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STATUTORY INSTRUMENTS

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**2003 No. 3150**

**EXTRADITION**

**The Extradition Act 2003 (Multiple Offences) Order 2003**

*Made* - - - - *4th December 2003*  
*Laid before Parliament* *11th December 2003*  
*Coming into force* - - *1st January 2004*

The Secretary of State, in exercise of the powers conferred on him by sections 207 and 223(3) of the Extradition Act 2003<sup>(1)</sup>, hereby makes the following Order:

1. This Order may be cited as the Extradition Act 2003 (Multiple Offences) Order 2003 and shall come into force on 1st January 2004.

2.—(1) In this Order “the Act” means the Extradition Act 2003.

(2) The Act is to have effect with the modifications specified in the Schedule to this Order in relation to a case where—

- (a) a Part 1 warrant is issued for more than one offence;
- (b) a request for extradition is made in respect of more than one offence.

Home Office  
4th December 2003

*Caroline Flint*  
Parliamentary Under-Secretary of State

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## SCHEDULE

Article 2(2)

### MODIFICATIONS TO THE ACT

#### **General modification**

1.—(1) Unless the context otherwise requires, any reference in the Act to an offence (including a reference to an extradition offence) is to be construed as a reference to offences (or extradition offences).

- (2) Sub-paragraph (1) does not apply to any reference to an offence—
- (a) in a modification made by this Schedule; or
  - (b) in a provision of the Act which is relevant to such a modification.

#### **Initial stage of extradition hearing**

2.—(1) Section 10 is modified as follows.

(2) In subsection (2) for “the offence” substitute “any of the offences”.

(3) For subsection (3) substitute—

“(3) If the judge decides the question in subsection (2) in the negative in relation to an offence, he must order the person’s discharge in relation to that offence only.”.

(4) For subsection (4) substitute—

“(4) If the judge decides that question in the affirmative in relation to one or more offences he must proceed under section 11.”.

#### **Bars to extradition**

3.—(1) Section 11 is modified as follows.

(2) For subsection (3) substitute—

“(3) If the judge decides any of the questions in subsection (1) in the affirmative in relation to an offence, he must order the person’s discharge in relation to that offence only.”.

(3) For subsection (4) substitute—

“(4) If the judge decides those questions in the negative in relation to an offence and the person is alleged to be unlawfully at large after conviction of the extradition offence, the judge must proceed under section 20.”.

(4) For subsection (5) substitute—

“(5) If the judge decides those questions in the negative in relation to an offence and the person is accused of the commission of the extradition offence but is not alleged to be unlawfully at large after conviction of it, the judge must proceed under section 21.”.

#### **Case where person has been convicted**

4.—(1) Section 20 is modified as follows.

(2) In subsection (1) after “decide” insert “in relation to each offence”.

(3) In subsection (2) after “section 21” insert “in relation to the offence in question”.

(4) In subsection (3) after “decide” insert “in relation to each offence”.

(5) In subsection (4) after “section 21” insert “in relation to the offence in question”.

## **Human rights**

- 5.—(1) Section 21 is modified as follows.
- (2) In subsection (1) after “decide” insert “in relation to each offence”.
- (3) In subsection (2) after “discharge” insert “in relation to the offence in question”.
- (4) In subsection (3) after “extradited” insert “for the offence in question”.

## **Appeal against extradition order**

- 6.—(1) Section 26 is modified as follows.
- (2) In subsection (1) after “extradition” insert “in relation to an offence”.

## **Court’s powers on appeal under section 26**

- 7.—(1) Section 27 is modified as follows.
- (2) In subsection (5) after “it must” insert “in relation to the relevant offence only”.

## **Appeal against discharge at extradition hearing**

- 8.—(1) Section 28 is modified as follows.
- (2) In subsection (1) after “discharge” insert “in relation to an offence”.

## **Court’s powers on appeal under section 28**

- 9.—(1) Section 29 is modified as follows.
- (2) In subsection (5) after “it must” insert “in relation to the relevant offence only”.

## **Detention pending conclusion of appeal under section 28**

- 10.—(1) Section 30 is modified as follows.
- (2) In subsection (1) after “discharge” insert “in relation to an offence”.

## **Appeal to House of Lords**

- 11.—(1) Section 32 is modified as follows.
- (2) In subsection (1) after “appeal” insert “in relation to each offence”.

## **Powers of House of Lords on appeal under section 32**

- 12.—(1) Section 33 is modified as follows.
- (2) In subsection (3) after “must” insert “in relation to the relevant offence only”.
- (3) In subsection (5) after “must” insert “in relation to the relevant offence only”.
- (4) In subsection (7) after “must” insert “in relation to the relevant offence only”.
- (5) In subsection (8) after “must” insert “in relation to the relevant offence only”.

## **Extradition where no appeal**

- 13.—(1) Section 35 is modified as follows.
- (2) In subsection (1)(a) after “extradition” insert “in relation to an offence”.
- (3) In subsection (4)(b) after the second “date” insert

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“, or

- (c) if proceedings are continuing in relation to other offences contained in the same Part 1 warrant, 10 days starting with the day on which the judge, the High Court or the House of Lords make the final order in relation to the last of the offences in respect of which the same Part 1 warrant was issued.”.

#### **Extradition following an appeal**

14.—(1) Section 36 is modified as follows.

- (2) In subsection (1)(a) after “territory” insert “in relation to an offence”.
- (3) In subsection (1)(b) after “there” insert “in relation to that offence”.
- (4) In subsection (3)(a)—
  - (a) for “the decision of the relevant court on the appeal becomes” substitute “all decisions of the relevant court on any appeal in relation to any offence in respect of which the same Part 1 warrant was issued become”;
  - (b) for “the appeal are discontinued” insert “any appeal in relation to any offence in respect of which the same Part 1 warrant was issued are discontinued”.

#### **Withdrawal of warrant before extradition**

15.—(1) Section 41 is modified as follows.

- (2) In subsection (1) for the words from “a Part 1 warrant” to the end substitute “they do not wish to proceed with their request for extradition in relation to an offence in respect of which the Part 1 warrant was issued”.
- (3) In subsection (3) after “discharge” insert “in relation to that offence”.

#### **Withdrawal of warrant while appeal to High Court pending**

16.—(1) Section 42 is modified as follows.

- (2) In subsection (1) for the words from “a Part 1 warrant” to the end substitute “they do not wish to proceed with their request for extradition in relation to an offence in respect of which the Part 1 warrant was issued”.
- (3) In subsection (3)(a) after “extradition” insert “in relation to that offence”.
- (4) In subsection (3)(b) after “appeal” insert “in relation to that offence”.

#### **Withdrawal of warrant while appeal to House of Lords pending**

17.—(1) Section 43 is modified as follows.

- (2) In subsection (1) for the words from “a Part 1 warrant” to the end substitute “they do not wish to proceed with their request for extradition in relation to an offence in respect of which the Part 1 warrant was issued”.
- (3) In subsection (3)(a) after “discharge” insert “in relation to that offence”.
- (4) In subsection (3)(b) after “extradition” insert “in relation to that offence”.
- (5) In subsection (4) after “appeal” insert “in relation to that offence”.

#### **Consent to extradition**

18.—(1) Section 45 is modified as follows.

(2) In subsection (1) after “issued” insert “in relation to any offence contained in the Part 1 warrant”.

(3) In subsection (2) after the second “section” insert “in relation to any offence contained in the Part 1 warrant”.

(4) In subsection (3) after “section” insert “to every offence contained in the Part 1 warrant”.

#### **Extradition to category 1 territory following consent**

**19.**—(1) Section 47 is modified as follows.

(2) In subsection (3)(b) after the second “date” insert

“, or

(c) if proceedings are continuing in relation to other offences contained in the same Part 1 warrant, 10 days starting with the day on which the judge, the High Court or the House of Lords make the final order in relation to the last of the offences in respect of which the same Part 1 warrant was issued.”.

(3) In subsection (5) for the words from “the Part 1 warrant” to the end substitute “they do not wish to proceed with their request for extradition in relation to an offence in respect of which the Part 1 warrant was issued”.

(4) In subsection (5)(b) after “discharge” insert “in relation to that offence”.

#### **Other warrant issued: extradition to category 1 territory**

**20.**—(1) Section 49 is modified as follows.

(2) In subsection (3)(b) after “date” insert

“, or

(c) if proceedings are continuing in relation to other offences contained in the same Part 1 warrant, 10 days starting with the day on which the judge, the High Court or the House of Lords make the final order in relation to the last of the offences in respect of which the same Part 1 warrant was issued.”.

(3) In subsection (5) for the words from “the Part 1 warrant” to the end substitute “they do not wish to proceed with their request for extradition in relation to an offence in respect of which the Part 1 warrant was issued”.

(4) In subsection (5)(b) after “discharge” insert “in relation to that offence”.

#### **Arrest warrant following extradition request**

**21.**—(1) Section 71 is modified as follows.

(2) For subsection (2)(a) substitute “any of the offences in respect of which extradition is requested are extradition offences”.

(3) In subsection (2)(b) after “evidence” insert “in relation to that offence”.

#### **Provisional warrant**

**22.**—(1) Section 73 is modified as follows.

(2) For subsection (3)(a) substitute—

“(a) any of the offences in respect of which extradition is requested are extradition offences.”.

(3) In subsection (3)(b) after “evidence” insert “in relation to that offence”.

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### **Initial stages of extradition hearing**

**23.**—(1) Section 78 is modified as follows.

(2) In subsection (2) after “(or include)” insert “in relation to each offence”.

(3) In subsection (3) after “discharge” insert “in relation to the relevant offence only”.

(4) In subsection (4)(b) for “the offence” substitute “each offence”.

(5) In subsection (6) after “discharge” insert “in relation to that offence”.

(6) For subsection (7) substitute—

“(7) If the judge decides those questions in the affirmative in relation to one or more offences he must proceed under section 79.”.

### **Bars to extradition**

**24.**—(1) Section 79 is modified as follows.

(2) For subsection (3) substitute—

“(3) If the judge decides any of the questions in subsection (1) in the affirmative in relation to any offence, he must order the person’s discharge in relation to that offence only.”.

(3) For subsection (4) substitute—

“(4) If the judge decides those questions in the negative in relation to any offence and the person is accused of the commission of the extradition offences but is not alleged to be unlawfully at large after conviction of it, the judge must proceed under section 84 in relation to that offence.”.

(4) For subsection (5) substitute—

“(5) If the judge decides any of those questions in the negative in relation to any offence and the person is alleged to be unlawfully at large after conviction of it, the judge must proceed under section 85 in relation to that offence.”.

### **Case where person has not been convicted**

**25.**—(1) Section 84 is modified as follows.

(2) In subsection (1) after “evidence” insert “in relation to each offence”.

(3) In subsection (5) after “discharge” insert “in relation to that offence”.

(4) In subsections (6) and (7) after “section 87” insert “in relation to that offence”.

### **Case where person has been convicted**

**26.**—(1) Section 85 is modified as follows.

(2) In subsection (1) after “decide” insert “in relation to each offence”.

(3) In subsection (2) after “section 87” insert “in relation to the offence”.

(4) In subsection (4) after “section 87” insert “in relation to the offence”.

(5) In subsection (6) after “section 86” insert “in relation to the offence”.

(6) In subsection (7) after “discharge” insert “in relation to the offence”.

### **Conviction in person’s absence**

**27.**—(1) Section 86 is modified as follows.

(2) In subsection (1) after “decide” insert “in relation to each offence”.

- (3) In subsection (5) after “discharge” insert “in relation to the offence”.
- (4) In subsection (6) after “section 87” insert “in relation to the offence”.
- (5) In subsection (7)(b) after “section 87” insert “in relation to the offence”.

### **Human rights**

- 28.**—(1) Section 87 is modified as follows.
- (2) In subsection (1) after “decide” insert “in relation to each offence”.
- (3) In subsection (2) after “discharge” insert “in relation to the offence”.
- (4) In subsection (3) after “extradited” insert “for the offence in question”.

### **Case sent to the Secretary of State**

- 29.**—(1) Section 92 is modified as follows.
- (2) In subsection (2)(a) after “High Court” insert “in relation to each relevant offence”.

### **Secretary of State’s consideration of case**

- 30.**—(1) Section 93 is modified as follows.
- (2) In subsection (2) after “decide” insert “in relation to each offence”.
- (3) In subsection (3) after “discharge” insert “in relation to the offence”.
- (4) In subsection (4)—
  - (a) after “negative” insert “in relation to the offence in question” and
  - (b) after “requested” insert “for that offence”.

### **Death penalty**

- 31.**—(1) Section 94 is modified as follows.
- (2) In subsection (1) after the first “territory” insert “in relation to an offence”.
- (3) In subsection (2) after “assurance” insert “in relation to the relevant offence”.

### **Speciality**

- 32.**—(1) Section 95 is modified as follows.
- (2) In subsection (2) after “section 127” insert “in relation to all offences contained in the extradition request”.

### **Information**

- 33.**—(1) Section 100 is modified as follows.
- (2) In subsection (1)(b) after “High Court” insert “in relation to each relevant offence”.
- (3) In subsection (2) after “extradition” insert “in relation to the offence”.
- (4) In subsection (4) after “discharge” insert “in relation to an offence”.

### **Appeal where case sent to Secretary of State**

- 34.**—(1) Section 103 is modified as follows.
- (2) In subsection (1) after “relevant decision” insert “in relation to each offence”.

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- (3) In subsection (2) after “section 127” insert “in relation to the offence”.
- (4) In subsection (6) after “discharge” insert “in relation to the offence”.
- (5) In subsection (7) after “discharge” insert “in relation to the offence”.

**Court’s powers on appeal under section 103**

- 35.—(1) Section 104 is modified as follows.
- (2) In subsection (5) after “it must” insert “in relation to the relevant offence only”.

**Appeal against discharge at extradition hearing**

- 36.—(1) Section 105 is modified as follows.
- (2) In subsection (1) after “discharge” insert “in relation to an offence”.

**Court’s powers on appeal under section 105**

- 37.—(1) Section 106 is modified as follows.
- (2) In subsection (6) after “it must” insert “in relation to the relevant offence only”.

**Detention pending conclusion of appeal under section 105**

- 38.—(1) Section 107 is modified as follows.
- (2) In subsection (1) after “section 105” insert “in relation to at least one offence”.
- (3) In subsection (4) after “times” insert “taking all offences contained in the extradition request together”.

**Appeal against extradition order**

- 39.—(1) Section 108 is modified as follows.
- (2) In subsection (1) after “extradition” insert “in relation to an offence”.
- (3) In subsection (2) after “extradition” insert “in relation to the offence”.

**Court’s powers on appeal under section 108**

- 40.—(1) Section 109 is modified as follows.
- (2) In subsection (5) after “it must” insert “in relation to the relevant offence only”.

**Appeal against discharge by Secretary of State**

- 41.—(1) Section 110 is modified as follows.
- (2) In subsection (1) after “discharge” insert “in relation to an offence”.

**Court’s powers on appeal under section 110**

- 42.—(1) Section 111 is modified as follows.
- (2) In subsection (5) after “it must” insert “in relation to the relevant offence only”.

**Detention pending conclusion of appeal under section 110**

- 43.—(1) Section 112 is modified as follows.



- (2) In subsection (2) for “the appeal” substitute “any appeal”.

#### **Appeal to House of Lords**

44.—(1) Section 114 is modified as follows.

- (2) In subsection (1) after “High Court” insert “in relation to each offence”.

#### **Powers of House of Lords on appeal under section 114**

45.—(1) Section 115 is modified as follows.

- (2) In subsection (3) after “must” insert “in relation to the relevant offence only”.
- (3) In subsection (5) after “must” insert “in relation to the relevant offence only”.
- (4) In subsection (7) after “must” insert “in relation to the relevant offence only”.

#### **Extradition where no appeal**

46.—(1) Section 117 is modified as follows.

- (2) In subsection (1)(a) after “extradition” insert “in relation to an offence”.

(3) In subsection (2) after “order” insert “or if proceedings are continuing in relation to other offences contained in the extradition request, 10 days starting with the day on which the Secretary of State makes the final order in relation to the last of the offences in respect of which the same extradition request was made”.

#### **Extradition following appeal**

47.—(1) Section 118 is modified as follows.

- (2) In subsection (2)(b) after “discontinued” insert

“,or

- (c) if there is more than one appeal outstanding in relation to offences contained in the same extradition request, the day on which the last decision of the relevant court becomes final or on which the last proceedings on the appeal are discontinued.”.

#### **Withdrawal of request before end of extradition hearing**

48.—(1) Section 122 is modified as follows.

- (2) In subsection (1) after “extradition” insert “in relation to an offence”.
- (3) In subsection (3) after “discharge” insert “in relation to the offence”.

#### **Withdrawal of request after case sent to Secretary of State**

49.—(1) Section 123 is modified as follows.

- (2) In subsection (1) after “extradition” insert “in relation to an offence”.
- (3) In subsection (3) after “discharge” insert “in relation to the offence”.

#### **Withdrawal of request while appeal to High Court pending**

50.—(1) Section 124 is modified as follows.

- (2) In subsection (1) after “extradition” insert “in relation to an offence”.
- (3) In subsection (3) after “must” insert “in relation to the offence”.

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- (4) In subsection (4) after “appeal” insert “in relation to the offence”.

### **Withdrawal of request while appeal to House of Lords pending**

- 51.**—(1) Section 125 is modified as follows.
- (2) In subsection (1) after “extradition” insert “in relation to an offence”.
- (3) In subsection (3) after “must” insert “in relation to the offence”.
- (4) In subsection (4) after “appeal” insert “in relation to the offence”.

### **Consent to extradition: general**

- 52.**—(1) Section 127 is modified as follows.
- (2) In subsection (1) after “requested” insert “in relation to one or more offences contained within the extradition request”.
- (3) In subsection (2) after “extradition” insert “in relation to one or more offences contained within the extradition request”.

### **Consent to extradition before case sent to Secretary of State**

- 53.**—(1) Section 128 is modified as follows.
- (2) In subsection (2) after “so” insert “unless there are other offences contained within the extradition request in relation to which the person has not consented to his extradition”.
- (3) In subsection (3) after “91” insert “unless there are other offences contained within the extradition request in relation to which the person has not consented to his extradition”.
- (4) In subsection (5) after “extradition” insert “if he has consented to his extradition in relation to every offence contained within the extradition request”.

### **National security**

- 54.**—(1) Section 208 is modified as follows.
- (2) In subsection (2) for “an offence” substitute “more than one offence”.
- (3) In subsection (3)(a) for “the offence” substitute “any of the offences”.
- (4) In subsection (3)(b) for “the offence” substitute “the offence in question”.
- (5) In subsection (4) after “the offence” insert “in question”.
- (6) For subsection (6)(a) substitute—
- “(a) direct that proceedings in relation to an offence contained in the Part 1 warrant are not to be proceeded with”.
- (7) In subsection (6)(b) after “the offence” insert “in question only”.
- (8) In subsection (7) after “discharge” insert “in relation to the offence”.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order provides for the Extradition Act 2003 to have effect with the modifications specified in the Schedule to the Order in relation to the following cases. Those cases are where a Part 1 warrant is issued in respect of more than one offence or where a request for extradition is made in respect of more than one offence.

In particular, the modifications are such as to allow for the partial execution of the Part 1 warrant or the request for extradition in cases where the judge and or the Secretary of State must consider more than one offence for which extradition is sought. It is possible that extradition will be refused in relation to some offences but not all, allowing for extradition to take place in relation to some offences only.