

No. 91

**THE EXTRADITION (OVERSEAS TERRITORIES)
ORDER 2002**

(S.I. 1823/2002 of the United Kingdom)

RULES MADE UNDER SECTION 10(3), 14(2) AND 28(2)

In exercise of the powers vested in him by section 10(3), 14(2) and 28(2) of the Extradition Act 1989, modified and adapted as in Schedule 2 to the Extradition (Overseas Territories) Order 2002^(a), and as construed by the Courts (Amendment) Ordinance 2004^(b), the Administrator, with the advice and approval of the Senior Judge, hereby makes the following Rules—

Citation

1. These Rules may be cited as the Extradition Rules 2004.

Interpretation

2. In these Rules—

“the Act” and the “Extradition Act 1989” mean the Extradition Act 1989, modified and adapted as in Schedule 2 to the Extradition (Overseas Territories) Order 2002 and as construed by the Courts (Amendment) Ordinance 2004;

“Administrator” has the meaning assigned to “Governor” in section 35 of the Act;

“superior court of the Areas” means the Senior Judge’s Court.

Application

3. The provisions of any existing rules of procedure of any court shall have effect subject to the provisions of these Rules.

Time limits applicable to request to state a case

4.—(1) Where the court of committal refuses to make an order of committal in relation to a person in respect of the offence or, as the case may be, any of the offences to which the authority to proceed relates and the country or British overseas territory seeking his surrender wishes to apply to the court to state a case for the opinion of the superior court of the Areas under section 10(1) of the Act, such application must be made to the court of committal within the period of 21 days following the day on which the court refuses to make the order of committal unless the court grants a longer period within which the application is to be made.

(2) Such an application shall be made in writing and shall identify the question or questions of law on which the opinion of the superior court of the Areas is sought.

(3) Within 21 days after receipt of an application to state a case under section 10(1) of the Act, the Registrar for the court of committal shall send a draft case to the solicitor for the country or

(a) S.I. 1823/2002 of the United Kingdom

(b) Ordinance 13/2004

British overseas territory and to the person whose surrender is sought or his solicitor and shall allow each party 21 days within which to make representations thereon; within 21 days after the latest day on which such representations may be made the court of committal shall, after considering any such representations and making such adjustments, if any, to the draft case as it thinks fit, state and sign the case which the Registrar shall forthwith send to the solicitor for the country or British overseas territory.

Notice in accordance with section 14 of the Act

5.—(1) A notice given under section 14 shall be in form 1 set out in Schedule 1 to these Rules or a form to the like effect.

(2) Such a notice shall be signed in the presence of the Resident Judge.

(3) Any such notice given by a person in custody shall be delivered to the Superintendent of the prison in whose custody he is.

(4) If a person on bail gives such notice he shall deliver it by hand addressed to the Administrator.

Notice in accordance with section 14(2) of the Act

6.—(1) A person arrested in pursuance of a warrant issued under section 8 of the Act may at any time consent to his return; and where such consent is given in accordance with the following provisions of this rule, the Resident Judge may order the committal for return of that person in accordance with section 14(2) of the Act.

(2) A notice of consent for the purposes of this rule shall be given in form 2 set out in Schedule 1 to these Rules or a form to the like effect.

(3) Such a notice shall be signed in the presence of the Resident Judge.

Warrants and orders

7. The forms contained in Schedule 2 or forms to the like effect shall be used for the purposes for which they are applicable.

SCHEDULE 1**Forms**

Rules 5, 6

Form 1*Notice of Waiver*

(Extradition Act 1989, s14, modified and adapted as in Schedule 2 to the Extradition (Overseas Territories) Order 2002 and as construed by the Courts (Amendment) Ordinance 2004)

Whereas on the day of 20... , a court of committal committed me to await the Administrator's decision as to my return to *(insert name of the country or British overseas territory)* which has requested my extradition:

And whereas I understand that, unless I waive those rights, I have the right:

- (a) to make an application for habeas corpus, and
- (b) not to be returned in any case until the expiration of the period of 15 days beginning with the above-mentioned date and, if I apply for habeas corpus, for so long as proceedings on that application are pending:

Now therefore, I give notice that I waive my right to make an application for habeas corpus and consent to my earlier return before the said period of 15 days has expired.

[A.B.]

This notice was signed by the above-mentioned person in my presence on theday of 20... .

Resident Judge

Form 2*Notice of consent to committal for return*

(Extradition Act 1989, s14 modified and adapted as in Schedule 2 to the Extradition (Overseas Territories) Order 2002 and as construed by the Courts (Amendment) Ordinance 2004)

Whereas on theday of 20... , I was arrested in pursuance of a warrant under section 8 of the Extradition Act 1989 with a view to my committal to await the Administrator's decision as to my return to *(insert name of the country or British overseas territory)* which has requested my extradition:

And whereas I understand that, unless I consent to my committal, I shall have the right:

- (a) to make representations at committal proceedings as to the matters of which the court of committal is to be satisfied before the making of an order of committal, and
- (b) thereafter, if such an order is made, to make an application for habeas corpus, and
- (c) not to be returned for so long as proceedings on any application for habeas corpus are pending and in any case within 15 days of the order of committal:

Now, therefore, I give notice that I consent to an order of committal being made against me by the Resident Judge and to my earlier return before the said period of 15 days has expired.

[A.B.]

This notice was signed by the above-named person in my presence on the day of 20... .

Resident Judge

SCHEDULE 2

Rule 7

Forms**1***Authority to proceed*

(Extradition Act 1989, s7 modified and adapted as in Schedule 2 to the Extradition (Overseas Territories) Order 2002 and as construed by the Courts (Amendment) Ordinance 2004)

To the Resident Judge.

A request having been made to the Administrator by or on behalf offor the return to that country or British overseas territory of [A.B.] who is accused (*or* alleged to be unlawfully at large after conviction) of the offence(s) of.....

The Administrator hereby orders that the Resident Judge proceed with the case in accordance with the provisions of the Extradition Act 1989.

Dated the day of 20...

Administrator

2*Warrant of arrest*

(Extradition Act 1989, s8(1)(a) modified and adapted as in Schedule 2 to the Extradition (Overseas Territories) Order 2002 and as construed by the Courts (Amendment) Ordinance 2004)

To each and all of the constables of the Sovereign Base Areas police force.

I having received from the Administrator an order to proceed with the case of [A.B.] (hereinafter called the defendant) who is accused (*or* who is alleged to be unlawfully at large after conviction) of the offence(s) of against the law of

And there being evidence that the offence(s) is/are (an) extradition crime(s) as defined in section 2 of the Extradition Act 1989:

And there being in my opinion such evidence as would justify the issue of a warrant for the arrest of a person accused of committing (a) corresponding offence(s) (*or* alleged to be unlawfully at large after conviction of an offence) in the Areas:

You are hereby commanded to arrest the defendant forthwith and to bring him/her before the Resident Judge.

Dated the ... day of 20...

Resident Judge

Provisional warrant of arrest

(Extradition Act 1989, s8(1)(b) modified and adapted as in Schedule 2 to the Extradition (Overseas Territories) Order 2002 and as construed by the Courts (Amendment) Ordinance 2004)

To each and all of the constables of the Sovereign Base Areas police force.

There being evidence that [A.B.] (hereinafter called the defendant) is accused (*or* is alleged to be unlawfully at large after conviction) of the offence(s) of against the law of, and that the offence(s) is/are (an) extradition crime(s) as defined in section 2 of the Extradition Act 1989:

And there being in my opinion evidence as would justify the issue of a warrant for the arrest of a person accused of committing (a) corresponding offence(s) (*or* alleged to be unlawfully at large after conviction of an offence) in the Areas:

And there being information that the defendant is or is believed to be in or on his/her way to the Areas:

You are hereby commanded to arrest the defendant and to bring him/her before the Resident Judge.

Dated the day of 20...

Resident Judge

Warrant of commitment

(Extradition Act 1989, s9(8) modified and adapted as in Schedule 2 to the Extradition (Overseas Territories) Order 2002 and as construed by the Courts (Amendment) Ordinance 2004)

To each and all of the constables of the Sovereign Base Areas police force and [*insert the place at which the defendant is to be detained*];

[A.B.] (hereinafter called the defendant) having been brought this day before me, the Resident Judge sitting at ..., pursuant to a warrant for his/her arrest under section 8 of the Extradition Act 1989:

And an authority to proceed having been issued by the Administrator under section 7 of that Act in respect of the defendant:

And I being satisfied that the following offence(s) (of which the defendant is accused in) namely, being (an) offence(s) to which the authority to proceed relates, is/are (an) extradition crime(s) as defined in section 2 of that Act, (and that the evidence given before me would be sufficient to warrant the defendant's trial for that/those offence(s) if it/they had been committed in the Areas) (*or* that the defendant has been convicted of the offence(s) and appears to be unlawfully at large):

You, the said constables, are hereby commanded to convey the defendant to the said prison and there to deliver him/her to the Superintendent thereof, together with this warrant; and you, the Superintendent of the said prison to receive him/her into your custody and keep him/her until he/she is delivered in accordance with a warrant issued by the Administrator under section 12 of that Act or he/she is otherwise delivered in due course of law.

Dated the ... day of 20...

Resident Judge

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Warrant for return to requesting country or British overseas territory

(Extradition Act 1989, s12(1) modified and adapted as in Schedule 2 to the Extradition (Overseas Territories) Order 2002 and as construed by the Courts (Amendment) Ordinance 2004)

To the [*insert the place at which the defendant is detained*] and to each and all of the constables of the Sovereign Base Areas police force.

Whereas a request has been made to the Administrator by or on behalf of for the return to that country (*or British overseas territory*) of [A.B.] (hereinafter called the prisoner) who is accused (*or alleged to be unlawfully at large after conviction*) of the offence(s) of ...

And whereas the Resident Judge, being satisfied that the evidence given before him would be sufficient to warrant the prisoner's trial for that/those offence(s) (*or the offence(s) of ...*) if it/they had been committed in the Areas (*or that the prisoner had been convicted of that/those offence(s) (or the offence(s) of) and appeared to be unlawfully at large*), committed the prisoner to the prison on the ... day of 20..., to await his/her return to

And whereas the prisoner has not been discharged from custody by order of the superior court of the Areas:

Now, therefore, the Administrator hereby orders that the prisoner be returned to in respect of the offence(s) for which he/she was committed to custody by the Resident Judge.

Dated the day of 20....

Administrator

Dated this 25th day of June 2004.

By the Administrator's Command,
J. Stainton,
Acting Chief Officer,
Sovereign Base Areas.

(128/244)