

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 12: Extradition

Section 168: Non-UK extradition: transit through the United Kingdom

490. This section inserts new sections 189A to 189E into the 2003 Act.
491. New section 189A makes provision for the issue of certificates to facilitate the transit through the United Kingdom of a person who is being extradited from one territory to another territory (where neither of those territories is the United Kingdom). Where the destination territory is a Part 1 territory, it will be for the National Crime Agency to issue a certificate. In any other case, it will be for the Secretary of State to issue a certificate. A certificate will authorise a constable or other authorised officer to escort the person from one form of transportation to another, to take the person into custody to facilitate the transit and/or to search the person (and any item in his or her possession) for (and seize) any item which the person may use to cause physical injury (or, in a case where he or she has been taken into custody, to escape from custody).
492. New section 189B deals with cases where a person is being extradited from one territory to another (where neither of those territories is the United Kingdom) and he or she makes an unscheduled arrival in the United Kingdom. It allows a constable to take the person into custody, for a maximum period of 72 hours, to facilitate the transit of the person through the United Kingdom. There are similar search and seizure powers as appear in new section 189A.
493. New section 189C sets out that the powers in sections 189A and 189B include power to use reasonable force where necessary. It also makes clear that the search powers in those sections do not allow a constable or other authorised officer to require a person to remove any clothing other than an outer coat, jacket, headgear or gloves. Finally, it allows any item seized under those sections to be retained while the person is in transit.
494. New section 189D places a duty on the Secretary of State to issue a code of practice governing the exercise of the powers in new sections 189A and 189B and the retention, use and return of anything seized under those sections. The Secretary of State is required to publish the code in draft form, consider any representations made on the draft and, if considered appropriate, amend the code accordingly. The Secretary of State can then bring the code into effect by order which, by virtue of the amendment made to section 223 of the 2003 Act by paragraph 122 of Schedule 11, is subject to the affirmative resolution procedure. The Secretary of State may revise any such code, using the same procedures as described above. Failure by a police constable or other authorised officer to adhere to any code issued under new section 189D will not of itself make the officer liable under either criminal or civil proceedings. A code of practice made under this section can be admitted in court as evidence. Finally, new section 189D

*These notes refer to the Anti-Social Behaviour, Crime and Policing
Act 2014 (c.12) which received Royal Assent on 13 March 2014*

makes provision to deal with the case where the Secretary of State publishes a draft code before the section comes into force.

495. New section 189E defines various terms used in new sections 189A to 189D. Subsection (1) defines an “authorised officer” as a constable or a person who is of a description specified by the Secretary of State by order. Any such order would be subject to the affirmative resolution procedure (see paragraph 122 of Schedule 11).