



Home Office

# Extradition Act 2003 Codes of Practice

February 2021

# Extradition Act 2003 Codes of Practice

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Extradition Act 2003

February 2021



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# EXTRADITION ACT 2003: CODES OF PRACTICE

## Introduction

- 1.1 These Codes of Practice (these Codes) govern the exercise of police powers in Part 4 of the Extradition Act 2003, as amended (the 2003 Act). They are issued by the Secretary of State under Section 173 of the 2003 Act. These Codes provide guidance on the operation of police powers and of customs officers<sup>1</sup> in extradition cases in England, Wales and Northern Ireland.

### (a) Background

- 1.2 The extradition case, *Regina v Commissioner of Police for the Metropolis, Ex P Rottman* [2002] 2 All ER 865 cast doubt on whether the provisions contained in the 1984 Police and Criminal Evidence Act (PACE)<sup>2</sup> extend to police powers in cases where the offence was committed abroad. Part 4 of the 2003 Act puts the matter beyond doubt by setting down in statute the police powers which apply in extradition cases.
- 1.3 The 2003 Act made changes to UK extradition arrangements. These included provisions that could require any police officer to respond to an incoming extradition request where circumstances dictated.
- 1.4 The 2003 Act has since been amended by the Police and Justice Act 2006, the Policing and Crime Act 2009, the Crime and Courts Act 2013, and the Anti-social Behaviour, Crime and Policing Act 2014. These Codes have been revised to reflect the changes to the 2003 Act and changes to the Codes of Practice under the Police and Criminal Evidence Act 1984 (PACE). They also reflect the new power of arrest introduced by the Extradition (Provisional Arrest) Act 2020.

### (b) Status of the Codes of Practice

- 1.5 These Codes set out the police powers which may be relied upon in extradition cases, additional to the police's common law powers. The powers in the 2003 Act are modelled on those contained in PACE, but where necessary and appropriate, they supplement domestic provisions to enable police officers to respond to extradition requests effectively.
- 1.6 Where these Codes are silent, police officers should have regard to the relevant domestic provisions set out in the most up to date editions of the PACE Codes of Practice (PACE Codes). Where procedures in extradition cases are the same as those in domestic cases, these Codes refer police officers to the relevant section in the PACE Codes.
- 1.7 Under Section 173(6) of the 2003 Act, failure by a police officer to comply with any provision of these Codes does not in itself make him or her liable to criminal

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<sup>1</sup> The term 'customs officer' applies to authorised customs officers in HM Revenue & Customs (HMRC) and designated customs officials in Border Force.

<sup>2</sup> Chapter 60



or civil proceedings. Under Section 173(7) of the 2003 Act, these Codes are admissible in evidence in proceedings under the 2003 Act and must be taken into account by a judge or court in determining any question to which they appear to the judge or court to be relevant. The provisions of these Codes do not include the Annexes.

**(c) Application of the Codes in Northern Ireland**

1.8 In Northern Ireland, references in these Codes of Practice to the Police and Criminal Evidence Act 1984 (PACE) should be read as references to the Police and Criminal Evidence Act (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)), and references to the PACE Codes of Practice or the revised PACE Codes of Practice should be read as references to the relevant parts of the PACE (Northern Ireland) Codes of Practice. Where there are no direct equivalents to the England and Wales PACE Codes of Practice, police officers in Northern Ireland should have regard to the revised PACE Codes.

**(d) Availability**

1.9 These Codes must be readily available at all police stations and ports for consultation by police officers, detained persons and members of the public.

1.10 Welsh translations of these Codes must be available for use in all police stations and ports in Wales.

1.11 The Glossary to these Codes contains an explanation of terms used in these Codes.

**(e) Persons covered by the Codes**

1.12 These Codes apply to police officers and customs officers operating in England, Wales and Northern Ireland. The operation of powers under Part 4 of the 2003 Act by Service police will be governed by separate Codes of Practice.

1.13 In these Codes, 'designated person' has the same meaning as that given by PACE Code B 2.11. Designated persons must have regard to any relevant provisions of these Codes.

**(f) Summary of police powers available under the 2003 Act**

1.14 The police powers reflected in these Codes are provided for in the 2003 Act and in summary they cover:

i. The power of arrest or provisional arrest (Sections 3, 5, 71, 73 and 74A of the 2003 Act);

ii. The power to apply to a judge for, and execute a search and seizure warrant for material relating to the extradition offence (Sections 156 and 157 of the 2003 Act);

- iii. The power to apply to a judge for and execute a search and seizure warrant for any special procedure material or excluded material relating to the extradition offence (Section 160 of the 2003 Act);
- iv. The power to enter and search premises for the purpose of arrest (Section 161 of the 2003 Act) or on arrest under extradition arrest powers (Section 162 of the 2003 Act);
- v. The power, after arrest, to conduct an immediate search of premises without the prior authorisation of a senior police officer (Section 164 of the 2003 Act);
- vi. The power to search a person who has been arrested under extradition arrest powers if there are grounds for believing a person has concealed something which may be used in evidence, may be used to escape custody or may present a danger to himself or others (Section 163 of the 2003 Act);
- vii. The powers to search, seize and retain materials relating to any offence when searching premises for the purpose of arrest (Section 161 of the 2003 Act), on arrest (Section 162 of the 2003 Act) or after arrest (Section 164 of the 2003 Act);
- viii. The powers to seize and retain materials relating to the identity of the person when searching premises or persons on arrest (Sections 162 and 163 of the 2003 Act) or after arrest (section 164 of the 2003 Act);
- ix. The power to take fingerprints and samples from a person arrested under extradition arrest powers (Section 166 of the 2003 Act);
- x. The power to search and examine a person arrested under extradition arrest powers, for the purposes of ascertaining his or her identity (Section 167 of the 2003 Act);
- xi. The power to photograph a person arrested under extradition arrest powers (Section 168 of the 2003 Act); and
- xii. The power to retain and deliver seized material to the requesting authority or territory (Section 172 of the 2003 Act) where the property is believed to be the authority of the requesting authority or has a function as such that it is appropriate for the item to be delivered to it.

1.15 Whilst these Codes are modelled on the PACE Codes and follow the same format and structure, under the 2003 Act there are no powers to stop and search or conduct interviews.

## **Code B**

### **Code of Practice for searches of premises by police officers and the seizure, retention, use and delivery of property found by police officers on persons or premises**

#### **1 Introduction**

1.1 This Code of Practice (this Code) deals with police powers in extradition cases under the Extradition Act 2003 (the 2003 Act) to:

- (a) search premises;
- (b) seize and retain property found on premises and persons;
- (c) deliver seized material to the authority or territory requesting extradition.

1.2 These powers may be used to find:

- (a) persons requested for extradition;
- (b) evidence of a requested person's identity; and
- (c) property and material relating to the offence(s) for which a person is sought by the authority or territory requesting extradition.

1.3 The right to privacy and respect for personal property are key principles of the Human Rights Act 1998. Powers of entry, search and seizure should be fully and clearly justified before use because they may significantly interfere with the occupier's privacy. Officers should consider if the necessary objectives can be met by less intrusive means. Any searches conducted under the powers of the Extradition Act 2003 may only be undertaken for the purposes set out in paragraph. 1.2. Officers may not investigate crimes on behalf of the requesting authority or territory, other than those for which extradition is requested. Police powers in respect of offences committed in the UK are not limited by this paragraph.

1.4 In all cases police officers should:

- (a) exercise their powers courteously and with respect for persons and property; and
- (b) only use reasonable force when this is considered necessary and proportionate to the circumstances.

#### **2 General**

2.1 This Code must be readily available at all police stations and ports for consultation by:

- (a) police officers, customs officers or persons authorised by a police officer or customs officer to perform functions under this Code.
  - (b) detained persons; and
  - (c) members of the public.
- 2.3 Nothing under the 2003 Act entitles police officers to seize and sift material which is subject to legal privilege. The principle of legal privilege applies equally to material that has originated or been sent from abroad.
- 2.4 For the purposes of this Code, 'premises', includes any place, vehicle, vessel, aircraft, hovercraft, tent or movable structure and any offshore installation as defined in the Mineral Workings (Offshore Installations) Act 1971<sup>3</sup>, and any renewable energy structure as defined in Part 2 of the Energy Act 2004<sup>4</sup>.
- 2.5 When this Code requires the prior authority or agreement of a police officer of at least inspector or superintendent rank, that authority may be given by a sergeant or chief inspector authorised to perform the function of the higher rank under PACE Section 107. For customs officers in Border Force the equivalent authorisations to police inspector or superintendent are Border Force Higher Officer and Border Force Senior Officer. HMRC Officer equivalent ranks are Higher Officer and Senior Officer.
- 2.6 Where written records of searches are required they shall be made in the search record, or if this is not practicable, in the recording police officer's pocket book or on forms provided for this purpose.
- 2.7 For the purposes of this Code, the identity of police officers (or anyone accompanying them during a search) need not be recorded or disclosed if police officers reasonably believe recording or disclosing their names might put them in danger. In these cases, police officers should use warrant or other identification numbers and the name of their police station.
- 2.8 Paragraphs 2.11 – 2.13 of PACE Code B apply in the operation of powers under this Code in respect of persons requested for extradition.

### **3 Search warrants and production orders**

#### **(a) Before making an application**

##### ***Search and seizure warrants and production orders***

- 3.1 When information provided by the requesting authority or territory appears to justify an application for a search warrant or production order, the police officer

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<sup>3</sup> Chapter 61

<sup>4</sup> Chapter 2

may take any steps as he or she considers reasonable to check the information is accurate, recent and not provided maliciously or irresponsibly.

- 3.2 The police officer shall ascertain as specifically as possible the nature of the articles concerned and their location and make reasonable enquiries to establish any relevant information.
- 3.3 An application may be made by any police officer to:
- (a) a justice of the peace for a search warrant (Section 156 of the 2003 Act);
  - (b) a circuit judge (in Northern Ireland a Crown Court judge) for a production order (Section 157 of the 2003 Act);
  - (c) a circuit judge (in Northern Ireland a Crown Court judge) for a warrant to search for special procedure material or excluded material (Section 160 of the 2003 Act).
- 3.4 Applications must be supported by a signed written authority from a police officer of inspector rank or above. If the case is urgent and an inspector or above is not readily available, the next most senior police officer on duty can give the written authority.
- 3.5 In all cases, before making an application under Sections 156, 157 or 160 of the 2003 Act, police officers should refer to PACE Code B 3.2 and 3.3 in respect of relevant information about the articles sought and / or premises identified.
- 3.6 Except in a case of urgency, if there is reason to believe a search might have an adverse effect on relations between the police executing the warrant and the local community, the police officer shall consult the police / community liaison officer:
- (a) before the search; or
  - (b) in urgent cases, as soon as practicable after the search.

**(b) Making an application**

***Search and seizure warrants***

- 3.7 An application for a search warrant must be supported in writing, specifying:
- (a) that the application is made under section 156 of the 2003 Act);
  - (b) the premises to be searched;
  - (c) the material, or description of material sought, which must be:

- (i) material relating to a specified extradition offence (not being material consisting of or including items subject to legal privilege, excluded material or special procedure material); and
- (ii) believed to be located on the premises named in the application;
- (d) the name of the person requested for extradition;
- (e) the name and Category (e.g. 1 or 2) of the requesting territory in which the person is accused of the commission of the extradition offence;
- (f) the extradition offence of which the person is accused; and
- (g) if applicable, a request for the warrant to authorise a person or persons to accompany the police officer who executes the warrant.

3.8 Before granting an application, the justice of the peace must be satisfied

that there are reasonable grounds for believing that:

- (a) the offence specified in the application is an extradition offence and has been committed by the person so specified;
- (b) the person is in the UK or is on their way to the UK;
- (c) there is material on the premises which would be likely to be admissible as evidence for the extradition offence at a trial in the relevant part of the UK where the justice of the peace exercises jurisdiction (on the assumption that the conduct constituting the extradition offence would constitute an offence in that part of the UK);

In addition the justice of the peace must have reasonable grounds for believing that at least one of the following conditions is satisfied:

- (d) that it is not practicable to communicate with the person entitled to grant entry to the premises;
- (e) that it is not practicable to communicate with the person entitled to grant access to the material sought, even though it is practicable to communicate with the person entitled to grant entry;
- (f) that entry to the premises will not be granted unless a warrant is produced; and
- (g) that the purpose of the search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

### ***Production orders***

- 3.9 An application for a production order to a circuit judge (or a Crown Court judge in Northern Ireland) must be supported in writing and must specify:
- (a) that the application is made under section 157 of the 2003 Act;
  - (b) the material, or a description of material, sought;
  - (c) that the material is special procedure or excluded material;
  - (d) the premises where the material is located;
  - (e) the name of the person who appears to be in possession or control of the material;
  - (f) the name of the person requested for extradition;
  - (g) the name and Category (e.g. 1 or 2) of the requesting territory in which the person requested for extradition is accused of an extradition offence;
  - (h) the extradition offence of which the person is accused; and
  - (i) if applicable, a request for the order to authorise a person or persons to accompany the police officer who executes the order.
- 3.10 Before granting an application, the judge must be satisfied that:
- (a) There are reasonable grounds for believing:
    - (i) the offence specified in the application is an extradition offence and has been committed by the person so specified;
    - (ii) the person is in the UK or is on their way to the UK;
    - (iii) there is material which consists of or includes special procedure or excluded material on the premises specified in the application; and
    - (iv) the material would be likely to be admissible as evidence for the offence at a trial in the relevant part of the UK where the circuit judge exercises jurisdiction (on the assumption that conduct constituting that offence would constitute an offence in that part of the UK);
  - (b) it appears that other methods of obtaining the material have been tried without success, or have not been tried because they were bound to fail; and

- (c) it is in the public interest that the material should be produced or that access to it should be given (and that this outweighs the disadvantages to the person or institution against whom the order is made).

***Search warrants: special procedure and excluded material***

3.11 Applications to a judge for a warrant to search for, seize and retain special procedure or excluded material must be supported in writing and should specify:

- (a) that the application is made under Section 160 of the 2003 Act;
- (b) the material, or a description of material, sought;
- (c) that the material is special procedure or excluded material;
- (d) the premises to be searched;
- (e) the name of the person requested for extradition;
- (f) the name and Category (e.g. 1 or 2) of the requesting territory in which the person requested for extradition is accused of an extradition offence;
- (g) the extradition offence of which the person is accused; and
- (h) if applicable, a request for the warrant to authorise a person or persons to accompany the police officer who executes the warrant.

3.12 Before granting an application, the circuit judge must be satisfied that:

- (a) the requirements for making a production order are fulfilled (see paragraph 3.10 above);

and additionally that one or more of the following conditions are satisfied:

- (b) it is not practicable to communicate with the person entitled to grant entry to the premises;
- (c) it is not practicable to communicate with the person entitled to grant access to the material sought, even though it is practicable to communicate with the person entitled to grant entry to the premises;
- (d) the material contains information which is subject to a restriction on disclosure or an obligation of secrecy contained in an enactment (including one passed after the 2003 Act) and is likely to be disclosed in breach of the restriction or obligation if a warrant is not issued.

3.13 The search warrant or production order may authorise any suitably qualified or skilled person, including representatives from the requesting authority or territory, to accompany the police officer who executes the warrant or who is



granted access to the material pursuant to the production order, if their presence is needed to assist, for example, locating or identifying the material sought.

- 3.14 In search warrant cases, the accompanying person(s) does not have any right to force entry or to search for or seize property, but it gives them the right to be on the premises during the search without the occupier's permission.
- 3.15 If an application for a search and seizure warrant or a production order is refused, no further application may be made at the request of the requesting authority or territory in relation to the same premises or material, unless supported by additional grounds.

## **4 Entry without warrant – particular powers**

### **(a) Making an arrest**

#### ***Entry and search of premises for purposes of arrest***

- 4.1 Under Section 161 of the 2003 Act, a police officer may enter and search any premises for the purpose of exercising an extradition arrest power under Sections 3, 5, 71 and 73 of the 2003 Act, if the officer has reasonable grounds for believing that the person requested for extradition is on the premises. The power to search premises is exercisable only to the extent that it is reasonably required for the purpose of exercising an extradition arrest power.

### **(b) Search of premises where the arrest takes place or where the arrested person was immediately before arrest**

#### ***Entry and search of premises on arrest***

- 4.2 Under Section 162 of the 2003 Act, if a person has been arrested under any of the powers under the 2003 Act anywhere other than a police station, a police officer may:

(a) enter and search any premises in which the person was:

- i. at the time of arrest; or
- ii. immediately before arrest;

if the police officer has reasonable grounds for believing that there is evidence (other than items subject to legal professional privilege) on the premises relating to:

- i. the relevant offence as defined by s.162(3) of the Act (if the person has not been convicted of the offence); or
- ii. in any case, the identity of the person.

### ***Search of person on arrest***

- 4.3 Under Section 163 of the 2003 Act, if a person has been arrested under any of the powers under the 2003 Act, anywhere other than a police station, a police officer may search the person if the officer has reasonable grounds for believing:
- (a) the person may present a danger to himself/herself or others;
  - (b) the person may have concealed on him or her anything which might be:
    - i. used by him or her to assist escape from lawful custody;
    - ii. evidence relating to an offence;
    - iii. evidence relating to the identity of the person.
- 4.4 For the purposes of this section, 'an offence' includes an offence committed outside the UK.
- 4.5 Before the search of the person takes place, the police officer must take reasonable steps to give the person to be searched the following information:
- (a) that they are to be the subject of a non-intimate search;
  - (b) the police officer's name and the name of the police station to which the officer is attached;
  - (c) the legal search power which is being exercised (under Section 163 of the 2003 Act);
  - (d) a clear explanation of:
    - (i) the purpose of the search in terms of the item(s) for which there is a power to search; and
    - (ii) the grounds for the search.
- 4.6 If the person to be searched does not appear to understand what is being said, or there is any doubt about the person's ability to understand English, the police officer must take reasonable steps to bring information regarding the person's rights and any relevant provisions of this Code to his or her attention. If the person is deaf or cannot understand English and is accompanied by someone, then the police officer must try to establish whether that person can interpret or otherwise help the officer.
- 4.7 Police officers not in uniform must show their warrant cards. Customs officers not in uniform must show their identification cards.

- 4.8 Where practicable, the search must be carried out at or near the place where the person was arrested.
- 4.9 Under Section 163(5)(a) of the 2003 Act a police officer may not require a person to remove any clothing in public, other than an outer coat, jacket or gloves.
- 4.10 Under Section 163(5)(b) of the 2003 Act a police officer is authorised to search a person's mouth.
- 4.11 Nothing in Section 163 of the 2003 Act affects the power conferred by Section 43 of the Terrorism Act 2000 (as amended)<sup>5</sup>.

**(c) Search of premises occupied or controlled by the arrested person**

***Entry and search of premises after arrest***

- 4.12 Under Section 164 of the 2003 Act, if a person has been arrested under any of the powers under the 2003 Act, a police officer may enter and search any premises occupied or controlled by the person, if the officer has reasonable grounds for suspecting that there is on the premises evidence (other than items subject to legal privilege) relating to:
- (a) the relevant offence<sup>6</sup> (if the person has not been convicted of the offence);
  - (b) the identity of the person.
- 4.13 Before entering and searching the premises, the police officer must obtain written authorisation from a police officer of inspector rank or above.
- 4.14 The authority should only be given when the authorising police officer is satisfied the grounds (in paragraph 4.12 of this Code – see above) exist. If possible, the authorising police officer should record the authority on the Notice of Powers and Rights. The grounds for the search and the nature of the evidence sought should be made in:
- (a) the custody record, if there is one; otherwise
  - (b) the police officer's pocket book; or
  - (c) the search record.
- 4.15 Authorisation is not required before the search if:
- (a) the search is conducted before the arrested person is taken to a police station; and

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<sup>5</sup> Chapter 11

<sup>6</sup> Relevant offence is defined in s.164(3) of the 2003 Act.

- (b) the presence of the arrested person at a place other than a police station is necessary for the effective exercise of the power to search.

4.16 If authorisation has not been obtained for the reasons in Section 4.15 above, a police officer of the rank of inspector or above must be informed that a search has been made, as soon as practicable after it has been conducted.

## **5 Search with consent**

5.1 Police officers should follow PACE Code B5 and the corresponding Notes for Guidance.

## **6 Searching premises – general considerations**

### **(a) Time of searches**

6.1 Police officers should follow the guidance in PACE Code B 6.1 – 6.3B.

### **(b) Entry other than with consent**

6.2 Police officers should follow the guidance in PACE Code B 6.4-6.6.

### **(c) Notice of Powers and Rights**

6.3 If a police officer conducts a search of premises to which this Code applies, the police officer shall, unless it is impracticable to do so, provide the occupier with a copy of a Notice:

- (a) specifying that the search is made under warrant, with consent or in the exercise of powers described in paragraphs 4.1, 4.2, 4.12 – 4.15 of this Code. Note: the Notice format shall provide for authority to be indicated, see paragraph 4.14 of this Code;
- (b) summarising the extent of the powers of search and seizure conferred by the 2003 Act;
- (c) explaining the rights of the occupier and the owner of the property seized;
- (d) explaining that compensation may be payable in appropriate cases for damage caused by entering and searching premises, and giving the address to send a compensation application;
- (e) explaining where this Code is available to be read.

**(d) Conduct of searches**

- 6.4 Premises may be searched only to the extent that is reasonably necessary to discover the material or person sought, in respect of which the power is available.
- 6.5 If the detained person's presence is required to facilitate a search after that person has been arrested and detained at a police station, the person or his or her legal representative may attend at the search.
- 6.6 Should the premises being searched contain two or more separate dwellings a police officer may only enter and search dwellings in which, for example, the arrest took place or in which the person was immediately prior to arrest, or any communal area of the premises.
- 6.7 Police officers may only question persons where it is necessary to establish identity or ownership of property, in furtherance of proper and effective conduct of a search, or to seek verification of a written record.
- 6.8 In all other respects, police officers should follow the guidance in PACE Code B 6.9 - 6.12A in conducting a search.

**(e) Leaving premises**

- 6.9 Police officers should follow the guidance in PACE Code B 6.13.

**7 Seizure and retention**

**(a) Seizure**

- 7.1 A police officer searching a person or premises under the 2003 Act may seize and retain anything:
- (a) covered by a warrant issued under Sections 156 or 160 of the 2003 Act;
  - (b) for which he is entitled to search under Sections 162, 163 or 164 of the 2003 Act;
  - (c) that the police officer has reasonable grounds for believing is evidence of an offence or has been obtained in consequence of the commission of an offence, but only if seizure is necessary to prevent the items being concealed, lost, damaged, altered or destroyed;
  - (d) covered by the powers in the Criminal Justice and Police Act 2001, Part 2 allowing an officer to seize property from persons or premises and retain it for sifting or examination elsewhere.
- 7.2 Police officers searching a person or premises on or after arrest under Sections 162, 163 or 164 of the 2003 Act may seize and retain material relating to the identity of the person.

- 7.3 Additionally, a police officer searching a person on arrest under section 163 of the 2003 Act may seize and retain any item, if there are reasonable grounds for believing that:
- (a) the person might use it to cause physical injury to himself/herself or any other person (where the search is carried out under the section 163(2) search power);
  - (b) the person might use it to assist escape from lawful custody (where the search is carried out under the section 163(3) search power).
- 7.4 No item may be seized which a police officer has reasonable grounds for believing to be subject to legal privilege as defined by in PACE Section 10, other than under the Criminal Justice and Police Act 2001, Part 2.
- 7.5 Police officers may decide that it is not appropriate to seize property or may wish to photograph, image or copy any document or article they have the power to seize, in which case the provisions in PACE Code B 7.4 – 7.6 apply.
- 7.6 A police officer must have regard to his or her statutory obligation to retain an original document or other article only when a photograph or copy would not be sufficient (PACE Section 22 (4)).

### ***Computer information***

- 7.7 Under Section 159 of the 2003 Act, if the material specified in a production order consists of information stored in any electronic form, the material must be produced either in a form:
- (a) which can be taken away or to which access can be given, and which is visible and legible; or
  - (b) from which it can readily be produced in a visible and legible form (for example a computer printout or a removable computer disk).

### **(b) Criminal Justice and Police Act 2001: Specific procedures for seize and sift powers**

- 7.8 Powers to seize property from premises or persons to be sifted or examined elsewhere extend to searches conducted under the 2003 Act. Police officers should adhere to PACE Code B 7.7 – 7.13 when exercising or considering the exercise of these powers.
- 7.9 Any suitably qualified or skilled person, including appropriate representatives from the requesting authority or territory, may be present at the search and sift, providing that:

- (a) (if the search is conducted under warrant) the warrant authorising entry to the premises also authorises that person to accompany the police officer executing the warrant; and
- (b) the presence of the person is needed to help in the accurate identification of the material sought or to advise where certain forms of evidence are most likely to be found.

7.10 The accompanying person(s) may not take part in conducting any sift, but they may be present when it takes place.

7.11 An appropriate representative may include the person's legal representative.

**(c) Retention**

7.12 Material seized or produced under Sections 156, 157, 160, 161, 162, 163 or 164 of the 2003 Act may be retained only for as long as necessary. It may be retained, among other purposes:

- (a) to assist in establishing the identity of the person arrested;
- (b) for use as evidence at a trial for an offence, including a trial for the offence in respect of which the person's extradition for the purposes of prosecution is requested.
- (c) to facilitate the use in any proceedings of anything to which the material is inextricably linked;
- (d) for forensic examination or other investigation in connection with an offence, committed in the United Kingdom or abroad (including the offence in respect of which the person's extradition for the purposes of prosecution is requested).
- (e) in order to establish its lawful owner when there are reasonable grounds for believing it has been stolen or obtained by the commission of an offence.

7.13 Perishable items seized should be photographed and a copy of the photograph retained as evidence.

7.14 Property shall not be retained under paragraph 7.13 (a), (b), (c) or (d) of this Code if a copy or image would be sufficient.

***Evidence of a UK offence***

7.15 The retention and use of property seized in relation to a UK offence is also governed by the provisions in PACE Code B, 7.14 – 7.17.

**(d) Rights of Owners**

7.17 PACE Code B paragraphs 7.16 – 7.17 apply to all property seized under the 2003 Act.

**8 Delivery**

8.1 Under Section 172 of the 2003 Act, a police officer may deliver anything lawfully seized or produced under Part 4 of the 2003 Act to a person who is, or who is acting on behalf of, an authority of the requesting territory, which the constable has reasonable grounds for believing has functions making it appropriate for the material to be delivered to it or a person acting on its behalf.

8.2 It is the responsibility of the police officer in charge of the search to ensure the secure storage and integrity of any material seized until such time as it is delivered to the requesting authority or territory or returned to its lawful owner.

8.3 Police officers may not deliver:

(a) material, including copies or photographs of the material, seized in relation to the extradition offence; or

(b) anything that may be used as evidence in the prosecution of the person for the extradition offence,

to the requesting authority or territory until the order for extradition has been made and all legal proceedings relating to the extradition request have been completed. The proceedings are not deemed to have been completed if the extradition proceedings are adjourned.

8.4 Requests from appropriate representatives of the requesting authority or territory to view the property when visiting the UK are permitted.

***Process of Delivery***

8.5 After the extradition order has been made, and the extradition proceedings have been completed, a police officer must deliver seized material to representatives from the requesting authority or territory, as soon as is practicable:

(a) in person at the time and place the person is surrendered to representatives of the requesting authority or territory;

(b) in person by the police officer who has assumed responsibility for retention of the property, at a location agreed with representatives of the requesting authority or territory; or

(c) by alternative means, with the consent of the requesting authority or territory.



- 8.6 Police officers must be satisfied that the person to whom the material is being delivered is, or is acting on behalf of, an authority of the requesting territory, which has functions making it appropriate for the material to be delivered to him or her.
- 8.7 If it is not practical for material to be delivered in person at the time of surrender, the police officer who has assumed responsibility for the material should arrange for the collection of the material by representatives from the requesting authority or territory.
- 8.8 Material may be delivered to the requesting authority or territory before the person has been handed over to the appropriate authorities from the requesting authority or territory, once extradition proceedings have been completed.
- 8.9 If material is delivered to the requesting authority or territory and it later transpires it is not needed, UK police are not required to assist in its return, but this does not preclude them providing assistance, where possible.
- 8.10 Material seized in response to a request from, for example, a Category 1 or Category 2 territory may be delivered to the requesting authority or territory if the person requested for extradition dies or escapes.

***Material required in other prosecutions***

- 8.11 Material seized under the 2003 Act which is also required for use in other proceedings abroad can only be delivered to the authority or territory requesting it, if a mutual legal assistance (MLA) request has been made and approved. Any such requests will be considered in accordance with the Criminal Justice (International Co-operation) Act 1990.
- 8.12 Where material is seized under the 2003 Act, which is:
- (a) evidence relating to an offence(s) committed abroad, other than the extradition offence; or
  - (b) required for the prosecution abroad of persons in connection with an offence(s) other than the extradition offence; or
  - (c) required in the prosecution abroad of co-defendants of the person whose extradition is sought,
- the material may only be delivered to the relevant territory if an MLA request for that material has been received and approved.
- 8.13 Delivery of the material for use in proceedings abroad (other than prosecution of the extradition offence) may take place before the extradition proceedings are completed, following approval of an MLA request.

- 8.14 Seized material also required for the prosecution of an offence committed in the UK, should be retained in the UK until proceedings on the UK offence have been completed.

## **9 Action after searches and search registers**

- 9.1 If premises are searched under the powers contained in the 2003 Act, police officers should follow the guidance in PACE Code B, Sections 8 and 9 regarding the action to be taken after a search and maintaining a search register.
- 9.2 Additionally, it is the responsibility of the police officer in charge of the case to maintain a register of duplicate copies of the entries in the search register.

## **Code C**

### **Code of Practice for the detention, treatment of persons detained under the Extradition Act 2003.**

#### **1 General**

- 1.1 This Code of Practice (this Code) concerns the procedures for the detention and treatment of persons wanted for extradition purposes under the Extradition Act 2003 (2003 Act). These supplement the guidance in PACE Code C in respect of the detention, treatment and questioning of persons by Police Officers. Police Officers should note that this Code does not apply to persons in transit held in police custody under the non-UK extradition transit powers (sections 189A and 189B of the 2003 Act). A separate code, the Code of Practice for Non-UK Extradition Transit, issued under section 189D of the 2003 Act, applies to such persons.
- 1.2 A custody officer must perform the functions in this Code as soon as practicable. A custody officer will not be in breach of this Code if delay is justifiable and reasonable steps are taken to prevent unnecessary delay. The custody record shall show when a delay has occurred and the reason.
- 1.3 This Code must be readily available at all police stations and ports for consultation by:
- (a) police officers, customs officers or persons authorised by a police officer or customs officer to perform functions under this Code;
  - (b) detained persons; and
  - (c) members of the public.
- 1.4 In the operation of procedures under this Code, police officers should have regard to the provisions of PACE Code C 1.4 – 1.7, 3.5 – 3.20 and Annex E in respect of persons believed to be:
- (a) mentally disordered or otherwise mentally vulnerable;
  - (b) those aged 18 or under;
  - (c) blind, seriously visually impaired, deaf, unable to read or speak, or has difficulty orally because of a speech impediment.
- 1.5 If this Code requires a person to be given certain information, they do not have to be given it if at the time they are incapable of understanding what is said, are violent or may become violent or are in urgent need of medical attention. But they must be given it as soon as practicable thereafter.

- 1.6 References to a custody officer include those performing the functions of custody officer.
- 1.7 When this Code requires the prior authority or agreement of a police officer of at least inspector or superintendent rank, that authority may be given by a sergeant or chief inspector authorised to perform the functions of the higher rank under PACE, Section 107.
- 1.8 This Code applies to people in custody in police stations in England, Wales and Northern Ireland, who have been arrested under the 2003 Act.
- 1.9 Paragraphs 1.13 – 1.17 in PACE Code C relating to designated persons and civilian support staff apply in the operation of this Code.
- 1.10 Nothing under this Code permits a police officer to interview a person arrested under the 2003 Act.

## **2 Arrest**

- 2.1 A police officer arresting a person wanted for extradition purposes under one of the following powers in the 2003 Act (see Annex A):
  - (a) Section 3: arrest under a certified Part 1 warrant;
  - (b) Section 5: provisional arrest under Part 1;
  - (c) Section 71: arrest warrant under Part 2, following certification of an extradition request;
  - (d) Section 73: provisional arrest warrant under Part 2;
  - (e) Section 74A: provisional arrest without warrant under Part 2, where a certificate has been issued under section 74B;

shall:

- (a) Caution the person in the following terms:

*“You do not have to say anything, Anything you do say may be given in evidence.”*

and:

- (b) Give the person a copy of the warrant, or certificate where arrest is made under section 74A, as soon as practicable after arrest.
- 2.2 Minor deviations from the words of any caution given in accordance with this Code do not constitute a breach of this Code, provided the sense of the relevant caution is preserved.

- 2.3 The arresting police officer need not be in possession of either the Part 1 warrant or a copy of it at the time of arrest under Section 3 of the 2003 Act.
- 2.4 A police officer arresting a person under Section 71 (arrest warrant following extradition request), Section 73 (provisional warrant) or Section 74A (provisional arrest without warrant) of the 2003 Act need not be in possession of either the warrant issued by a judge or the certificate issued by the designated UK authority, or a copy of it at the time of arrest.
- 2.5 A person arrested under Sections 3, 71, 73, 74A of the 2003 Act, must be served with a copy of the warrant or certificate as soon as practicable after arrest.
- 2.6 The police officer must take all reasonable steps to ensure that the person understands that they are being arrested and why they are being arrested. The need for an interpreter will be fully assessed by the custody officer on arrival at the police station and if necessary, the process of arrest can be repeated to ensure the person understands that they have been arrested and why.
- 2.7 Following arrest under section 71 of the Act, copies of the following documentation should be served on the arrested person or their legal representative before or at their first appearance at the Court
- (a) the papers containing the extradition request;
  - (b) the certificate issued by the Secretary of State;
  - (c) a copy of any relevant Order.

### **3 Custody records**

- 3.1 A separate custody record must be opened as soon as practicable for each person brought to a police station arrested under the 2003 Act.
- 3.2 PACE Code C paragraphs 2.2 – 2.7 apply.
- 3.3 In addition to the specific provisions set out in PACE Code C, the custody officer shall record the following information on the custody record:
- (a) the person's name and aliases, date of birth, gender and nationality;
  - (b) the person's address;
  - (c) a note of the person's self-defined ethnic background;
  - (d) the section of the 2003 Act the person was arrested under;

- (e) the extradition offence(s) specified on the warrant or extradition request (or, where known, the offence communicated by the requesting territory, if the person is arrested provisionally);
- (f) where possible, the date and location where the offence took place;
- (g) the name of the country making the extradition request.
- (h) the date, time and place that the person was arrested;
- (i) whether the person has been given the rights and notices set out in Sections 4.3 and 4.4 of this Code;
- (j) if the person required an interpreter and/or legal aid;
- (k) if known, whether the person is claiming asylum in the UK, or has refugee status or other form of protection based leave to remain in the UK.

3.4 All information recorded under this Code must be recorded as soon as practicable in the custody record unless otherwise specified.

#### **4 Custody Officers – responsibilities**

##### **(a) Initial Action: detained persons**

4.1 The person must be treated as continuing in legal custody from the point of arrest, until the person is either:

- (a) first brought before the appropriate judge; or
- (b) discharged (see paragraphs 4.9 (a) – (d) of this Code).

4.2 A checklist of the custody officer's duties under this Code is contained in Annex B.

4.3 When a person is brought to a police station under arrest, the custody officer must:

- (a) assess the person's understanding of English and the need for an interpreter and provide a copy of the notice of rights and entitlements in a language that the person understands and take appropriate action in accordance with paragraph 3.12 of PACE Code C;
- (b) give the person a copy of the arrest warrant, in a language that the person understands, if available at the time ( and if the person has not already been given a copy of the warrant by the arresting police officer (see paragraph 2.5 of this Code);
- (c) caution the person using the caution in the terms in paragraph 2.1(a) of this Code;

- (d) inform the person that he or she will not be interviewed about the extradition offence;
- (e) and make sure the person is told clearly about:
  - i. the stages of the extradition process including the right to consent to extradition (a form of words is set out in Annex C);
  - ii. the following continuing rights which may be exercised at any stage during the period in custody:
    - a) the right to have someone informed of his or her arrest (under Section 171(3)(c) of the 2003 Act);
    - b) the right to consult privately with a solicitor and that free independent legal advice is available (under Section 171(3)(d) of the 2003 Act) and the right to appoint a lawyer in state which sent the extradition request;
    - c) the right to consult these Codes and the relevant PACE Codes of Practice.
    - d) The right to interpretation and translation (if the person appears to be someone who does not speak or understand English or who has a hearing or speech impediment).
    - e) The right to communicate with their High Commission, embassy or consulate (if the person is a citizen of an independent Commonwealth country or a national of a foreign country, including the Republic of Ireland) or, if the person is stateless and not resident in the United Kingdom, with the embassy or consulate of the State where that person claims usually to reside.

4.4 The custody officer must give the detainee:

- (a) a written extradition notice (Annex D) setting out:
  - (i) the rights in paragraph 4.3(e) of this Code;
  - (ii) the arrangements for obtaining legal advice in the jurisdiction in which they have been arrested;;
  - (iii) the caution in the terms prescribed in 2.1(a) of this Code, above;
  - (iv) a fair processing notice, setting out the person's rights in respect of the use, retention and disclosure of personal data taken under the 2003 Act

- (b) a copy of the form setting out the stages of the extradition process, including the right to consent to extradition (Annex C);
- (c) a written notice briefly setting out their entitlements while in custody (see PACE Code C, Notes for Guidance 3A and 3B).

**(b) Initial action: detained persons – special groups**

4.6 PACE Code C paragraphs 3.12 – 3.20 apply in the operation of this Code.

**(c) Documentation**

4.7 The grounds for a person's detention shall be recorded in the person's presence, if practicable.

4.8 Action taken under paragraph 4.6 of this Code shall be recorded.

**(d) Time limits for detention and discharge of person**

4.9 Custody officers should note the specific obligations required under the 2003 Act in respect of persons arrested under an extradition arrest power.

- (a) A copy of the arrest warrant or certificate ) must be given to the person as soon as practicable after arrest (Sections 4(2), 6(5), 72(2), 74A(2) and 74(2) of the 2003 Act);

Note: if this provision is not adhered to, the judge **may** order the person's discharge;

- (b) A person arrested under Section 71 of the 2003 Act must be served copies of the extradition request, the certificate and any relevant Order before or at the extradition hearing (see paragraph 2.7 of this Code);

- (c) A person arrested under Section 3, 71,73 or 74A of the 2003 Act must be brought before the appropriate judge as soon as practicable (Sections 4(3), 72(3), 74A(3) and 74(3) of the 2003 Act);

Note: if this provision is not adhered to and the person applies to an appropriate judge to be discharged, the judge **must** order the person's discharge;

- (d) A person arrested provisionally under Section 5 of the 2003 Act must be brought before an appropriate judge within 48 hours of arrest;

Note: if this provision is not adhered to and the person applies to an appropriate judge to be discharged, the judge **must** order the person's discharge.



4.10 If a certificate is issued under Section 2 of the 2003 Act in respect of a Part 1 warrant subsequent to the person's discharge under Section 6(6) of the 2003 Act, the person may be rearrested under Section 3 of the 2003 Act.

## **5 Detainee's property**

### **(a) Action**

5.1 The custody officer is responsible for:

(a) ascertaining what property a detainee:

- (i) has with them when they come to the police station on arrest;
- (ii) might have acquired for an unlawful or harmful purpose while in custody.

(b) the safekeeping of any property taken from a detainee which remains at the police station.

5.2 The custody officer may search the detainee or authorise their being searched to the extent they consider necessary. Searches for the purpose of facilitating the ascertainment of a person's identity may be carried out under s.167 of the 2003 Act. Strip searches and intimate searches are allowed under Sections 171(3)(a) and 171(3)(b) of the 2003 Act, provided they are carried out in accordance with PACE Code C, Annex A.

5.3 The custody officer may seize and retain any clothing or personal effects if there are reasonable grounds for believing that:

- (a) the person might use it to cause physical injury to themselves or another person;
- (b) the person might use it to assist escape from lawful custody;
- (c) it is evidence relating to an offence; or
- (d) it is material relating to the identity of the person.

5.4 For the purposes of this section, 'an offence' includes:

- (a) an offence committed in the United Kingdom;
- (b) an offence committed abroad.

5.5 PACE Code C, paragraphs 4.2 and 4.3 also apply in the operation of this Code.

**(b) Documentation**

5.6 PACE Code C paragraphs 4.4 and 4.5 apply.

**6 Person wanted for UK offence**

6.1 If, following arrest of a person under the 2003 Act, it becomes apparent that there is evidence or information connecting the person to a UK offence; it should be investigated in accordance with normal domestic procedures.

6.2 Should a person be arrested for the purpose of extradition and a domestic matter at the same time, the person **must** be produced at Westminster Magistrates' Court for the extradition matter first, otherwise there is a risk the person may be discharged under Section 4,72, or 74D(10)(b)(ii) of the 2003 Act for not having been produced as soon as practicable.

6.3 If the person is charged with the UK offence, the investigating police force must inform the appropriate judge of the UK charges as soon as practicable, at or before the person's next appearance in the extradition proceedings. Under either Section 8A(2), 22(2), 76A(2) or 88(2) of the 2003 Act the judge must adjourn the extradition proceedings until the domestic proceedings are completed

**7 Right not to be held incommunicado**

7.1 PACE Code C, Section 5 and Annex B apply.

**8 Right to legal advice**

8.1 PACE Code C, paragraphs 6.1 – 6.5A, 6.12 – 6.16 and Annex B apply.

**9 Citizens of independent Commonwealth countries or foreign nationals**

9.1 PACE Code C, Section 7 applies.

**10 Conditions of detention**

10.1 PACE Code C, Section 8 applies.

**11 Care and treatment of detained persons**

11.1 PACE Code C, Section 9 applies.

**12 Interpreters and the translation of documents and records**

12.1 For persons arrested under Part 1 of the 2003 Act, paragraphs 13.1 – 13.1C and 13.9 – 13.11 of PACE Code C shall apply.

12.2 For persons arrested under Part 1 of the 2003 Act, paragraphs 1 -10 of Annex M of PACE Code C shall apply subject to the following modification. In place of

the table at paragraph 2 of Annex M of PACE Code C, the following table shall apply instead and paragraphs 1, 3 – 10 of that Annex shall be interpreted accordingly:

	ESSENTIAL DOCUMENT FOR THE PURPOSES OF THIS CODE	WHEN TRANSLATION TO BE CREATED	WHEN TRANSLATION TO BE PROVIDED
(i)	The Part 1 Warrant under which the detainee has been arrested	As soon as practicable after arrest.	As soon as practicable after the translation has been created.
(ii)	Where the detainee has been arrested under Section 3 of the 2003 Act, the Certificate issued in respect of the Part 1 Warrant by the designated authority under section 2(7) of the 2003 Act	As soon as practicable after arrest.	As soon as practicable after the translation has been created.

## **Code D**

### **Code of Practice for the identification of persons detained under the Extradition Act 2003**

#### **1 Introduction**

- 1.1 This Code of Practice (this Code) concerns the principal methods available to the police to identify people wanted for extradition and the keeping of accurate and reliable records in extradition cases. The powers and procedures in this code must be used fairly, responsibly, with respect for the people to whom they apply and without unlawful discrimination. The Equality Act 2010 makes it unlawful for police officers to discriminate against, harass or victimise any person on the grounds of the 'protected characteristics' of age, disability, gender reassignment, race, religion or belief, sex and sexual orientation, marriage and civil partnership, pregnancy and maternity when using their powers. When police forces are carrying out their functions they also have a duty to have regard to the need to eliminate unlawful discrimination harassment and victimisation and to take steps to foster good relations.
- 1.2 Identification of persons wanted for extradition may be made using the following methods:
- (a) taking of fingerprints;
  - (b) (non-intimate) body samples and impressions, including taking samples such as blood or hair to generate a DNA profile for comparison with material obtained from the requesting territory;
  - (c) taking of photographs;
  - (d) searching and examining detained persons to find, e.g., marks such as tattoos or scars which may help establish their identity.
- 1.3 Under this Code, intimate samples may not be taken for the purposes of ascertaining identity.

#### **2 General**

- 2.1 This Code must be readily available at all police stations and ports for consultation by:
- (a) police officers, customs officers or persons authorised by a police officer or customs officer to perform functions under this Code;
  - (b) detained persons;

- (c) members of the public.
- 2.2 The provisions of PACE Code D paragraphs 2.3 – 2.6 and 2.12, 2.13 and 2.15, (and the corresponding Notes for Guidance) apply to this Code in respect of persons who are believed to be:
- (a) mentally disordered or otherwise mentally vulnerable;
  - (b) under the age of 17;
  - (c) blind, seriously visually impaired, deaf, unable to read or speak or has difficulty communicating orally because of a speech impediment.
- 2.3 References to custody officers include those performing the functions of a custody officer.
- 2.4 When a record of any action requiring the authority of a police officer of a specified rank is made under this Code, subject to paragraph 2.9 of this Code, the police officer's name and rank must be recorded.
- 2.5 When this Code requires the prior authority or agreement of a police officer of at least inspector or superintendent rank, that authority may be given by a sergeant or chief inspector who has been authorised to perform the functions of the higher rank under PACE, Section 107.
- 2.6 Subject to paragraph 2.10 of this Code all records must be timed and signed by the maker.
- 2.7 References to:
- (a) 'taking a photograph', include the use of any process to produce a single, still, visual image;
  - (b) 'photographing a person', should be construed accordingly;
  - (c) 'photographs', 'films', 'negatives' and 'copies' include relevant visual images recorded, stored or reproduced through any medium;
  - (d) 'destruction' includes the deletion of computer data relating to such images or making access to that data impossible.
- 2.8 References to an 'intimate sample' mean a dental impression or sample of blood, semen or any other tissue fluid, urine or pubic hair, or a swab taken from any part of a person's genitals or from a person's body orifice other than the mouth.
- 2.9 Nothing in this Code requires the identity of police officers or civilian support staff to be recorded or disclosed if the police officers or civilian support staff reasonably believe recording or disclosing their names might put them in

danger. In these cases, they shall use warrant or other identification numbers and the name of their police station.

- 2.10 The provisions in PACE Code D 2.18 – 2.22 concerning the role of civilian support staff and designated persons apply to this Code.

### **3 Identification by fingerprints and samples**

#### **(a) General**

- 3.1 References to ‘fingerprints’ means any record, produced by any method, of the skin pattern and other physical characteristics or features of a person’s fingers or palms.
- 3.2 References to a ‘non-intimate sample’ mean a sample of hair, other than pubic hair; a sample taken from a nail or from under a nail; a swab taken from any part of a person’s body other than a part from which a swab taken would be an intimate sample; saliva; or a skin impression which means any record, other than a fingerprint, which is a record, in any form and produced by any method, of the skin pattern and other physical characteristics or features of the whole, or any part of, a person’s foot or of any other part of their body.

#### **(b) Action**

- 3.3 Under Section 166 of the 2003 Act fingerprints or a non-intimate sample may be taken from a person detained at a police station having been arrested under an extradition arrest power, and may be used for the following purposes:

- (a) To assist in establishing the person’s identity, including by cross-checking fingerprint data against records of current asylum claimants held by the Immigration Fingerprint Bureau;
- (b) those relating to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution in, as well as outside, the UK. This includes checking them against other fingerprints, footwear impressions and DNA records held by, or on behalf of, the police and other law enforcement authorities in, as well as outside, the UK. ;

#### **3.4 A person’s fingerprints or a non-intimate sample may only be taken by a constable or detention officer:**

- (a) with the consent of the person in writing; or
- (b) with the authorisation of a police officer of at least the rank of inspector, or a custody officer of at least the rank of a constable, without that consent.

- 3.5 A person's fingerprints may be taken electronically.
- 3.6 Under Section 209 of the 2003 Act, reasonable force may be used, if necessary, to take a person's fingerprints or a non-intimate sample, without their consent.
- 3.7 Intimate samples may not be taken under Section 166 of the 2003 Act.
- 3.8 Before any fingerprints or a non-intimate sample are taken, with or without consent, the person must be informed:
- (a) of the reason for taking their fingerprints or the sample;
  - (b) of the grounds on which the relevant authority under Section 166(4) of the 2003 Act has been given;
  - (c) that their fingerprints and/or the information derived from the samples will be retained and may be the subject of a speculative search.
- 3.9 Police officers should have regard to PACE Code D 6.7 - 6.9 and the corresponding Notes for Guidance in the procedures for taking non-intimate samples.

**(c) Documentation**

- 3.10 A record must be made as soon as possible, of:
- (a) the reason for taking a sample;
  - (b) the authority for taking a person's fingerprints without consent.
- 3.11 If force is used, a record shall be made of the circumstances and of those present.
- 3.12 A record shall be made of the fact that a person has been informed that fingerprints and samples (and the information derived from it) may be the subject of a speculative search.

**(d) Use, disclosure and retention of fingerprints and samples**

- 3.13 Fingerprints or samples (and the information derived from the samples) taken from a person under Section 166 of the 2003 Act may be used or disclosed only for purposes related to:
- (a) establishing the person's identity;
  - (b) the prevention and detection of crime;

- (c) the investigation of domestic offences;
- (d) the conduct of prosecutions by or on behalf of police or other law enforcement and prosecuting authorities inside and outside the United Kingdom.

3.14 After being so used or disclosed the fingerprints and samples may be retained by the police and other law enforcement authorities in the United Kingdom, but the information must not be used or disclosed except for the purposes in paragraph 3.13 of this Code and being the subject of a speculative search.

3.15 A speculative search means the fingerprints or samples (and the information derived from the samples) may be checked against other fingerprints and DNA records held by, or on behalf of, the police and other law enforcement authorities in or outside the United Kingdom, or held in connection with, or as a result of, an offence committed inside or outside the United Kingdom.

3.16 Fingerprints and samples (and the information derived from the samples) or copies of this information, may be sent to the requesting authority or territory before completion of the extradition proceedings, to assist in establishing the person's identity.

#### **(e) Destruction of fingerprints and samples**

3.17 When fingerprints and samples are taken from a person wanted for extradition and the person is discharged from the extradition proceedings, they must be destroyed. In doing so, police officers should have regard to the provisions in PACE (s63D – s63U).

3.18 If the person gives their written consent for their fingerprints or sample to be retained and used after they have fulfilled the purpose for which they were taken, the fingerprints or samples do not have to be destroyed.

3.19 When a person's fingerprints or samples are to be destroyed, police officers shall follow the guidance in PACE Code D and should have regard to the provisions in PACE (s63D – s63U).

### **4 Examinations to establish identity and taking of photographs**

#### **(a) Searching or examination of detainees at police stations**

4.1 Section 167 of the 2003 Act allows a police officer or a designated person<sup>7</sup> to search or examine a person arrested under an extradition arrest power and detained at a police station for the purpose of facilitating the ascertainment of that person's identity.

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<sup>7</sup> Meaning a person designated for the purposes of Section 167 by the Chief Officer for the police area in which the police station in question is situated (in England and Wales) or the Chief Constable of the Police Service of Northern Ireland (in Northern Ireland).



- 4.2 A search under section 167 of the 2003 Act may only be carried out with the authority of a police officer of at least the rank of inspector.
- 4.3 An identifying mark found on a search or examination may be photographed with the person's consent or without their consent if it is withheld or it is not possible to obtain it. Authorisation by a senior police officer is not required in the taking of photographs without consent, but proper documentation must be filed, according to paragraphs 4.15 – 4.16 of this Code, below.
- 4.4 Ascertaining a person's identity includes showing that he or she is not a particular person. Mark includes features and injuries and a mark is an identifying mark if its existence in a person's case facilitates the ascertainment of his or her identity.
- 4.5 A detainee may only be searched, examined and photographed under Section 167 of the 2003 Act by a person of the same sex.
- 4.6 If it is established that a person is unwilling to co-operate to enable a search and/or examination to take place or a suitable photograph to be taken, a police officer may use such reasonable force as is necessary to:
- (a) search and/or examine a detainee; and
  - (b) photograph any identifying marks found on a search or examination.
- 4.7 The thoroughness and extent of any search or examination carried out in accordance with the powers in Section 167 of the 2003 Act must be no more than the police officer considers necessary to achieve the required purpose. Any search or examination which involves the removal of more than the person's outer clothing shall be conducted in accordance with PACE Code C, Annex A, paragraph 11.
- 4.8 An intimate search may not be carried out under Section 167 of the 2003 Act.

**(b) Photographing**

- 4.9 Section 168 of the 2003 Act allows a police officer or a designated person<sup>8</sup> to photograph a person who has been arrested under an extradition arrest power and is detained at a police station:
- (a) with that person's consent; or
  - (b) without that person's consent, if that consent is withheld or it is not practicable to obtain it.

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<sup>8</sup> Meaning a person designated for the purposes of Section 168 by the Chief Officer for the police area in which the police station in question is situated (in England and Wales) or the Chief Constable of the Police Service of Northern Ireland (in Northern Ireland).

- 4.10 A person proposing to take a photograph of a person under section 168 may, for this purpose, require the person to remove any item or substance worn on, or over, all or any part of the head or face. If the person does not comply with such a requirement, the police officer may remove the item or substance.
- 4.11 If it is established that a person is unwilling to co-operate sufficiently to enable a suitable photograph to be taken and it is not reasonably practicable to take the photograph covertly, a police officer may use reasonable force:
- (a) to take their photograph without their consent; and
  - (b) for the purpose of taking the photograph, remove any item or substance worn on, or over, all, or any part of the person's head or face which they have failed to remove when asked.
- 4.12 For the purposes of this Code, a photograph may be obtained without the person's consent by making a copy of an image of them taken at any time on a camera system installed anywhere in the police station.

**(c) Information to be given**

- 4.13 When a person is searched, examined or photographed, they must be informed of the:
- (a) purpose of the search, examination or photograph;
  - (b) grounds on which the relevant authority, if applicable, has been given; and
  - (c) purposes for which a photograph may be used, disclosed or retained.
- 4.14 This information must be given before the photograph is taken, except if the photograph is:
- (a) taken covertly;
  - (b) obtained as in paragraph 4.12 of this Code by making a copy of an image of the person taken at any time on a camera system installed anywhere in the police station.

**(d) Documentation**

- 4.15 A record must be made when the person is searched, examined or a photograph of the person or any identifying marks found on them is taken. The record must include the:
- (a) identity of the police officer or designated person carrying out the search, examination or taking the photograph;

- (b) purpose of the search, examination or photograph and the outcome;
- (c) person's consent to the search, examination or photograph, or the reason the person was searched, examined or photographed without consent;
- (d) giving of any authority, the grounds for giving it and the authorising police officer.

4.16 If, under paragraph 4.11 of this Code, force is used when searching, examining or taking a photograph, a record shall be made of the circumstances and those present.

**(e) Use, disclosure and retention of photographs of persons or identifying marks**

4.17 Any photographs of persons or identifying marks taken under Sections 167 and 168 of the 2003 Act may be used or disclosed only for purposes related to:

- (a) establishing the person's identity;
- (b) the prevention and detection of crime;
- (c) the investigation of non-UK offences;
- (d) the conduct of prosecutions by or on behalf of police or other law enforcement and prosecuting authorities inside and outside the United Kingdom.

4.18 After being so used or disclosed, the photographs may be retained by the police and other law enforcement authorities in the United Kingdom but they must not be used or disclosed except for the purposes in paragraph 4.17 of this Code.

4.19 A photograph of the person or identifying marks (or a copy) taken under Section 167 or 168 of the Act may be sent to the requesting authority or territory in advance of the person's extradition to assist in establishing the identity of the person arrested.

## **ANNEX A – ARREST UNDER THE EXTRADITION ACT 2003**

1.1 A police officer may make an arrest under one of the following powers in the 2003 Act:

(a) **Section 3 of the 2003 Act: Arrest under a certified Part 1 warrant**

This applies where a Part 1 warrant, containing the following information has been received and certified by the UK designated authority:

- (i) Particulars of the person's identity;
- (ii) A statement that the person is either accused or has been convicted of an offence in a Category 1 territory and the warrant issued for the purposes of the person's arrest and extradition;
- (iii) In cases where a person is accused of an offence and extradition is sought for the purpose of prosecution, 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 it is alleged to have been committed and the particulars of the law in the Category 1 territory which is alleged to have been broken;
- (iv) In cases where a person is accused of an offence and extradition is sought for the purpose of prosecution, sentence which may be imposed by the Category 1 territory if the person is convicted of the offence;
- (v) In cases where a person has been convicted of an offence and extradition is sought for the purposes of sentencing or of serving a sentence, particulars of the conviction and any sentence which has or may be imposed.
- (vi) In any case, details of any other warrant issued in a Category 1 territory for the person's arrest.

(b) **Section 5 of the 2003 Act: Provisional arrest under Part 1**

This power arises where a constable has reasonable grounds for believing that a Part 1 warrant has been or will be issued by a designated judicial authority in a Category 1 territory in respect of a person. The UK designated authority will not have certified the Part 1 warrant however it may be aware that a Part 1 warrant has or will be issued.

Provisional arrest requests are usually made in urgent circumstances where the person is believed to be a flight risk or is expected to be in a particular location only fleetingly, and before there is time for a Part 1 warrant to be issued or received and certified.

(c) **Section 71 of the 2003 Act: Arrest under Part 2, following certification of an extradition request**

This applies when the Secretary of State has certified an extradition request from a Category 2 territory and a district judge has issued an arrest warrant in relation to the person whose extradition is sought.

(d) **Section 73: Provisional arrest warrant under Part 2**

This applies in urgent cases where a person is requested for extradition by a Category 2 territory, but full documentation has not yet been received. In this circumstance, a police officer may apply to a justice of the peace for a provisional arrest warrant in respect of the person whose extradition is sought.

For a warrant to be issued, the justice of the peace must be satisfied on information provided by the police in writing and on oath that:

- i. either:
  - The person is accused in a Category 2 territory of an offence; or
  - The person is alleged to be unlawfully at large following conviction or sentence by a court in a Category 2 territory;
- ii. The person is believed to be in the UK or on their way to the UK;

The justice must also have reasonable grounds for believing that:

- i. The offence of which the person is accused or has been convicted is an extradition offence (within the meaning of 148 of the 2003 Act)
- ii. There is written evidence that would justify the issue of a warrant for the arrest of the person accused of the offence within the justice's jurisdiction, if the person in respect of whom the warrant is sought is accused of the commission of the offence.
- iii. There is evidence that would justify the issue of a warrant for the arrest of a person unlawfully at large after conviction of the offence within the justice's jurisdiction, if the person in respect of whom the warrant is sought is alleged to be unlawfully at large after conviction of the offence.

(e) **Section 74A: Provisional arrest without a warrant, under Part 2; where a certificate has been issued under section 74B.**

This applies in cases where a person wanted for serious offences is required in a Category 2 territory and if a certificate has been issued under section 74B of the 2003 Act in respect of the person but full documentation has not yet been received.

For a certificate to be issued, the UK designated authority must receive a valid request, made by an authority of a specified category 2 territory, for the person's arrest and be 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.

The UK designated authority must also:

- i. have reasonable grounds for believing that the offence specified in the request is a serious extradition offence, and
- ii. be satisfied that the seriousness of the conduct constituting the offence makes it appropriate to issue the certificate.

- 1.2 The arresting police officer need not be in possession of the warrant at the time of arrest, or the certificate where an arrest has been made under Section 74A.

## ANNEX B - CHECKLIST OF DUTIES FOR CUSTODY OFFICERS IN EXTRADITION CASES

1.	Assess the need for an interpreter and take action as appropriate, including arranging for any warrant and certificate to be translated into a language the detainee understands	<input type="checkbox"/>
2.	Ensure the person understands that they have been arrested and why they have been arrested	<input type="checkbox"/>
3.	Caution person in the following terms: <i>“You do not have to say anything. Anything you do say may be given in evidence”</i> and inform the person that he/she will not be interviewed or questioned about the extradition offence	<input type="checkbox"/>
4.	Give person a copy of the arrest warrant and/or certificate in a language the person understands, if available. If person arrested under Part 2 of the Act, check the papers in Extradition Code of Practice, Code C paragraph 2.4 have been served on the person.	<input type="checkbox"/>
5.	Inform the person of extradition process, including the right to consent to extradition (see form of words, Annex C to Extradition Code of Practice, Code C)	<input type="checkbox"/>
6.	Inform person of their rights while in custody: <ul style="list-style-type: none"> <li>(a) Right to have someone informed of the arrest and detention</li> <li>(b) Right to consult privately with a solicitor and that free, independent legal advice is available as well as right to appoint a lawyer in the requesting state</li> <li>(c) Right to consult the Extradition Codes of Practice and the PACE Codes of Practice</li> <li>(d) Right to interpretation and translation (where applicable)</li> </ul>	<input type="checkbox"/>
7.	Serve the person with the following forms in a language that the person understands: <ul style="list-style-type: none"> <li>(a) The written extradition notice (Annex D to Extradition Code of Practice, Code C) setting out: <ul style="list-style-type: none"> <li>• The person’s rights while in custody</li> <li>• The arrangements for obtaining legal advice</li> <li>• The extradition caution</li> <li>• The fair processing notice regarding the use retention and disclosure of personal data taken</li> </ul> </li> <li>(b) A written notice setting out the person’s usual entitlements while in custody</li> <li>(c) A written copy of the form explaining the stages of the extradition process.</li> </ul> <p>and mark the custody record as appropriate</p>	<input type="checkbox"/>
8.	Inform person of the right to communicate with their High commission, Embassy or Consulate. Contact details for the relevant High Commissions, Embassies and Consulates can be obtained from the Consular Directorate of the Foreign and Commonwealth Office (FCDO) as follows: <ul style="list-style-type: none"> <li>• from the FCDO web pages: <a href="https://gov.uk/government/publications/table-of-consular-conventions-and-mandatory-notification-obligations">https://gov.uk/government/publications/table-of-consular-conventions-and-mandatory-notification-obligations</a> , and <a href="https://www.gov.uk/government/publications/foreign-embassies-in-the-uk">https://www.gov.uk/government/publications/foreign-embassies-in-the-uk</a></li> <li>• by telephone to 020 7008 3100,</li> </ul>	<input type="checkbox"/>

	<ul style="list-style-type: none"> <li>• by email to <a href="mailto:fcocorrespondence@fco.gov.uk">fcocorrespondence@fco.gov.uk</a></li> <li>• by letter to the Foreign and Commonwealth Office, King Charles Street, London, SW1A 2AH.</li> </ul>	
9.	<p>Ask the detainee</p> <p>(a) whether they:</p> <ul style="list-style-type: none"> <li>• Would like legal advice</li> <li>• Want someone informed of their detention</li> </ul> <p>(b) to sign the custody record to confirm their decisions in respect of these</p>	<input type="checkbox"/>
10.	<p>Conduct a risk assessment and determine whether the detainee:</p> <p>(a) is, or might be in need of medical treatment or attention</p> <p>(b) requires the presence of an appropriate adult (in accordance with paragraph 1.5 of this Code) or other special assistance</p> <p>and mark the custody record as appropriate</p>	<input type="checkbox"/>
11.	<p>Search the person to ascertain what property the detained person has with them and document this. Record the reasons for retaining any items of property, and mark the custody record as appropriate</p>	<input type="checkbox"/>
12.	<p>Ensure the following information is contained on the custody record and forward this information to the designated authority in Part 1 cases and the Secretary of State in Part 2 case:</p> <p>(a) The person's name and aliases, date of birth, gender and nationality</p> <p>(b) The person's address</p> <p>(c) A note of the person's self-defined ethnic background</p> <p>(d) The Section of the 2003 Act the person was arrested under</p> <p>(e) The offence(s) specified on the Part 1 warrant or Part 2 extradition request (or, where known, the offence communicated by the requesting authority, if the person was arrested provisionally under Section 5 of the 2003 Act)</p> <p>(f) Where possible, the date and location where the offence took place</p> <p>(g) The name of the territory (Category 1 or 2) requesting extradition</p> <p>(h) The date, time and place that the person was arrested</p> <p>(i) That the person has been given the required rights and notices</p> <p>(j) If the person required an interpreter and/or legal aid</p> <p>(k) If known, whether the person has claimed asylum in the UK</p>	<input type="checkbox"/>
13.	<p>Inform Geoamey/Serco that the person needs to be picked up as they will need to be taken to Westminster Magistrates' Court as soon as possible for the initial hearing.</p>	<input type="checkbox"/>



## **ANNEX C – SUMMARY OF THE UK EXTRADITION PROCESS (to be read to the requested person)**

*Note: this form is not an exhaustive account of the extradition process, and is not a statement of the law, but is designed to help you to understand why you have been arrested and the main stages of the extradition process.*

If you require a more detailed explanation of the process or have further questions, you should seek advice from your legal adviser.

### **Persons arrested under Section 3 of the Extradition Act 2003**

- 1) You have been arrested under Section 3 of the Extradition Act 2003.
- 2) *Either (where person is accused of offences in the requesting State):*
  - Your extradition is sought by [insert Category 1 territory] in relation to [insert offence(s)] that took place on [insert date/time] at [insert location]
  - *Or (Where person has been convicted for offences and is alleged to be unlawfully at large):*
  - Your extradition is sought by [insert Category 1 territory] for the purpose of [delete as appropriate: being sentenced/serving a sentence of imprisonment] in relation to [insert offence specified on the warrant].
- 3) You will be held in police custody until you are brought before a judge. You will be brought before a judge as soon as practicable.
- 4) There are two main stages to the extradition process.
- 5) The first is an initial hearing before a district judge. This will take place as soon as practicable.
- 6) At the initial hearing the judge will either remand you in custody or grant you bail. If you do not wish to contest your extradition, the judge may order your extradition at the initial hearing.
- 7) The second hearing is the main extradition hearing. This will usually take place before a district judge within 21 days of your arrest. The date will be set at the initial hearing, however, it is possible the case may be adjourned.
- 8) At the extradition hearing, the judge will decide whether there are any reasons why you should not be extradited and then either order your extradition to [the Category 1 territory] or discharge you.
- 9) You may seek permission to appeal from the High Court to appeal to it against the judge's decision to order your extradition, within 7 days of the date on which the order is made. If you do not seek permission to appeal, you will ordinarily be

surrendered to [insert the Category 1 territory] within 10 days of the date on which the order for your extradition is made.

- 10) You have the right to consent to your extradition. If you wish to consent, you should consult your legal advisor on the implications. You may only give consent before the appropriate judge.

## Persons provisionally arrested under Section 5 of the Extradition Act 2003

*Note: this form is not an exhaustive account of the extradition process, and is not a statement of the law, but is designed to help you to understand why you have been arrested and the main stages of the extradition process.*

If you require a more detailed explanation of the process or have further questions, you should seek advice from your legal adviser.

- 1) You have been provisionally arrested under Section 5 of the Extradition Act 2003.
- 2) *Either (where person is accused of offences in the Requesting State):*

Your extradition is sought by [insert Category 1 territory] in relation to an [insert offence(s)]

Or (where person has been convicted in the Requesting State is alleged to be unlawfully at large):

Your extradition is sought by [insert Category 1 territory] for the purpose of [delete as appropriate: being sentenced/serving a sentence of imprisonment].

- 3) If you are held in police custody for more than 48 hours after your arrest, pending receipt of a certified Part 1 warrant, you may apply to be discharged.
- 4) You have the right to be given a copy of the warrant as soon as is practicable.
- 5) There are two main stages to the extradition process.
- 6) The first is an initial hearing before a district judge. This will take place within 48 hours of your arrest.
- 7) At the initial hearing the judge will either remand you in custody or grant you bail.
- 8) The second hearing is the main extradition hearing. This will take place before a district judge within 21 days of your arrest. The date will be set at the initial hearing, however, it is possible the case may be adjourned.

- 9) At the extradition hearing the judge will decide whether there are any reasons why you should not be extradited and then either order your extradition to [the Category 1 territory] or discharge you.
- 10) You may seek permission from the High Court to appeal to it against the judge's decision to order your extradition, within 7 days of the date on which the order is made. If you do not seek permission to appeal, you will ordinarily be surrendered to [insert the Category 1 territory] within 10 days of the date on which the order for your extradition is made.
- 11) You have the right to consent to your extradition. If you wish to consent you should consult your legal advisor on the implications. You may only give consent before the appropriate judge.

### Persons arrested under Section 71 of the Extradition Act 2003

*Note: this form is not an exhaustive account of the extradition process, and is not a statement of the law, but is designed to help you to understand why you have been arrested and the main stages of the extradition process.*

If you require a more detailed explanation of the process or have further questions, you should seek advice from your legal adviser.

- 1) You have been arrested under Section 71 of the Extradition Act 2003.
- 2) *Either (where person is accused of offences in the Requesting State):*

Your extradition is sought by [insert Category 2 territory] in relation to [insert offence(s)] which took place on [insert date/time] at [insert location].

Or (where person has been convicted by the Requesting State and is alleged to be unlawfully at large):

Your extradition is sought by [insert Category 2 territory] for the purpose of [delete as appropriate: being sentenced/serving a sentence of imprisonment] in relation to [insert offence(s) specified on the warrant]

- 3) You will be held in police custody until you are brought before a judge. You will be brought before a judge as soon as practicable.
- 4) There are three main stages to the extradition proceedings
- 5) At the first stage, you will be brought before a judge as soon as practicable after your arrest. The judge will either remand you in custody or grant you bail.
- 6) The second stage is the main extradition hearing. This will usually take place within two months of you being brought before the judge for the first time. However, it is possible the case may be adjourned.

- 7) At the extradition hearing, the judge will decide whether there are any reasons why you should not be extradited. The judge will then either discharge you or send your case to the Secretary of State for a decision as to whether you should be extradited.
- 8) If your case is sent to the Secretary of State for a decision, you can seek permission from the High Court to appeal to it against the decision of the judge, but the appeal will not be heard until after the Secretary of State has made a decision. If your case is sent to the Secretary of State, you will either be remanded in custody or granted bail.
- 9) If the Secretary of State orders your extradition to [insert Category 2 territory], you can seek permission from the High Court to appeal to it against the decisions of the judge and the Secretary of State within 14 days of the day on which the Secretary of State informs you of his or her order. You may make an out of time application for permission to appeal on human rights grounds.
- 10) If you do not seek permission to appeal, you will be returned to [insert Category 2 territory] within 28 days of the date on which the Secretary of State ordered your extradition.
- 11) You have the right to consent to your extradition. If you wish to consent you should consult your legal advisor on the implications. You may only consent before the appropriate judge.

### Persons provisionally arrested under Section 73 of the Extradition Act 2003

*Note: this form is not an exhaustive account of the extradition process, and is not a statement of the law, but is designed to help you to understand why you have been arrested and the main stages of the extradition process.*

If you require a more detailed explanation of the process or have further questions, you should seek advice from your legal adviser.

- 1) You have been provisionally arrested under Section 73 of the Extradition Act 2003.

*Either (where person is accused of offences in the Requesting State):*

Your extradition is sought by [insert Category 2 territory] in relation to [insert offence(s)] which took place on [date/time] at [location].

*Or (where person has been convicted in the Requesting State):*

Your extradition is sought by [insert Category 2 territory] for the purpose of [delete as appropriate being sentenced/serving a sentence of imprisonment] in relation to [insert offence(s) specified on the warrant]

- 2) You will be held in police custody until you are brought before a judge. You will be brought before a judge as soon as practicable.

- 3) There are three main stages to the extradition proceedings
- 4) At the first stage, you will be brought before a judge as soon as practicable after your arrest. The judge will either remand you in custody or grant you bail.
- 5) Provided the judge has received all the necessary documentation relating to your case, within any applicable time limits, the judge will fix a date for the main extradition hearing. The main extradition hearing is the second stage of the proceedings.
- 6) The main extradition hearing will take place within two months of the judge receiving the necessary documentation. However, it is possible the case may be adjourned.
- 7) At the extradition hearing the judge will decide whether there are any reasons why you should not be extradited. The judge will then either discharge you or send your case to the Secretary of State for a decision as to whether you will be extradited.
- 8) If your case is sent to the Secretary of State for a decision, you can seek permission from the High Court to appeal to it against the decision of the judge, but the appeal will not be heard until after the Secretary of State has made a decision. If your case is sent to the Secretary of State, you will either be remanded in custody or granted bail.
- 9) If the Secretary of State orders your extradition to [insert Category 2 territory], you can seek permission from the High Court to appeal to it against the decisions of the judge and the Secretary of State within 14 days of the day on which the Secretary of State informs you of his or her order. You may make an out of time application for permission to appeal on human rights grounds.
- 10) If you do not seek permission to appeal, you will be returned to [insert Category 2 territory] within 28 days of the date on which the Secretary of State ordered your extradition.
- 11) *You have the right to consent to your extradition. If you wish to consent you should consult your legal advisor on the implications. You may only give consent before the appropriate judge.*

### Persons provisionally arrested under Section 74A of the Extradition Act 2003

*Note: this form is not an exhaustive account of the extradition process, and is not a statement of the law, but is designed to help you to understand why you have been arrested and the main stages of the extradition process.*

If you require a more detailed explanation of the process or have further questions, you should seek advice from your legal adviser.

- 1) You have been provisionally arrested under Section 74A of the Extradition Act 2003.

*Either (where person is accused of offences in the Requesting State):*

Your extradition is sought by [insert Category 2 territory] in relation to [insert offence(s)] which took place on [date/time] at [location].

*Or (where person has been convicted in the Requesting State):*

Your extradition is sought by [insert Category 2 territory] for the purpose of [delete as appropriate being sentenced/serving a sentence of imprisonment] in relation to [insert offence(s) specified on the warrant]

- 2) You will be held in police custody until you are brought before a judge. You will be brought before a judge as soon as practicable.
- 3) There are three main stages to the extradition proceedings
- 4) At the first stage, you will be brought before a judge as soon as practicable after your arrest. The judge will either remand you in custody or grant you bail.
- 5) Provided the judge has received all the necessary documentation relating to your case, within any applicable time limits, the judge will fix a date for the main extradition hearing. The main extradition hearing is the second stage of the proceedings.
- 6) The main extradition hearing will take place within two months of the judge receiving the necessary documentation. However, it is possible the case may be adjourned.
- 7) At the extradition hearing the judge will decide whether there are any reasons why you should not be extradited. The judge will then either discharge you or send your case to the Secretary of State for a decision as to whether you will be extradited.
- 8) If your case is sent to the Secretary of State for a decision, you can seek permission from the High Court to appeal to it against the decision of the judge, but the appeal will not be heard until after the Secretary of State has made a decision. If your case is sent to the Secretary of State, you will either be remanded in custody or granted bail.
- 9) If the Secretary of State orders your extradition to [insert Category 2 territory], you can seek permission from the High Court to appeal to it against the decisions of the judge and the Secretary of State within 14 days of the day on which the Secretary of State informs you of his or her order. You may make an out of time application for permission to appeal on human rights grounds.
- 10) If you do not seek permission to appeal, you will be returned to [insert Category 2 territory] within 28 days of the date on which the Secretary of State ordered your extradition.

11) *You have the right to consent to your extradition. If you wish to consent you should consult your legal advisor on the implications. You may only give consent before the appropriate judge.*

## **ANNEX D - EXTRADITION: WRITTEN NOTICE TO DETAINED PERSON INCLUDING FAIR PROCESSING NOTICE (to be provided in a language that the person understands)**

The section in capital letters is to be read to the detained person by the Custody Officer before giving the notice to the detained person.

YOU HAVE THE RIGHT TO:

1. SPEAK TO AN INDEPENDENT SOLICITOR FREE OF CHARGE
2. HAVE SOMEONE TOLD THAT YOU HAVE BEEN ARRESTED
3. REQUEST AN INTERPRETER TO EXPLAIN THE GROUNDS OF ARREST
4. CONSULT THE CODES OF PRACTICE COVERING POLICE POWERS AND PROCEDURES
5. CONSULT THE CODES OF PRACTICE COVERING POLICE POWERS AND PROCEDURES FOR EXTRADITION

YOU MAY DO ANY OF THESE THINGS NOW, BUT IF YOU DO NOT, YOU MAY STILL DO SO AT ANY TIME WHILST DETAINED AT THE POLICE STATION.

You do not have to say anything, but anything you do say may be given in evidence.

You will not be interviewed about the extradition offence.

More information is given below. The following four continuing rights may be exercised at any stage during the period in custody:

### **1. The right to consult privately with a solicitor. Free independent legal advice is available. (Section 172 (3)(d) of the Extradition Act 2003)**

You can speak to a solicitor at the police station at any time, day or night. It will cost you nothing.

Access to legal advice can only be delayed in certain exceptional circumstances (see Annex B of PACE Code of Practice C)

If you do not know a solicitor, or you cannot contact your own solicitor, ask for the duty solicitor. He or she is nothing to do with the police. Or you can ask to see a list of local solicitors.

You can talk to a solicitor in private on the telephone and the solicitor can come to see you at the police station.

You have the right to appoint a lawyer in the state which is seeking your extradition for the purpose of assisting your solicitor. If you wish to do so you should consult with your solicitor.

### **In extradition cases, the police will not interview you about the extradition offence**

If you want to see a solicitor, tell the custody officer at once. You can ask for legal advice at any time during your detention. Even if you do tell the police that you do not want a solicitor, you may change your mind at any time.



**2. The right to have someone informed of your arrest and detention (under Section 172 (3)(c) of the Extradition Act 2003);**

You may on request have one person known to you or who is likely to take an interest in your welfare, informed at public expense as soon as practicable of your whereabouts. If this person cannot be contacted, you may choose up to two alternatives. If they too cannot be contacted, the Custody Officer has discretion on the number of further attempts required made to make contact.

This right can only be delayed in exceptional circumstances (Annex B PACE Code of Practice C)

**3. and 4. The right to consult the PACE Codes of Practice and the Extradition Codes of Practice.**

Either or both of the Codes of Practice will be made available to you on request. These Codes govern police procedures.

The right does not entitle you to unreasonably delay any necessary action.

**Custody Record**

The Custody Officer will keep a record of your detention. On request, when you leave police detention or are taken before a court, you or your legal representative or the appropriate adult shall be supplied with a copy of the Custody Record as soon as practicable. This entitlement lasts for 12 months after your release from police detention.

**Fair Processing Notice**

**Fair processing in respect of the use, retention and disclosure of personal data taken under the Data Protection Act 2018**

Each police force will have their own privacy information notice which will include:

- the identity of the data controller (this may be an individual e.g. Chief Constable, or a registered body);
- the identity of the relevant Data Protection Officer, how to contact them and how to make a complaint about how your data is being processed;
- the purpose(s) for which the data will be processed, how long it will be retained for and to whom it may be passed.

Under extradition proceedings, the purpose will include establishing identity, maintaining the Custody Record, statistics and monitoring - refer to Extradition Codes C 3.3 and D 1.2. The information may be passed between law enforcement agencies, both here and abroad, and within Her Majesty's Government where lawful, for the exercise of their functions

Your rights under use, disclosure and retention of photographs, fingerprints and samples are explained in the Extradition Codes of Practice, Code D 3.13 to 3.18 and 4.17 to 4.19 ([link](#)).

Individuals who make a request to access their personal information are entitled to a copy of the information held about them, however, this right does not entitle you to this information where exemptions apply under section 2 (1 of Part 1, Schedule 2 of the Data Protection Act

2018 or other where exemptions apply under Part 3 of that Act. E.g. access would be likely to prejudice the prevention or detection of crime or the apprehension or prosecution of offenders. Individuals are also entitled to make a number of other requests about how their data is being used and can refer to the information charter of the relevant police force for more information.

The rights do not entitle you to unreasonably delay any necessary action in connection with your case.

The police are not obliged to contact the Information Commissioner on your behalf.

For further information, or to make a complaint, please contact the relevant Information Commissioner's Office.

### England & Wales

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Telephone: 0303 123 1113

Email online at: <https://ico.org.uk/global/contact-us/email/>

### Northern Ireland

The Information Commissioner's Office – Northern Ireland  
3rd Floor  
14 Cromac Place,  
Belfast  
BT7 2JB

Telephone: 028 9027 8757 / 0303 123 1114

Email: [ni@ico.org.uk](mailto:ni@ico.org.uk)

## GLOSSARY

Appropriate judge	Under Parts 1 and 2 of the 2003 Act, the appropriate judge is: <ul style="list-style-type: none"> <li>• District Judge (Magistrates' Courts) in England and Wales;</li> <li>• County court judge or resident magistrate in Northern Ireland.</li> </ul>
Category 1 territory	A country designated by an Order of the Secretary of State, with whom the UK operates extradition procedures in accordance with Part 1 of the 2003 Act, see the Home Office website: <a href="#">Extradition from UK - European Arrest Warrant</a> for a full list of Category 1 territories).
Category 2 territory	Country designated by an Order of the Secretary of State, with whom the UK operates extradition procedures in accordance with Part 2 of the 2003 Act, see the Home Office website: <a href="#">Extradition from the UK - Category 2 territories</a> for a full list of Category 2 territories.
Certified warrant	A Part 1 warrant issued by a judicial authority of a Category 1 territory which is checked and certified as a valid warrant by the UK designated authority.
Certified request	An extradition request from a Category 2 territory which has been checked and certified as a valid request by the Secretary of State.
Circuit judge	A judge who sits in the County Court and/or Crown Court (in Northern Ireland a Crown Court judge).
Designated Persons	A person, other than a police officer, designated by the chief officer of police for the area in which the police station in question is situated, or in Northern Ireland, the Chief Constable of the Police Service of Northern Ireland, who has specified powers and duties of police officers conferred and imposed on them.

Designated Central Authority	The organisation designated by Statutory Instrument with the function of certifying Part 1 warrants received from Category 1 territories prior to the person's arrest. The designated central authorities for the UK are the National Crime Agency (NCA) in England, Wales and Northern Ireland and the Crown Agent of the Scottish Crown Office (in Scotland).
District judge	A judicial officer of the court whose duties involve hearing applications made within proceedings and final hearings subject to any limit of jurisdiction.
Excluded material	Material, records or substances held in confidence (see PACE Section 11).
Extradition	The formal legal process by which a person accused or convicted of a crime ("the requested person") is surrendered from one state ("the requested State") to another ("the requesting State").
Extradition hearing	The main part of the extradition process where a district judge considers the request for extradition of the person extradition against statutory bars to extradition laid out in the 2003 Act.
Extradition request	The documentation transmitted on a Government to Government basis from a Category 2 territory which requests a person's arrest and extradition. To be valid, the extradition request must meet the criteria in Section 70 of the 2003 Act.
Fingerprints	Any record, produced by any method, of the skin pattern and other physical characteristics or features of a person's fingers or palms (PACE Section 65).
Identifying Mark	A mark that assists in establishing a person's identity.
Inextricably linked material	Material it is not reasonably practicable to separate from other linked material without prejudicing the use of that other material in any investigation or proceedings (e.g. it may not be possible to separate items of data held on a computer disk without damaging their evidential integrity).
Initial hearing	A stage in the extradition process under Part 1 where the person is first brought before a district judge (Section 7 of the 2003 Act).
Intimate Sample	A dental impression or sample of blood, semen or any other tissue fluid, urine or pubic hair, or a swab taken from

	any part of a person's genitals or from a person's body orifice other than the mouth.
Intimate Search	A physical examination of any part of a person's genitals or a person's body orifices other than the mouth.
Items subject to legal privilege	Communications between a professional legal adviser and the client that is concerned with the proceedings. Anything held with the intention of furthering a criminal cause is not covered.
Judicial authority	The authority in a Category 1 territory which has the function of issuing a Part 1 warrant in that country.
Justice of the peace	A lay magistrate - person appointed to administer judicial business in a Magistrates Court.
Legal adviser	Barrister, solicitor or duty solicitor.
Legal privilege	See 'items subject to legal privilege'.
Mark	A feature or injury (e.g. body piercing, a tattoo, insignia or scar) which can assist in establishing a person's identity.
NCA	National Crime Agency
Non-intimate Sample	A sample of hair other than pubic, a sample taken from a nail or from under a nail, a swab taken from any part of a person's body including the mouth but not any other body orifice, saliva or a skin impression (other than a fingerprint).
Non-intimate search	Physical examination of a person's body, including the mouth, but no other body orifices.
Officer in charge	An officer, of any rank, designated in charge of a search with particular duties and responsibilities in carrying out the search.
Order to extradite	Order that the person requested for extradition by a Category 1 or 2 territory be returned to that country to stand trial, be sentenced or serve a sentence in respect of the extradition offence(s).
PACE	The Police and Criminal Evidence Act 1984.
Part 1	Part 1 of the 2003 Act, relating to the procedures and safeguards that govern an extradition request from a territory designated under Part 1 by an Order of the Secretary of State.

Part 1 warrant	Arrest warrant issued under Part 1 of the 2003 Act by a judicial authority in a Category 1 territory.
Part 2	Part 2 of the 2003 Act, relating to the procedures and safeguards that govern an extradition request from a territory designated under Part 2 by an Order of the Secretary of State.
Photograph	A process by means of which a visual image may be produced, including by making a copy of an image of the person taken at any time on a camera system installed anywhere in a police station.
Premises	Any place, vehicle, vessel, aircraft, hovercraft, tent or movable structure and any offshore installation as defined in the Mineral Workings (Offshore Installations) Act 1971, section 1 (see PACE Section 23).
Provisional Arrest	<ol style="list-style-type: none"> <li>1) Arrest under Part 1 pending receipt of a certified Part 1 warrant; or</li> <li>2) Arrest under Part 2 under a provisional arrest warrant issued by a UK magistrate or without a warrant where a certificate has been issued by the UK designated authority, pending receipt of the necessary documents required under Section 70 of the 2003 Act.</li> </ol>
Requesting authority	See 'judicial authority'.
Requesting territory	The Category 2 territory which has made an extradition request under Part 2 of the 2003 Act.
Special Procedure Material	Journalistic material or material held in confidence by someone in a professional or official capacity, other than excluded material or items subject to legal privilege (see PACE Section 14).
Speculative search	Checking of fingerprints, samples and the information derived from them against other fingerprint and DNA records held by, or on behalf of, the police and other law enforcement authorities in, as well as outside, the UK.
Surrender	The physical act of handing over a person, whose extradition has been ordered, to officials from the requesting authority or territory.

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