# EXPLANATORY MEMORANDUM TO

# THE CRIME AND COURTS ACT 2013 (APPLICATION AND MODIFICATION OF THE EXTRADITION ACT 2003) (ENGLAND AND WALES) ORDER 2024

## 2024 No. 175

## 1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

## 2. Declaration

2.1 The Rt Hon Tom Tugendhat, Minister of State for Security at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Julia Labeta, Deputy Director for International Agreements and Judicial Cooperation at the Home Office confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Emily Beard at the Home Office, email: ExtraditionPolicy@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 A National Crime Agency ("NCA") officer can be designated as a person having the powers and privileges of a constable (a "designated NCA officer"). Currently, the exercise of certain powers of a constable (including by designated NCA officers) contained in Part 4 of the Extradition Act 2003 ("the 2003 Act") requires authorisation by a police officer of at least the rank of inspector. This Order modifies certain provisions in Part 4 of the 2003 Act so that, in the case of a designated NCA officer exercising their powers, such authorisation can be given by a senior NCA officer of the corresponding rank: a designated person of at least grade 3.

***Where does the legislation extend to, and apply?***

4.2 The extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

## 5. Policy Context

***What is being done and why?***

5.1 In April 2023, a specialist new unit was created within the NCA to lead the UK's work on international crime. The responsibilities of the resulting Joint International Crime Centre (JICC) include coordination and management of extradition cases. As part of these changes, serving police officers within the National Extradition Unit

(NEU), which was previously hosted by the Metropolitan Police Service, were appointed as NCA officers.

5.2 Some of the statutory powers in Part 4 of the 2003 Act can only be exercised with authority from 'a police officer of at least the rank of inspector'. As the NEU's operational duties are now undertaken under the auspices of the NCA, senior NEU officers of inspector rank (now NCA grade 3 officers) are no longer automatically covered under the definition. In order to efficiently exercise extradition functions, senior NEU officers should be able to authorise the exercise of the full range of statutory powers available in the 2003 Act.

5.3 This Order will allow designated NCA officers, who are the rank of at least grade 3, to authorise designated NCA officers to exercise extradition-related powers. This will mirror the way police officers, of at least the rank of inspector, can authorise these powers.

- Section 164(9) allows for the entry and search of premises after an individual's arrest under an extradition arrest power.
- Section 166(4) allows for the taking of fingerprints and non-intimate samples after an individual's arrest under an extradition power and their detention at a police station.
- Section 167(2) allows for the conducting of searches and examinations and the taking of photographs after an individual's arrest under an extradition power and their detention at a police station.

***What was the previous policy, how is this different?***

5.4 Previously the NEU was hosted by the Metropolitan Police Service with the police officers of at least inspector rank within the Unit meeting the required definition for authorisation of the powers. As a consequence of the creation of the JICC, NEU officers are now NCA officers as opposed to police officers. The modifications introduced by this Order will reflect these organisational changes.

5.5 The NEU only has an operational remit within England and Wales and, as such, this Order will not extend to Scotland or Northern Ireland.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 Sections 9(2) and 10(1) of the Crime and Courts Act 2013 enable, respectively, the Director General of the NCA and other NCA officers to be designated NCA officers. By virtue of this designation, these NCA officers have certain powers under Part 4 of the 2003 Act. However, the exercise of some of these powers requires authorisation by a police officer of at least the rank of inspector.

6.2 Article 3 of this Order modifies the application of certain provisions in Part 4 of the 2003 Act to enable NCA officers designated with the powers and privileges of a constable, who are of the rank of at least grade 3, to authorise the exercise of certain specified powers by other designated NCA officers. An NCA officer of the rank of grade 3 is the equivalent of a police inspector. These powers are contained in the following provisions of the 2003 Act: section 164(9) (entry and search of premises after arrest); section 166(4) (fingerprints and samples) and section 167(2) (searches and examination).

***Why was this approach taken to change the law?***

6.3 The same approach as that used in other orders making similar modifications was adopted to ensure consistency. Examples include the Crime and Courts Act 2013 (Application and Modification of Certain Enactments) Order 2014 (2014/1704) and the Crime and Courts Act 2013 (Application and Modification of Enactments) Order 2016 (2016/1143).

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 Given the nature of these changes, a formal consultation was not considered appropriate. We have consulted with relevant stakeholders in the NCA and National Police Chiefs' Council, who support these amendments.

## 8. Applicable Guidance

8.1 There are no plans to issue guidance relating to this instrument.

# Part Two: Impact and the Better Regulation Framework

## 9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no or no significant impact, on the private, public or voluntary sector is foreseen.

***Impact on businesses, charities and voluntary bodies***

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

## 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The effective functioning of the changes made by this Order will be subject to review as part of ongoing wider oversight of the UK's extradition processes.

# Part Three: Statements and Matters of Particular Interest to Parliament

## 11. Matters of special interest to Parliament

11.1 None.

## 12. European Convention on Human Rights

12.1 The Minister of State for Security has made the following statement regarding Human Rights:

"In my view the provisions of the Crime and Courts Act 2013 (Application and Modification of the Extradition Act 2003 (England and Wales) Order 2024 are compatible with the Convention rights."

## 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").