



# Policing and Crime Act 2009

## 2009 CHAPTER 26

### PART 6

#### EXTRADITION

##### *Return to overseas territory*

#### 72 Return from category 1 territory

For section 59 of the Extradition Act 2003 substitute—

##### **“59 Return of person to serve remainder of sentence**

- (1) This section applies if—
  - (a) a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom is extradited to a category 1 territory in accordance with this Part;
  - (b) the person is returned to the United Kingdom to serve the remainder of the sentence or the person otherwise returns to the United Kingdom.
- (2) Time during which the person was outside the United Kingdom as a result of the extradition does not count as time served by the person as part of the sentence.
- (3) But subsection (2) does not apply if—
  - (a) the person was extradited for the purpose of being prosecuted for an offence, and
  - (b) the person has not been convicted of the offence or of any other offence in respect of which the person was permitted to be dealt with in the category 1 territory.
- (4) In a case falling within subsection (3), time during which the person was outside the United Kingdom as a result of the extradition counts as time served by the person as part of the sentence if (and only if) it was spent in custody in

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connection with the offence or any other offence in respect of which the person was permitted to be dealt with in the territory.

- (5) In a case where the person is not entitled to be released from detention pursuant to the sentence—
  - (a) the person is liable to be detained in pursuance of the sentence, and
  - (b) if at large, the person must be treated as being unlawfully at large.
- (6) In a case where the person is entitled to be released from detention on licence pursuant to the sentence—
  - (a) if the person was released on licence at the time of extradition, the licence is suspended until the person's return;
  - (b) if the person was not released on licence at that time, subsections (7) to (10) apply in relation to the person (“the offender”).
- (7) The offender is liable to be detained, on return, in any place in which the offender could have been detained pursuant to the sentence before the time of extradition.
- (8) A constable or immigration officer may—
  - (a) take the offender into custody, and
  - (b) convey the offender to the place mentioned in subsection (7).
- (9) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.
- (10) In calculating a period of 5 days for the purposes of subsection (9) no account is to be taken of—
  - (a) any Saturday or Sunday,
  - (b) Christmas Day,
  - (c) Good Friday, or
  - (d) 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.
- (11) A person is entitled to be released from detention if there is—
  - (a) a duty to release the person under section 33(1), (1A) or (2) of the Criminal Justice Act 1991,
  - (b) a duty to release the person under section 244 of the Criminal Justice Act 2003 (other than temporarily on licence pursuant to an intermittent custody order under section 183(1)(b) of the Criminal Justice Act 2003),
  - (c) a duty to release the person under section 1, 1AA or 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 or section 5, 11(2), 13, 19 or 23 of the Custodial Sentences and Weapons (Scotland) Act 2007, or
  - (d) a duty to release the person under section 1 of the Northern Ireland (Remission of Sentences) Act 1995, Article 26 of the Criminal Justice (Northern Ireland) Order 1996 or Article 17 or 18(8) of the Criminal Justice (Northern Ireland) Order 2008.
- (12) The powers conferred on a constable by subsection (8) are exercisable in any part of the United Kingdom.

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- (13) An immigration officer is a person who is an immigration officer within the meaning of the Immigration Act 1971.”

**Commencement Information**

**II** S. 72 in force at 25.1.2010 by S.I. 2009/3096, art. 3(o)

**73 Return from category 2 territory**

For section 132 of the Extradition Act 2003 substitute—

**“132 Return of person to serve remainder of sentence**

- (1) This section applies if—
- (a) a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom is extradited to a category 2 territory in accordance with this Part;
  - (b) the person is returned to the United Kingdom to serve the remainder of the sentence or the person otherwise returns to the United Kingdom.
- (2) Time during which the person was outside the United Kingdom as a result of the extradition does not count as time served by the person as part of the sentence.
- (3) But subsection (2) does not apply if—
- (a) the person was extradited for the purpose of being prosecuted for an offence, and
  - (b) the person has not been convicted of the offence or of any other offence in respect of which the person was permitted to be dealt with in the category 2 territory.
- (4) In a case falling within subsection (3), time during which the person was outside the United Kingdom as a result of the extradition counts as time served by the person as part of the sentence if (and only if) it was spent in custody in connection with the offence or any other offence in respect of which the person was permitted to be dealt with in the territory.
- (5) In a case where the person is not entitled to be released from detention pursuant to the sentence—
- (a) the person is liable to be detained in pursuance of the sentence, and
  - (b) if at large, the person must be treated as being unlawfully at large.
- (6) In a case where the person is entitled to be released from detention on licence pursuant to the sentence—
- (a) if the person was released on licence at the time of extradition, the licence is suspended until the person's return,
  - (b) if the person was not released on licence at that time, subsections (7) to (10) apply in relation to the person (“the offender”).
- (7) The offender is liable to be detained, on return, in any place in which the offender could have been detained pursuant to the sentence before the time of extradition.

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- (8) A constable or immigration officer may—
- (a) take the offender into custody, and
  - (b) convey the offender to the place mentioned in subsection (7).
- (9) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.
- (10) In calculating a period of 5 days for the purposes of subsection (9) no account is to be taken of any day mentioned in any of paragraphs (a) to (d) of section 59(10).
- (11) A person is entitled to be released from detention if there is—
- (a) a duty to release the person under section 33(1), (1A) or (2) of the Criminal Justice Act 1991,
  - (b) a duty to release the person under section 244 of the Criminal Justice Act 2003 (other than temporarily on licence pursuant to an intermittent custody order under section 183(1)(b) of the Criminal Justice Act 2003),
  - (c) a duty to release the person under section 1, 1AA or 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 or section 5, 11(2), 13, 19 or 23 of the Custodial Sentences and Weapons (Scotland) Act 2007, or
  - (d) a duty to release the person under section 1 of the Northern Ireland (Remission of Sentences) Act 1995, Article 26 of the Criminal Justice (Northern Ireland) Order 1996 or Article 17 or 18(8) of the Criminal Justice (Northern Ireland) Order 2008.
- (12) The powers conferred on a constable by subsection (8) are exercisable in any part of the United Kingdom.
- (13) An immigration officer is a person who is an immigration officer within the meaning of the Immigration Act 1971.”

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**Commencement Information**

**12** S. 73 in force at 25.1.2010 by S.I. 2009/3096, art. 3(p)

**Changes to legislation:**

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