



# Policing and Crime Act 2009

## 2009 CHAPTER 26

### PART 6

#### EXTRADITION

##### *Ancillary matters*

#### 77 Provisional arrest

- (1) Section 6 of the Extradition Act 2003 (c. 41) (requirements in relation to person subject to provisional arrest) is amended as follows.
- (2) For subsections (2) and (3) substitute—
  - “(2) The person must be brought before the appropriate judge within 48 hours starting with the time when the person is arrested.
  - (2A) The documents specified in subsection (4) must be produced to the judge within 48 hours starting with the time when the person is arrested but this is subject to any extension under subsection (3B).
  - (2B) Subsection (3) applies if—
    - (a) the person has been brought before the judge in compliance with subsection (2); but
    - (b) documents have not been produced to the judge in compliance with subsection (2A).
  - (3) The person must be brought before the judge when the documents are produced to the judge.
  - (3A) While the person is before the judge in pursuance of subsection (2), the authority of the category 1 territory may apply to the judge for an extension of the 48 hour period mentioned in subsection (2A) by a further 48 hours.
  - (3B) The judge may grant an extension if the judge decides that subsection (2A) could not reasonably be complied with within the initial 48 hour period.

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*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Cross Heading: Ancillary matters. (See end of Document for details)*

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(3C) The judge must decide whether that subsection could reasonably be so complied with on a balance of probabilities.

(3D) Notice of an application under subsection (3A) must be given in accordance with rules of court.”

(3) After subsection (5) insert—

“(5A) Subsection (5B) applies if—

- (a) the person is before the judge in pursuance of subsection (2); and
- (b) the documents specified in subsection (4) have not been produced to the judge.

(5B) The judge must remand the person in custody or on bail (subject to subsection (6)).”

(4) In subsection (6) after “subsection (2)” insert “, (2A) or (3) ”.

(5) After subsection (8) insert—

“(8A) In calculating a period of 48 hours for the purposes of this section no account is to be taken of—

- (a) any Saturday or Sunday;
- (b) Christmas Day;
- (c) Good Friday; or
- (d) any day falling within subsection (8B).

(8B) The following days fall within this subsection—

- (a) in Scotland, any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in the court of the appropriate judge;
- (b) in any part of the United Kingdom, any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in that part of the United Kingdom.”

(6) In section 7(1)(b) of the Extradition Act 2003 (c. 41) (application of provisions for verifying the identity of the person arrested) for “is arrested under section 5 and section 6(2)” substitute “ arrested under section 5 is brought before the appropriate judge under section 6 and section 6(2A) ”.

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**Commencement Information**

**II** S. 77 in force at 25.1.2010 by S.I. 2009/3096, art. 3(t) (with art. 4(3))

**78 Use of live link in extradition proceedings**

After section 206 of the Extradition Act 2003 insert—

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*Changes to legislation:* There are currently no known outstanding effects for the Policing and Crime Act 2009, Cross Heading: Ancillary matters. (See end of Document for details)

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### *“Live links*

#### **206A Use of live links at certain hearings**

- (1) This section applies in relation to—
  - (a) a hearing before the appropriate judge in proceedings under Part 1, other than—
    - (i) an extradition hearing within the meaning of that Part;
    - (ii) a hearing under section 54 or 56, and
  - (b) a hearing before the appropriate judge in proceedings under Part 2, other than an extradition hearing within the meaning of that Part.
- (2) If satisfied that the person affected by an extradition claim is likely to be in custody during the hearing, the appropriate judge may give a live link direction at any time before the hearing.
- (3) A live link direction is a direction that, if the person is being held in custody at the time of the hearing, any attendance at the hearing is to be through a live link from the place at which the person is held.
- (4) Such a direction—
  - (a) may be given on the appropriate judge's own motion or on the application of a party to the proceedings, and
  - (b) may be given in relation to all subsequent hearings to which this section applies, or to such hearing or hearings to which this section applies as may be specified or described in the direction.
- (5) The appropriate judge may give such a direction only if satisfied that it is not contrary to the interests of justice to give the direction.
- (6) A person affected by an extradition claim is to be treated as present in court when, by virtue of a live link direction, the person attends a hearing through a live link.

#### **206B Live links: supplementary**

- (1) The appropriate judge may rescind a live link direction at any time before or during a hearing to which it relates.
- (2) The appropriate judge must not give a live link direction or rescind such a direction unless the parties to the proceedings have been given the opportunity to make representations.
- (3) If a hearing takes place in relation to the giving or rescinding of a live link direction, the appropriate judge may require or permit any party to the proceedings who wishes to make representations to do so through a live link.
- (4) If in a case where an appropriate judge has power to give a live link direction but decides not to do so, the appropriate judge must—
  - (a) state in open court the reasons for not doing so, and
  - (b) cause those reasons to be entered in the register of proceedings.
- (5) Subsection (7) applies if—

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- (a) an application for a live link direction is made under section 206A(4) in relation to a qualifying hearing but the application is refused, or
  - (b) a live link direction is given in relation to a qualifying hearing but the direction is rescinded before the hearing takes place.
- (6) A hearing is a qualifying hearing—
- (a) in relation to proceedings under Part 1, if it is a hearing by virtue of which section 4(3) would be complied with;
  - (b) in relation to proceedings under Part 2, if it is a hearing by virtue of which section 72(3) or 74(3) would be complied with.
- (7) The requirement in section 4(3), 72(3) or 74(3) (as the case requires) to bring the person as soon as practicable before the appropriate judge is to be read as a requirement to bring the person before that judge as soon as practicable after the application is refused or the direction is rescinded.

### **206C Live links: interpretation**

- (1) This section applies for the purposes of section 206A and subsections (2) and (3) also apply for the purposes of section 206B.
- (2) In relation to proceedings under Part 1, section 67 applies for determining the appropriate judge.
- (3) In relation to proceedings under Part 2, section 139 applies for determining the appropriate judge.
- (4) A person is affected by an extradition claim if—
  - (a) a Part 1 warrant is issued in respect of the person;
  - (b) the person is arrested under section 5;
  - (c) a request for the person's extradition is made; or
  - (d) a warrant under section 73 is issued in respect of the person.
- (5) References to being in custody include—
  - (a) in England and Wales, references to being in police detention within the meaning of the Police and Criminal Evidence Act 1984;
  - (b) in Northern Ireland, references to being in police detention within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989;
  - (c) in Scotland, references to detention under section 14 of the Criminal Procedure (Scotland) Act 1995.
- (6) “Live link” means an arrangement by which a person, while absent from the place where the hearing is being held, is able—
  - (a) to see and hear the appropriate judge, and other persons,
  - (b) to be seen and heard by the judge, other persons,
 and for this purpose any impairment of eyesight or hearing is to be disregarded.”

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#### **Commencement Information**

**I2** S. 78 in force at 25.1.2010 by S.I. 2009/3096, art. 3(u)

**Changes to legislation:**

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