**EXPLANATORY MEMORANDUM TO**

**THE EXTRADITION ACT 2003 (AMENDMENT TO DESIGNATIONS) ORDER 2013**

**2013 No. [XXXX]**

**1.** This explanatory memorandum has been prepared by The Home Office and is laid before Parliament by Command of Her Majesty.

## 2. Purpose of the Instrument

2.1 The above instrument amends the Extradition Act 2003 (Designation of Part 1 Territories) Order 2003 (SI 2003/3333) ("the Part 1 Order") and the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 (SI 2003/3334) ("the Part 2 Order") in several ways.

2.2 First, this Order removes Croatia from the list of territories designated for the purposes of Part 2 of the Extradition Act 2003 ("the 2003 Act") and adds it to the list of territories designated for the purposes of Part 1 of that Act. Part 1 transposes Framework Decision 2002/584/JHA on the European Arrest Warrant. This means that once this Order comes into force on 1 July 2013 (being the date on which Croatia will accede to the European Union and therefore operate the European Arrest Warrant), any extradition request received from Croatia will be considered in accordance with the provisions of Part 1 of the 2003 Act.

2.3 Second, given that the Republic of Korea has acceded to the European Convention on Extradition, this Order adds the Republic of Korea to the list of territories designated for the purposes of Part 2 of the 2003 Act. It also amends the Part 2 Order to set the evidential requirements made of the Republic of Korea when it makes an extradition request and the matters which a judge must take into account when considering an extradition request from the Republic of Korea.

2.4 Third, this Order amends the Part 2 Order to allow 65 days from the date on which someone is arrested under a provisional warrant for the necessary documents to be provided to the judge, in the case of extradition to India.

## 3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

## 4. Legislative Context

4.1 Under the 2003 Act there are two different regimes under which requests for extradition received by the UK are considered. Part 1 of the 2003 Act applies to requests received from territories which have been designated for the purposes of that Part. These are the Member States of the European Union and Gibraltar, all of which operate the European Arrest Warrant. Part 2 of the 2003 Act applies to requests received from territories which have been designated for the purposes of that Part. These are all non-EU territories with which the UK has full extradition relations.

4.2 The Part 1 Order was made in December 2003 and has been amended several times to reflect the fact that countries have acceded to the EU since that date. The Part 2 Order was also made in December 2003 and has been amended to reflect accessions to the EU and the establishment of new extradition relations between the UK and other territories.

## 5. Territorial Extent and Application

5.1 This instrument applies throughout the United Kingdom.

## 6. European Convention on Human Rights

6.1 Mark Harper MP has made the following statement regarding Human Rights:

In my view the provisions of the draft Extradition Act 2003 (Amendment to Designations) Order 2013 are compatible with the Convention rights.

## 7. Policy background

7.1 Part 1 of the 2003 Act introduced a simplified extradition system, which gave effect to the Framework Decision on the European Arrest Warrant. This system governs extradition between Member States of the European Union, and Gibraltar.

7.2 Croatia will accede to the European Union on 1 July 2013 and will therefore operate the European Arrest Warrant. Accordingly, Croatia is being added to the list of territories designated for the purposes of Part 1 of the 2003 Act and removed from the list of territories designated for the purposes of Part 2 of that Act.

7.3 The European Convention on Extradition entered into force with the Republic of Korea on 29 December 2011. Accordingly, the Republic of Korea is being added to the list of territories designated for the purposes of Part 2 of the 2003 Act. This Order amends the Part 2 Order to set the evidential requirements made of the Republic of Korea when it makes an extradition request to the United Kingdom and the matters which a judge must take into account when deciding an extradition request from the Republic of Korea.

7.4 The UK concluded a bilateral extradition treaty with India in 1992 and it has been in operation since 1993. This Order amends the Part 2 Order to allow 65 days from the date on which someone is arrested under a provisional warrant (issued under section 73 of the 2003 Act) for the necessary documents to be provided to the judge, in the case of extradition to India. This time limit reflects the fact that the extradition treaty between the United Kingdom and India requires India to provide these documents to the Secretary of State within 60 days, and then provides a further five days in order to enable the Secretary of State to provide these documents to the appropriate judge.

## 8. Consultation Outcome

8.1 No formal consultation process has taken place.

## 9. Guidance

9.1 None.

## 10. Impact

10.1 There is likely to be no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument as no impact on the private, public or voluntary sector is foreseen.

## 11. Regulating small business

11.1 The legislation does not apply to small business.

## 12. Monitoring & review

12.1 SOCA, as the designated central authority for the receipt and transmission of European Arrest Warrants will be responsible for dealing with requests made by Croatia under Part 1 of the 2003 Act. The Judicial Co-operation Unit in the Home Office will be responsible for dealing with extradition requests made under Part 2 of the 2003 Act in accordance with this Order and will monitor its effectiveness.

## 13. Contact

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