



Extradition (Provisional Arrest) Act 2020

2020 CHAPTER 18

An Act to create a power of arrest, without warrant, for the purpose of extraditing people for serious offences. [22nd October 2020]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PROSPECTIVE

1 Power of arrest for extradition purposes

The Schedule—

- (a) creates a power of arrest, without warrant, for the purpose of extraditing people for serious offences, and
- (b) contains consequential amendments and a power to make further amendments.

2 Extent, commencement and short title

- (1) Any amendment or repeal made by this Act has the same extent within the United Kingdom as the provision amended or repealed.
- (2) The powers under sections 177 and 222 of the Extradition Act 2003 (extension to British overseas territories, the Channel Islands or the Isle of Man) may be exercised in relation to any amendment or repeal made by this Act of any part of that Act.
- (3) This section comes into force on the day on which this Act is passed.
- (4) The other provisions of this Act come into force on such day as the Secretary of State may by regulations appoint, but paragraph 4 of the Schedule may not be commenced

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Extradition (Provisional Arrest) Act 2020. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

so as to come into force in relation to a territory before that territory is a category 2 territory for the purposes of the Extradition Act 2003.

- (5) Different days may be appointed for different purposes.
- (6) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.
- (7) Regulations under this section are to be made by statutory instrument.
- (8) This Act may be cited as the Extradition (Provisional Arrest) Act 2020.

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PROSPECTIVE

SCHEDULE

Section 1

POWER OF ARREST FOR EXTRADITION PURPOSES

PART 1

MAIN AMENDMENTS TO THE EXTRADITION ACT 2003

- 1 Part 2 of the Extradition Act 2003 (extradition to category 2 territories) is amended as follows.
- 2 After section 74 insert—

“Provisional arrest without warrant

74A Provisional arrest where certificate issued under section 74B

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- (1) A constable, a customs officer or a service policeman may arrest a person without a warrant if a certificate has been issued under section 74B in respect of the person.
- (2) A copy of the certificate must be given to the person as soon as practicable after the arrest.
- (3) The person must be brought as soon as practicable before the appropriate judge (see further, section 74D).
- (4) A constable or a customs officer may arrest a person under subsection (1) in any part of the United Kingdom.
- (5) A service policeman may arrest a person under subsection (1) only if the person is subject to service law or is a civilian subject to service discipline.
- (6) A service policeman who has power to arrest a person under subsection (1) may exercise the power anywhere.
- (7) A person arrested under subsection (1) may not be arrested again in reliance on the same certificate.

74B Certificates enabling provisional arrest under section 74A

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- (1) The designated authority may issue a certificate under this section in respect of a person if—
 - (a) it receives a valid request, made by an authority of a specified category 2 territory, for the person's arrest (for more about requests, see section 74C),

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- (b) it is satisfied that the request is made under arrangements which allow such a request to be made only if—
 - (i) a warrant for the person's arrest has been issued in the category 2 territory in respect of an offence, or
 - (ii) the person is alleged to be unlawfully at large after conviction of an offence by a court in the category 2 territory,
 - (c) it has reasonable grounds for believing that the offence specified in the request is a serious extradition offence, and
 - (d) it is satisfied that the seriousness of the conduct constituting the offence makes it appropriate to issue the certificate.
- (2) A certificate issued by the designated authority under this section must—
- (a) state the category 2 territory in respect of which the request is made, the form of the request and the date on which the request was made,
 - (b) certify that the category 2 territory is a specified category 2 territory,
 - (c) certify that the request is a valid request,
 - (d) certify the matters in subsection (1)(c) and (d), and
 - (e) set out the statement and information mentioned in section 74C(1) (a) or (b) (as the case may be).
- (3) A certificate (or purported certificate) may be withdrawn and a new one issued on the basis of the same request at any time before the person has been arrested in reliance on it.
- (4) The “designated authority” is the National Crime Agency.
- (5) The Secretary of State may by regulations amend this section so as to change the meaning of “designated authority”.
- (6) Regulations made under subsection (5) may—
- (a) designate more than one authority;
 - (b) designate different authorities for different parts of the United Kingdom.
- (7) A “specified category 2 territory” is a category 2 territory that is specified in Schedule A1.
- (8) The Secretary of State may by regulations—
- (a) amend Schedule A1 so as to add, vary or remove a reference to a territory, and
 - (b) in consequence, amend section 74C so as to change what it means to make a request in the approved way for the purposes of that section.
- (9) The reference in subsection (1)(b) to a warrant for a person's arrest includes a reference to a judicial document authorising the person's arrest.
- (10) For the purposes of determining whether an offence is a “serious extradition offence”, sections 137 and 138 apply as if—

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- (a) a reference to an “extradition offence” were to a “serious extradition offence”,
- (b) a reference to the relevant part of the United Kingdom were to any part of the United Kingdom (and, accordingly, each of sections 137 and 138 have effect as if subsection (8) were omitted),
- (c) a reference to the request for the person's extradition were a reference to the request for the person's arrest,
- (d) the references in sections 137(3)(b) and (4)(b) and 138(3)(b) to “12 months” were to “3 years”, and
- (e) the references in section 137(3)(c) and (4)(c) to conduct that is “so punishable” were to conduct that is punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment.

74C Section 74B supplementary: valid requests for arrest

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- (1) For the purposes of section 74B a request for a person's arrest is valid if it is made in the approved way and it contains—
 - (a) the statement referred to in subsection (2) and the information referred to in subsection (3), or
 - (b) the statement referred to in subsection (4) and the information referred to in subsection (5).
- (2) 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 the arrest and extradition of the person to the category 2 territory for the purpose of being prosecuted for the offence.
- (3) The information is—
 - (a) particulars of the person's identity;
 - (b) particulars of the circumstances in which the person is alleged to have committed the offence, including the conduct alleged to constitute the offence, the time and place at which the person is alleged to have committed the offence and any provision of the law of the category 2 territory under which the conduct is alleged to constitute an offence;
 - (c) particulars of the sentence which may be imposed under the law of the category 2 territory in respect of the offence if the person is convicted of it.
- (4) 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 the arrest and extradition of the person 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.