ”.
- (2) After section 19 there is inserted—

“19A Earlier transfer to United Kingdom by International Criminal Court

- (1) A person's extradition to a category 1 territory is barred by reason of his earlier transfer by the International Criminal Court if (and only if)—
- (a) the person was transferred to the United Kingdom to serve a sentence imposed by the Court;
- (b) under arrangements between the United Kingdom and the Court, the consent of the Presidency of the Court is required to the person's extradition from the United Kingdom to the category 1 territory in respect of the extradition offence under consideration;
- (c) that consent has not been given.
- (2) Subsection (1) does not apply if the person has served the sentence imposed by the Court and has subsequently—
- (a) remained voluntarily in the United Kingdom for more than 30 days, or
- (b) left the United Kingdom and returned to it.”
- (3) In section 93 (Secretary of State's consideration of case), after paragraph (c) of subsection (2) there is inserted—
- “(d) section 96A (earlier transfer to United Kingdom by International Criminal Court).”
- (4) After section 96 there is inserted—

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“96A Earlier transfer to United Kingdom by International Criminal Court

- (1) The Secretary of State must not order a person's extradition to a category 2 territory if—
 - (a) the person was transferred to the United Kingdom to serve a sentence imposed by the International Criminal Court;
 - (b) under arrangements between the United Kingdom and the Court, the consent of the Presidency of the Court is required to the person's extradition from the United Kingdom to the category 2 territory in respect of the extradition offence under consideration;
 - (c) that consent has not been given.
- (2) Subsection (1) does not apply if the person has served the sentence imposed by the Court and has subsequently—
 - (a) remained voluntarily in the United Kingdom for more than 30 days, or
 - (b) left the United Kingdom and returned to it.”

Commencement Information

I3 Sch. 13 para. 3 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Restriction on extradition in cases where trial in United Kingdom more appropriate

PROSPECTIVE

^{F14}

Textual Amendments

F1 Sch. 13 paras. 4-6 and cross-heading omitted (14.10.2013 for E.W.N.I., 17.9.2021 for S.) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 20 para. 9; S.I. 2013/2349, art. 2(3); S.I. 2021/1018, art. 3

PROSPECTIVE

^{F15}

Textual Amendments

F1 Sch. 13 paras. 4-6 and cross-heading omitted (14.10.2013 for E.W.N.I., 17.9.2021 for S.) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 20 para. 9; S.I. 2013/2349, art. 2(3); S.I. 2021/1018, art. 3

- 6 (1) An order bringing paragraph 4 or 5 into force is not to be made within the period of 12 months beginning with the day on which this Act is passed.

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- (2) If after the end of that period a resolution is made by each House of Parliament that paragraphs 4 and 5 (or either of them) should come into force, the Secretary of State shall make an order under section 53 bringing the paragraphs (or paragraph) into force.
- (3) An order made by virtue of sub-paragraph (2) must bring the provisions in question into force no later than one month after the day on which the resolutions referred to in that sub-paragraph are made or, if they are made on different days, the day on which the later resolution is made.

Remand of person serving sentence in United Kingdom

- 7 In sections 23 and 89 (person serving sentence in United Kingdom), after subsection (2) there is inserted—

- “(3) In a case where an extradition hearing is adjourned under subsection (2)—
- (a) section 131 of the Magistrates' Courts Act 1980 (remand of accused already in custody) has effect as if a reference to 28 clear days in subsection (1) or (2) of that section were a reference to six months;
 - (b) Article 47(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (period of remand in custody) has effect as if a reference to 28 days in—
 - (i) paragraph (a)(iii), or
 - (ii) the words after paragraph (b),were a reference to six months.”

Commencement Information

14 Sch. 13 para. 7 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Remands in connection with appeal proceedings

- 8 (1) In section 29 (court's powers on appeal under section 28), after subsection (6) there is inserted—

“(7) If the court allows the appeal it must remand the person in custody or on bail.

(8) If the court remands the person in custody it may later grant bail.”

- (2) In section 30 (detention pending conclusion of appeal under section 28)—

- (a) for paragraph (b) of subsection (4) there is substituted—

“(b) when the High Court—

(i) allows the appeal, or

(ii) dismisses the appeal,

unless, where the appeal is dismissed, the authority immediately informs the court that it intends to apply for leave to appeal to the House of Lords;”;

- (b) in paragraph (c) of that subsection, at the end there is inserted “, if no appeal to the House of Lords is brought before the end of that period ”;

- (c) in subsection (5)(a), for “if” there is substituted “ unless ”.

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- (3) In section 32 (appeal to House of Lords), for subsection (10) there is substituted—
- “(10) The High Court may grant bail to a person appealing under this section, or applying for leave to appeal under this section, against the dismissal of his appeal under section 26.”
- (4) In section 33 (powers of House of Lords on appeal under section 32), at the end there is inserted—
- “(10) In a case where—
- (a) subsection (5) applies, or
- (b) subsections (7) and (8) apply,
- the House of Lords must remand, in custody or on bail, the person in respect of whom the warrant was issued.
- (11) If the House of Lords remands the person in custody the High Court may later grant bail.”
- (5) After section 33 there is inserted—

“33A Detention pending conclusion of certain appeals under section 32

- (1) This section applies if immediately after the High Court orders the person's discharge the court is informed by the authority which issued the Part 1 warrant that it intends to appeal under section 32.
- (2) The court must remand the person in custody or on bail while the appeal under section 32 is pending.
- (3) If the court remands the person in custody it may later grant bail.
- (4) An appeal under section 32 ceases to be pending at the earliest of these times—
- (a) when the proceedings on the appeal are discontinued;
- (b) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the House of Lords against the decision of the High Court on the appeal under section 26 is granted, if no appeal to the House of Lords is brought before the end of that period;
- (c) when there is no further step that can be taken by the authority which issued the Part 1 warrant in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).
- (5) The preceding provisions of this section do not apply to Scotland.”
- (6) In section 104 (court's powers on appeal under section 103), after subsection (7) there is inserted—
- “(8) If the court makes a direction under subsection (1)(b) it must remand the person in custody or on bail.
- (9) If the court remands the person in custody it may later grant bail.”
- (7) In section 106 (court's powers on appeal under section 105), after subsection (8) there is inserted—

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- “(9) If the court—
- (a) allows the appeal, or
 - (b) makes a direction under subsection (1)(b),
- it must remand the person in custody or on bail.
- (10) If the court remands the person in custody it may later grant bail.”
- (8) In section 107 (detention pending conclusion of appeal under section 105)—
- (a) for paragraph (b) of subsection (4) there is substituted—
 - “(b) when the High Court—
 - (i) allows the appeal,
 - (ii) makes a direction under section 106(1)(b), or
 - (iii) dismisses the appeal,unless, where the appeal is dismissed, the court is immediately informed on behalf of the category 2 territory of an intention to apply for leave to appeal to the House of Lords;”;
 - (b) in paragraph (c) of that subsection, at the end there is inserted “, if no appeal to the House of Lords is brought before the end of that period ”;
 - (c) in subsection (5)(a), for “if” there is substituted “ unless ”.
- (9) In section 111 (court's powers on appeal under section 110), after subsection (5) there is inserted—
- “(6) If the court allows the appeal it must remand the person in custody or on bail.
 - (7) If the court remands the person in custody it may later grant bail.”
- (10) For section 112 there is substituted—

“112 Detention pending conclusion of appeal under section 110

- (1) This section applies in a case where the Secretary of State orders the person's discharge under this Part.
- (2) Subject to subsection (3)—
 - (a) the order made by the appropriate judge under section 92(4) (“the remand order”) remains in force until the end of the period of three days beginning with the day on which the person's discharge is ordered;
 - (b) if within that period the Secretary of State is informed in writing on behalf of the category 2 territory of an intention to appeal under section 110, the remand order remains in force while the appeal is pending.
- (3) If the person is remanded in custody under section 92(4), the appropriate judge may grant bail.
- (4) An appeal under section 110 ceases to be pending at the earliest of these times—
 - (a) when the proceedings on the appeal are discontinued;
 - (b) when the High Court—

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- (i) allows the appeal, or
 - (ii) dismisses the appeal,

unless, where the appeal is dismissed, the court is immediately informed on behalf of the category 2 territory of an intention to apply for leave to appeal to the House of Lords;
 - (c) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the House of Lords against the decision of the High Court on the appeal is granted, if no appeal to the House of Lords is brought before the end of that period;
 - (d) when there is no further step that can be taken on behalf of the category 2 territory in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).
- (5) The preceding provisions of this section apply to Scotland with these modifications—
- (a) in subsection (4)(b) omit the words from “unless” to the end;
 - (b) omit subsection (4)(c).”
- (11) In section 114 (appeal to House of Lords), for subsection (10) there is substituted—
- “(10) The High Court may grant bail to a person appealing under this section, or applying for leave to appeal under this section, against the dismissal of his appeal under section 103 or 108.”
- (12) In section 115 (powers of House of Lords on appeal under section 114), after subsection (8) there is inserted—
- “(9) In a case where subsection (5) or (7) applies, the House of Lords must remand, in custody or on bail, the person whose extradition is requested.
- (10) If the House of Lords remands the person in custody the High Court may later grant bail.”
- (13) After section 115 there is inserted—

“115A Detention pending conclusion of certain appeals under section 114

- (1) This section applies if—
 - (a) on an appeal under section 103 or 108 the High Court orders the person's discharge;
 - (b) immediately after it does so, the court is informed on behalf of the category 2 territory of an intention to appeal under section 114.
- (2) The court must remand the person in custody or on bail while the appeal is pending.
- (3) If the court remands the person in custody it may later grant bail.
- (4) An appeal under section 114 ceases to be pending at the earliest of these times—
 - (a) when the proceedings on the appeal are discontinued;
 - (b) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the House of Lords against the decision of the High Court on the appeal under section 103 or 108

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is granted, if no appeal to the House of Lords is brought before the end of that period;

- (c) when there is no further step that can be taken on behalf of the category 2 territory in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).

(5) The preceding provisions of this section do not apply to Scotland.”

Commencement Information

I5 Sch. 13 para. 8 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Time for extradition

- 9 (1) In section 35 (extradition where no appeal), in paragraph (a) of subsection (4) (period within which person must be extradited), for “the day on which the judge makes the order” there is substituted “ the first day after the period permitted under section 26 for giving notice of appeal against the judge's order ”.
- (2) In section 37 (undertaking in relation to person serving sentence in United Kingdom), after paragraph (b) of subsection (8) there is inserted— “ Paragraph (a) applies only if the day mentioned in that paragraph is later than the day mentioned in section 35(4) (a). ”
- (3) In section 38 (extradition following deferral for competing claim), at the end of subsection (3) there is inserted— “ This subsection applies only if the day on which the order is made is later than the day mentioned in section 35(4)(a). ”

Commencement Information

I6 Sch. 13 para. 9 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Extradition of person serving sentence in United Kingdom

- 10 (1) Section 37 (undertaking in relation to person serving sentence in United Kingdom) is amended as follows.
- (2) In subsection (1), at the end of paragraph (b) there is inserted “, either—
- (i) in custody, or
- (ii) on licence”.
- (3) In subsection (4), after “in relation to a person” there is inserted “ within subsection (1)(b)(i) who is ”.
- (4) After that subsection there is inserted—
- “(4A) The terms which may be specified by the judge in relation to a person within subsection (1)(b)(ii) who is accused in a category 1 territory of the commission of an offence include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for—
- (a) the offence, and

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- (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.”

Commencement Information

I7 Sch. 13 para. 10 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 11 (1) Section 52 (undertaking in relation to person serving sentence in consent cases) is amended as follows.
- (2) In subsection (1), at the end of paragraph (b) there is inserted “, either—
- (i) in custody, or
- (ii) on licence”.
- (3) In subsection (3), after “in relation to a person” there is inserted “ within subsection (1)(b)(i) who is ”.
- (4) After that subsection there is inserted—
- “(3A) The terms which may be specified by the judge in relation to a person within subsection (1)(b)(ii) who is accused in a category 1 territory of the commission of an offence include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for—
- (a) the offence, and
- (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.”

Commencement Information

I8 Sch. 13 para. 11 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 12 In section 59 (return of person to serve remainder of sentence), after paragraph (b) of subsection (1) there is inserted—
- “(c) the person is not yet entitled to be released from detention pursuant to his sentence (whether on licence or otherwise).”

Commencement Information

I9 Sch. 13 para. 12 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 13 (1) Section 119 (undertaking in relation to person serving sentence in United Kingdom) is amended as follows.
- (2) In subsection (1), at the end of paragraph (b) there is inserted “, either—
- (i) in custody, or
- (ii) on licence”.
- (3) In subsection (3), after “in relation to a person” there is inserted “ within subsection (1)(b)(i) who is ”.
- (4) After that subsection there is inserted—

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“(3A) The terms which may be specified by the Secretary of State in relation to a person within subsection (1)(b)(ii) who is accused in a category 2 territory of the commission of an offence include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 2 territory for—

- (a) the offence, and
- (b) any other offence in respect of which he is permitted to be dealt with in the category 2 territory.”

Commencement Information

I10 Sch. 13 para. 13 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

14 In section 132 (return of person to serve remainder of sentence), after paragraph (b) of subsection (1) there is inserted—

“(c) the person is not yet entitled to be released from detention pursuant to his sentence (whether on licence or otherwise).”

Commencement Information

I11 Sch. 13 para. 14 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

“The appropriate judge”

15 (1) In sections 67 and 139 (the appropriate judge), after subsection (3) there is inserted—

“(3A) The use of the expression “the judge” in a section containing a previous reference to “the appropriate judge” or “the judge” does not in itself require both references to be read as referring to the same individual.”

(2) In section 187 (re-extradition hearing), for subsection (10) there is substituted—

“(10) Section 139 applies for the purposes of this section as it applies for the purposes of Part 2.”

Commencement Information

I12 Sch. 13 para. 15 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

16 (1) In the provisions listed in sub-paragraph (2), for “If the judge remands the person in custody he may” there is substituted “ If the person is remanded in custody, the appropriate judge may ”.

(2) The provisions are—

- section 7(10);
- section 8(2);
- section 9(5);
- section 21(5);
- section 24(3);
- section 30(3);

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section 44(6);
 section 46(3);
 section 50(3);
 section 51(5);
 section 72(9);
 section 74(9);
 section 77(5);
 section 90(5);
 section 92(5);
 section 107(3);
 section 112(3);
 paragraph 15 of Schedule 1 (in the inserted subsection (5));
 paragraph 33 of Schedule 1 (in the inserted subsection (1B));
 paragraph 36 of Schedule 1 (in subsection (6) of the inserted section 128B).

Commencement Information

I13 Sch. 13 para. 16 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Extradition to category 2 territories: requests and certificates

- 17 (1) Section 70 (extradition request and certificate) is amended as follows.
- (2) In subsection (1)—
- (a) after “must” there is inserted “ (subject to subsection (2)) ”;
 - (b) for the words after “extradition” there is substituted “ of a person to a category 2 territory ”.
- (3) For subsection (2) there is substituted—
- “(2) The Secretary of State may refuse to issue a certificate under this section if—
- (a) he has power under section 126 to order that proceedings on the request be deferred,
 - (b) the person whose extradition is requested has been recorded by the Secretary of State as a refugee within the meaning of the Refugee Convention, or
 - (c) the person whose extradition is requested has been granted leave to enter or remain in the United Kingdom on the ground that it would be a breach of Article 2 or 3 of the Human Rights Convention to remove him to the territory to which extradition is requested.
- (2A) In subsection (2)—
- “Refugee Convention” has the meaning given by section 167(1) of the Immigration and Asylum Act 1999;
- “Human Rights Convention” has the meaning given to “the Convention” by section 21(1) of the Human Rights Act 1998.”
- (4) In subsection (8)—
- (a) the words after “must” become paragraph (a) of that subsection;
 - (b) at the end of that paragraph there is inserted “, and

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(b) identify the order by which the territory in question is designated as a category 2 territory.”

(5) In subsection (9), for the words after “send” there is substituted “ the request and the certificate to the appropriate judge ”.

Commencement Information

I14 Sch. 13 para. 17 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Time for representations and consideration of case under Part 2

18 (1) Section 93 (Secretary of State's consideration of case) is amended as follows.

(2) In subsection (6) (length of permitted period for representations), for “6 weeks” there is substituted “ 4 weeks ”.

(3) After that subsection there is inserted—

“(7) In the case of a person who has consented under section 127 to his extradition, the Secretary of State is not required—

- (a) to wait until the end of the permitted period before ordering the person's extradition, or
- (b) to consider any representations received after the order is made.”

Commencement Information

I15 Sch. 13 para. 18 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Applications for discharge or for extension of time limit

19 (1) Section 99 (time limit for order for extradition or discharge) is amended as follows.

(2) In subsection (2)—

- (a) for “the High Court” there is substituted “ the appropriate judge ”;
- (b) for “the court” there is substituted “ the judge ”.

(3) In subsection (4)—

- (a) for “applies to the High Court” there is substituted “ applies to the appropriate judge ”;
- (b) for “the High Court may” there is substituted “ the judge may ”.

Commencement Information

I16 Sch. 13 para. 19 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Scotland: references to Secretary of State

20 In section 141 (Scotland: references to Secretary of State), in subsection (2), after “Secretary of State” there is inserted “ in paragraph (b) of section 70(2), in paragraph (c) of section 93(4) and ”.

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Commencement Information

I17 Sch. 13 para. 20 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Issue of Part 3 warrant: persons unlawfully at large who may be arrested without domestic warrant

- 21 (1) In section 142 (issue of Part 3 warrant), in subsection (1)(b), after “subsection (2)” there is inserted “, or the condition in subsection (2A),”.
- (2) For subsection (2) of that section there is substituted—
- “(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—
- (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.”

Commencement Information

I18 Sch. 13 para. 21 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Issue of Part 3 warrant: domestic warrant issued at common law by judge in Northern Ireland

- 22 For subsection (8) of section 142 there is substituted—
- “(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;
 - (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.”

Commencement Information

I19 Sch. 13 para. 22 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Status: Point in time view as at 03/12/2012. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Police and Justice Act 2006, SCHEDULE 13. (See end of Document for details)

Dealing with person for pre-extradition offences following extradition to UK

- 23 In section 146(3)(c) (consent of category 1 territory to person being dealt with for other offence), after “given on behalf of the territory” there is inserted “ in response to a request made by the appropriate judge ”.

Commencement Information

I20 Sch. 13 para. 23 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Extradition requests to territories not applying European framework decision to old cases

- 24 After section 155 there is inserted—

“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.
- (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.”

Commencement Information

I21 Sch. 13 para. 24 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Extradition of serving prisoner

- 25 After section 197 there is inserted—

Status: Point in time view as at 03/12/2012. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Police and Justice Act 2006, SCHEDULE 13. (See end of Document for details)

“197A Extradition of serving prisoner

If an order is made under Part 1 or 2 for the extradition of a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom, the order is sufficient authority for the person to be removed from the prison or other institution where he is detained.”

Commencement Information

I22 Sch. 13 para. 25 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Authentication of receivable documents

- 26 In section 202 (receivable documents), in subsection (4) (persons who may authenticate documents)—
- (a) in paragraph (a), for “other judicial authority” there is substituted “ officer ”;
 - (b) after that paragraph there is inserted—
 - “(aa) it purports to be certified, whether by seal or otherwise, by the Ministry or Department of the territory responsible for justice or for foreign affairs;”.

Commencement Information

I23 Sch. 13 para. 26 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

PART 2

AMENDMENTS TO OTHER ACTS

Powers of High Court in relation to bail decisions by magistrates' court etc

- 27 (1) Section 22 of the Criminal Justice Act 1967 (c. 80) (power of High Court to grant, or vary conditions of, bail) is amended as follows.
- (2) After subsection (1) (application to grant bail etc where case stated to High Court) there is inserted—
- “(1A) Where a magistrates' court withholds bail in extradition proceedings or imposes conditions in granting bail in extradition proceedings, the High Court may grant bail or vary the conditions.”
- (3) In subsection (4) (which defines certain terms used in section 22), after “ “bail in criminal proceedings”” there is inserted “ , “extradition proceedings” .

Commencement Information

I24 Sch. 13 para. 27 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Status: Point in time view as at 03/12/2012. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Police and Justice Act 2006, SCHEDULE 13. (See end of Document for details)

- 28 In section 1(1A) of the Bail (Amendment) Act 1993 (c. 26) (right of prosecution to appeal to Crown Court against granting of bail in extradition proceedings), for “a judge of the Crown Court” there is substituted “ the High Court ”.

Commencement Information

I25 Sch. 13 para. 28 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 29 (1) Section 10 of the Justice (Northern Ireland) Act 2004 (c. 4) (prosecution right of appeal against grant of bail by magistrates' court) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(1A) Where a magistrates' court grants bail to a person in connection with extradition proceedings, the prosecution may appeal to the High Court against the granting of bail.”
- (3) In subsection (3), after “subsection (1)” there is inserted “ or (1A) ”.
- (4) In subsection (4)—
- (a) after “subsection (1)” there is inserted “ or (1A) ”;
- (b) for “the magistrates' court” there is substituted “ the court which has granted bail ”.
- (5) In subsections (5) and (6), for “the magistrates' court” there is substituted “ the court which has granted bail ”.
- (6) In subsection (8)—
- (a) after “subsection (1)” there is inserted “ or (1A) ”;
- (b) “magistrates” is omitted.
- (7) After subsection (11) there is inserted—
- “(12) In this section—
- “extradition proceedings” means proceedings under the Extradition Act 2003;
- “magistrates' court” and “court”, in relation to extradition proceedings, mean a resident magistrate designated in accordance with section 67 or section 139 of the Extradition Act 2003;
- “prosecution”, in relation to extradition proceedings, means the person acting on behalf of the territory to which extradition is sought.”

Commencement Information

I26 Sch. 13 para. 29 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 30 After section 10 of the Justice (Northern Ireland) Act 2004 there is inserted—

“10A Prosecution right of appeal against grant of bail by county court judge in extradition proceedings

- (1) Section 10 applies to the granting of bail by a county court judge in extradition proceedings as it applies to the granting of bail by a magistrates'

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Changes to legislation: There are currently no known outstanding effects for the Police and Justice Act 2006, SCHEDULE 13. (See end of Document for details)

court in such proceedings; and references in that section to a magistrates' court shall be construed accordingly.

(2) In this section “extradition proceedings” has the same meaning as in section 10.”

Commencement Information

I27 Sch. 13 para. 30 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Credit against sentence for periods of remand in custody of persons extradited to UK

31 In section 243 of the Criminal Justice Act 2003 (c. 44) (persons extradited to the United Kingdom), in subsection (1), after “imposed” there is inserted “ or he received that sentence ”.

Commencement Information

I28 Sch. 13 para. 31 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

32 In section 101 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (detention and training orders: term of order, taking account of remands, etc), after subsection (12) there is inserted—

“(12A) Section 243 of the Criminal Justice Act 2003 (persons extradited to the United Kingdom) applies in relation to a person sentenced to a detention and training order as it applies in relation to a fixed-term prisoner, with the reference in subsection (2) of that section to section 240 being read as a reference to subsection (8) above.”

Commencement Information

I29 Sch. 13 para. 32 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

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Textual Amendments

F2 Sch. 13 para. 33 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 19](#); S.I. 2012/2906, art. 2(n)

Amendments consequential on amendments in Part 1

34 In section 4(2B) of the Bail Act 1976 (c. 63) (no right to bail in certain extradition proceedings), for “to be unlawfully at large after conviction” there is substituted “ to have been convicted ”.

Commencement Information

I30 Sch. 13 para. 34 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Status: Point in time view as at 03/12/2012. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Police and Justice Act 2006, SCHEDULE 13. (See end of Document for details)

- 35 In paragraph 81(4) of Schedule 9 to the Constitutional Reform Act 2005 (c. 4) (amendments substituting “Supreme Court” for “House of Lords” in provisions of the Extradition Act 2003)—
- (a) after paragraph (b) there is inserted—
 - “(ba) section 33A (detention pending conclusion of certain appeals under section 32);”;
 - (b) after paragraph (i) there is inserted—
 - “(ia) section 115A (detention pending conclusion of certain appeals under section 114);”.

Commencement Information

I31 Sch. 13 para. 35 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

Status:

Point in time view as at 03/12/2012. This version of this schedule contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Police and Justice Act 2006, SCHEDULE 13.