

SCHEDULES

SCHEDULE 11

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 4

AMENDMENTS RELATING TO PART 12

Prison Act (Northern Ireland) 1953 (c. 18)

- 103 In section 38 of the Prison Act (Northern Ireland) 1953 (arrest, etc, of persons unlawfully at large), in subsection (4), for “the last foregoing sub-section” there is substituted “subsection (2)”.

Extradition Act 2003 (c. 41)

- 104 In section 11 of the Extradition Act 2003 (bars to extradition), in subsection (1A), for “by reason of forum only” there is substituted “by reason of—
- (a) absence of prosecution decision, or
 - (b) forum,
- only”.
- 105 (1) Section 21 of that Act (human rights) is amended as follows.
- (2) For the heading there is substituted “**Person unlawfully at large: human rights**”.
- (3) In subsection (1) the words “11 or” are omitted.
- 106 In section 26 of that Act (appeal against extradition order: category 1 territory), in subsection (4), for “Notice of an appeal” there is substituted “Notice of application for leave to appeal”.
- 107 In section 28 of that Act (appeal against discharge at extradition hearing: category 1 territory), in subsection (5), for “Notice of an appeal” there is substituted “Notice of application for leave to appeal”.
- 108 In section 35 of that Act (extradition where there is no appeal), after subsection (4) there is inserted—
- “(4A) If the day referred to in paragraph (a) of subsection (4) is earlier than the earliest day on which, by reason of an order under section 36B or 36C, the extradition order may be carried out (“the postponed date”), that paragraph has effect as if it referred instead to the postponed date.”
- 109 In section 36 of that Act (extradition following appeal), after subsection (3) there is inserted—

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- “(3A) If the day referred to in paragraph (a) of subsection (3) is earlier than the earliest day on which, by reason of an order under section 36B or 36C, the extradition order may be carried out (“the postponed date”), that paragraph has effect as if it referred instead to the postponed date.”
- 110 In section 66 of that Act (supplementary provision for the purposes of sections 64 and 65), in subsection (1), for “(2)” there is substituted “(1A)”.
- 111 In section 103 of that Act (appeal where case sent to Secretary of State), in subsection (9), for “Notice of an appeal” there is substituted “Notice of application for leave to appeal”.
- 112 In section 105 of that Act (appeal against discharge at extradition hearing: category 2 territory), in subsection (5), for “Notice of an appeal” there is substituted “Notice of application for leave to appeal”.
- 113 (1) Section 108 of that Act (appeal against extradition order: category 2 territory) is amended as follows.
- (2) In subsection (4), for the words before “is 14 days” there is substituted
- “Notice of application for leave to appeal under this section must be given—
- (a) in accordance with rules of court, and
- (b) subject to subsections (5) and (7A), before the end of the permitted period, which”.
- (3) In subsection (5)—
- (a) for “But notice of an appeal” there is substituted “Notice of application for leave to appeal”
- (b) after “if it is an” there is inserted “application for leave to”.
- (4) In subsection (6), for the words before “before the person is extradited” there is substituted “Notice of application for leave to appeal on human rights grounds given after the end of the permitted period must be given”.
- (5) In subsection (7)—
- (a) for “notice of an appeal” there is substituted “notice of application for leave to appeal”;
- (b) for “consider the appeal” there is substituted “grant leave”;
- (c) for “to consider the appeal” there is substituted “for the appeal to be heard”.
- (6) In subsection (8), for ““appeal on human rights grounds” means an appeal” there is substituted ““to appeal on human rights grounds” means to appeal”.
- 114 In section 110 of that Act (appeal against discharge by Secretary of State), in subsection (5), for “Notice of an appeal” there is substituted “Notice of application for leave to appeal”.
- 115 In section 117 of that Act (extradition where there is no appeal), in subsection (2), for the words after “28 days” there is substituted “starting with—
- (a) the day on which the Secretary of State makes the extradition order, or
- (b) if an order is made under section 118C or 118D, the earliest day on which the extradition order may be carried out.”

- 116 In section 118 of that Act (extradition following appeal), after subsection (2) there is inserted—
- “(2A) But if the day referred to in paragraph (a) or (b) of subsection (3) is earlier than the earliest day on which, by reason of an order under section 118C or 118D, the extradition order may be carried out (“the postponed date”), the required period is 28 days beginning with the postponed date.”
- 117 In section 137 (definition of extradition offence for the purposes of Part 2 of the Act: person not sentenced for offence) subsection (9) is repealed.
- 118 In section 138 (definition of extradition offence for the purposes of Part 2 of the Act: person sentenced for offence) subsection (9) is repealed.
- 119 (1) Section 197 of that Act (custody) is amended as follows.
- (2) In subsection (1), at the end there is inserted—
- “This is subject to the power to order the temporary transfer of a person under section 21B.”
- (3) After subsection (6) there is inserted—
- “(6A) An order for a person’s temporary transfer under section 21B is sufficient authority for an appropriate person—
- (a) to receive him;
- (b) to keep him in custody until he is transferred in accordance with the order;
- (c) to convey him to and from the territory to which he is to be transferred;
- (d) on his return from that territory, to keep him in custody until he is brought back to the institution to which he was committed.”
- 120 (1) Section 204 of that Act (warrant issued by category 1 territory: transmission by electronic means) is amended as follows.
- (2) In subsections (1)(c) and (2)(c), for “a qualifying form” there is substituted “a form in which it is intelligible and which is capable of being used for subsequent reference”.
- (3) In subsection (6)—
- (a) at the end of paragraph (a) there is inserted “and”;
- (b) paragraph (c) and the word “and” before it are omitted.
- 121 (1) Section 216 of that Act (interpretative provisions) is amended as set out in subparagraphs (2) and (3).
- (2) After subsection (10) there is inserted—
- “(10A) Human Rights Convention” has the meaning given to “the Convention” by section 21(1) of the Human Rights Act 1998.”
- (3) After subsection (12) there is inserted—
- “(12A) Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention.”

Status: This is the original version (as it was originally enacted).

- (4) The following provisions of that Act are repealed in consequence of sub-paragraphs (2) and (3)—
- (a) the definition of “the Refugee Convention” in section 40(4);
 - (b) section 70(2A);
 - (c) section 153D(3).
- 122 In section 223 of that Act (orders and regulations), in subsection (6)(a), after the entry for section 173(4) there is inserted—
- “section 189D(4);
 - section 189E(1)(b);”.
- 123 In section 226 of that Act (extent), in subsection (2), after “Sections” there is inserted “151B,”.
- 124 In Part 1 of Schedule 1 to that Act (re-extradition: category 1 territories), in paragraph 3, after “21(3)” there is inserted “and section 21A(5)”.