STATUTORY INSTRUMENTS

2017 No. 983

PRISONERS

The Repatriation of Prisoners (Overseas Territories) Order 2017

Made - - - - 11th October 2017
Coming into force - - 13th November 2017

At the Court at Buckingham Palace, the 11th day of October 2017
Present,
The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 9(4) of the Repatriation of Prisoners Act 1984(**1**), is pleased by and with the advice of Her Privy Council to order as follows:

Citation and commencement

1. This Order may be cited as the Repatriation of Prisoners (Overseas Territories) Order 2017 and comes into force on 13thNovember 2017.

Revocation

2. The Repatriation of Prisoners (Overseas Territories) Order 1986(**2**) is revoked.

Extension of the Repatriation of Prisoners Act 1984 to the territories

3. The Repatriation of Prisoners Act 1984 is extended, with the adaptations and modifications specified in Schedule 1 to this Order, to the territories specified in Schedule 2 to this Order.

Richard Tilbrook
Clerk of the Privy Council

(**1**) 1984 c. 47.
(**2**) S.I. 1986/2226 as amended by SI 1987/1828.

SCHEDULE 1

Article 3

Adaptations and Modifications to the Provisions of the Repatriation of Prisoners Act 1984 as extended to the territories in Schedule 2

1. In this Schedule, "the territory" means a territory listed in Schedule 2 to this Order.

2. The Repatriation of Prisoners Act 1984 is adapted and modified as follows.

3.—(1) Unless there is a more specific modification, a reference to the "British Islands" or "Great Britain" is a reference to "the territory".

(2) Except for in section 8 (interpretation and certificates), a reference to "the United Kingdom" is a reference to "the territory".

(3) In the application of this Order to any territory, the expression "territory" means that territory.

(4) A reference to a "British citizen" includes a reference to a British overseas territories citizen and a British National (Overseas).

(5) A reference to "the relevant Minister" or "the Secretary of State" is a reference to "the Governor of the territory".

(6) A reference to a "constable" is a reference—

(a) in each instance, to a person in the territory who has, under any enactment, the powers equivalent to those of a police officer in the United Kingdom; and

(b) in section 6B, to a person in the territory who has, under any enactment, the powers equivalent to those of a prison officer in the United Kingdom.

(7) A reference to the "issuing authority" is a reference to the "Governor".

4. In section 1(**3**) (issue of warrant for transfer)—

(a) in subsection (1)(a), for "the United Kingdom is a party to international arrangements providing for", substitute "international arrangements apply to the territory which provide for";

(b) in subsection (7A), omit "in the United Kingdom";

(c) omit subsection (9).

5. In section 2(**4**) (transfer out of the United Kingdom)—

(a) omit subsection (3A);

(b) for subsection (4)(b) substitute—

"(b) to provide for the prisoner to be treated as having been released on supervision or licence.";

(c) for subsection (6) substitute—

"(6) In subsection (5)—

(**3**) Subsections 1(1), (2), (3), (4) and (5) were amended by article 4 of, and paragraphs 75(1) and (2)(a) of Part 1 of Schedule 2 to, SI 1999/1820. Subsections 1(1)(c) and (5) were amended by subsections 44(1), (2) and (3) of the Police and Justice Act 2006 (c. 48). Subsections 1(2), (3), (4), (5),, (6), (7) and (8) were amended by section 148 of, and paragraphs 9, 11(1), (2), (3)(a) and (b), (4), (5), (6), (7)(a), (b) and (c) of Part 2 of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c. 4). Subsection 1(7A) was inserted by section 378(1) of, and paragraph 98 of Schedule 16 to, the Armed Forces Act 2006 (c. 52).

(**4**) Subsections 2(1) and (1A) were amended by section 93 of the Criminal Justice and Immigration Act 2008. Subsection 2(3) was amended by article 4 of, and paragraphs 75(1) and (3)(a) of Part 1 of Schedule 2 to, SI 1999/1820. Subsections 2(4)(a) and (7) were amended by section 148 of, and paragraphs 9, 12(1), (3)(a) and (4) of Part 2 of Schedule 26 to, the Criminal Justice and Immigration Act 2008.

"hospital order" means an order or direction made under an enactment applying in the territory and having the equivalent effect to an order or direction made under section 37 of the Mental Health Act 1983(**5**); and

"restriction order" means an order made under an enactment applying in the Territory and having the equivalent effect to an order made under section 41 of that Act.".

6. In section 3(**6**) (transfer into the United Kingdom), omit subsections (7) and (9).

7. In section 4(**7**) (temporary return)—

(a) in subsection (4) omit "; and the Schedule to this Act shall not apply in relation to the provisions so contained in such a warrant";

(b) omit subsections (5) to (7).

8. In section 4A(**8**) (issue of warrant transferring responsibility for detention and release of offender), omit subsection (10).

9. In section 4B(**9**) (transfer of responsibility from the United Kingdom)—

(a) in subsection (1) omit "(as defined in section 4A(10))"; and

(b) omit subsection (4).

10. In section 4C(**10**) (transfer of responsibility to the United Kingdom)—

(a) in subsection (1) omit "(as defined in section 4A(10))";

(b) in subsection (4) omit "and Part 2 of the Schedule to this Act"; and

(c) omit subsection (7).

11. In section 4D(**11**) (arrest and detention with a view to establishing whether a person falls within section 4A(3) etc)—

(a) in subsection (1) omit "or the Scottish Ministers or the Department of Justice in Northern Ireland";

(b) in subsection (2) for "the authority" substitute "the Governor".

12. In section 4E(**12**) (arrest and detention with a view to determining whether to issue a warrant under section 4A)—

(a) in subsections (1) and (6), omit "or the Scottish Ministers or the Department of Justice in Northern Ireland";

(b) in subsection (2) for "that authority" substitute "the Governor".

(**5**) 1983 c. 20.

(**6**) Subsections 3(1), (2), (4) and (6) were amended by section 148 of, and paragraphs 9, 13(1), (2) and (3) and Part 2 of Schedule 26 to, the Criminal Justice and Immigration Act 2008. Subsections 3(1) and (3) were amended by article 4 of, and paragraphs 75(1) and (4) of Part 1 of Schedule 2 to, SI 1999/1820.Subsections 3(1), (2), (4) and (6) were amended by section 148 of, and paragraphs 9, 13(1), (2) and (3) and Part 2 of Schedule 26 to, the Criminal Justice and Immigration Act 2008. Subsections 3(1) and (3) were amended by article 4 of, and paragraphs 75(1) and (4) of Part 1 of Schedule 2 to, SI 1999/1820. Section 3A was inserted by section 130 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(**7**) Subsections 4(1), (2) and (3) were amended by section 148 of, and paragraphs 9, 14(1), (2)(a), (b), (c), (3)(a), (b), (4)(a), (b) and (5) of Part 2 of Schedule 26 to, the Criminal Justice and Immigration Act 2008. Subsection 4(1) was amended by article 4 of, and paragraphs 75(1) and 5(a) of Part 1 of Schedule 2 to, SI 1999/1820.

(**8**) Section 4A was inserted by section 94 of the Criminal Justice and Immigration Act 2008. Subsection 4A(5) was amended by article 6(5) of, and paragraphs 1 and 5(a) of Schedule 8 to, SI 2010/976.

(**9**) Section 4B was inserted by section 94 of the Criminal Justice and Immigration Act 2008.

(**10**) Section 4C was inserted by sections 94 and 95 of the Criminal Justice and Immigration Act 2008.

(**11**) Section 4D was inserted by section 95 of the Criminal Justice and Immigration Act 2008. Subsection (1) was amended by article 6(5) of, and paragraphs 1 and 7 of Schedule 8 to, SI 2010/976.

(**12**) Section 4E was inserted by section 95 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Subsections (1) and (6) were amended by article 6(5) of, and paragraphs 1, 8(a) and (b) of Schedule 8 to, SI 2010/976.