Draft Order laid before Parliament under section 223(5) of the Extradition Act 2003, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2020 No.

EXTRADITION

The Extradition Act 2003 (Amendments to Designations) Order 2020

Made - - - - ***

Coming into force in accordance with article 1

The Secretary of State makes this Order in exercise of the powers conferred by sections 1(1), 69(1), 74(11)(b) and 223(3)(b) and (9) of the Extradition Act 2003(**a**).

In accordance with section 223(5) of that Act a draft of this Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Extradition Act 2003 (Amendments to Designations) Order 2020 and comes into force at the end of the period of one week beginning with the day on which it is made.

(2) In this Order, "the 2003 Act" means the Extradition Act 2003.

Amendment to the Extradition Act 2003 (Designation of Part 1 Territories) Order 2003

2.—(1) The Extradition Act 2003 (Designation of Part 1 Territories) Order 2003(**b**) is amended as follows.

(2) In article 2(2) (territories designated for the purposes of Part 1 of the 2003 Act)—

(a) after "Hungary," insert "Iceland,";

(b) after "The Netherlands," insert "Norway,".

Modification of effect of the 2003 Act

3. The 2003 Act has effect in relation to Iceland and Norway with the modifications that section 64 (extradition offences: person not sentenced for offence) and section 65 (extradition offences: person sentenced for offence) have effect as if subsection (5) of those sections, and the reference to that subsection in subsection (2) of those sections, were omitted.

(**a**) 2003 c. 41.
(**b**) S.I. 2003/3333, amended by S.I. 2004/1898; there are other amendments but none are relevant.

Amendment to the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003

4.—(1) The Extradition Act 2003 (Designation of Part 2 Territories) Order 2003(**a**) is amended as follows.

(2) In article 2(2) (territories designated for the purposes of Part 2 of the 2003 Act) —

(a) omit "Iceland,";

(b) after "Kosovo," insert "Kuwait,";

(c) after "Montserrat," insert "Morocco,";

(d) omit "Norway,".

(3) In article 4(2) (territories designated for the purposes of section 74(11)(b) with the relevant longer period for each territory following in brackets)—

(a) after "Iraq (65 days)" insert "Kuwait (65 days)";

(b) after "Mexico (65 days)"(**b**) insert "Morocco (65 days)".

Transitional provision

5. Articles 2 and 4(2)(a) and (d) do not apply to a case where a person is accused of the commission of an offence in Iceland or Norway and, in relation to that person and that offence, before the coming into force of this Order.

(a) the Secretary of State has issued a certificate under section 70 of the 2003 Act(**c**) (extradition request and certificate); or

(b) the person has been arrested under a provisional arrest warrant issued under section 73(3) of that Act (provisional warrant).

Name
Minister of State
Home Office

Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Extradition Act 2003 (Designation of Part 1 Territories) Order 2003 (S.I. 2003/3333) ("the Part 1 Order") and the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 (S.I. 2003/3334) ("the Part 2 Order").

An extradition treaty between the European Union and Iceland and Norway ("the Surrender Agreement") came into force on 1st November 2019. The provisions of the Surrender Agreement are very similar to the European Arrest Warrant Framework Decision (2002/584/JHA: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States) ("the Framework Decision") which is implemented by Part 1 of the Extradition Act 2003 ("the 2003 Act"). Article 2(2) of this Order amends the Part 1 Order so as to add Iceland and Norway to the list of territories to which Part 1 of the 2003 Act applies. The effect of article 3 is that the condition in section 64(5) and section 65(5) of the 2003 Act will not apply to Iceland and Norway. The condition in section 64(5) and section 65(5) refers to the European framework list, which is set out in Article 2 of the Framework Decision, and which is a list of serious offences to which the dual criminality requirement does not apply. The UK has declined to take up the option of waiving the dual criminality requirement foreseen in the Surrender Agreement in respect of the European Framework list of offences and this provision will therefore

(**a**) S.I. 2003/3334, amended by section 43(1) of the Police and Justice Act 2006 (c. 48) and S.I. 2015/992; there are other amendments but none are relevant.

(**b**) "Mexico (65 days)" was inserted by S.I. 2005/365.

(**c**) Section 70 was amended by paragraphs 17(1), (2)(a) and (b) and (3) of Part 1 of Schedule 13 to the Police and Justice Act 2006 (c. 48) and paragraph 121(4)(b) in Part 4 of Schedule 11 to the Anti-Social Behaviour, Crime and Policing Act 2014 (c. 12). There are other amendments but none are relevant.

not be applied. Article 4(2)(a) and (d) of this Order removes Iceland and Norway from the list of territories in the Part 2 Order, so that Part 2 of the 2003 Act will no longer apply to these countries. Article 5 is a transitional provision which ensures that the change in designation does not apply where extradition proceedings have already begun when this Order comes into force.

An extradition treaty between the United Kingdom and Kuwait was signed on 15th December 2016 and an extradition treaty between the United Kingdom and the Kingdom of Morocco was signed on 15th April 2013. Article 4(2)(b) and (c) of this Order amends article 2(2) of the Part 2 Order and thereby has the effect of designating Kuwait and Morocco as category 2 territories for the purposes of the 2003 Act. The effect of designation as a category 2 territory is that extradition requests made by Kuwait or Morocco to the United Kingdom will fall to be considered under Part 2 of the 2003 Act.

Article 4(3) of this Order amends article 4(2) of the Part 2 Order by adding Kuwait and Morocco to the list of territories designated for the purpose of section 74(11)(b) of the 2003 Act. The effect of this is to allow 65 days from the date on which someone is arrested under a provisional warrant for the documents required under section 70(9) of the 2003 Act to be provided to the appropriate judge. This time limit reflects that the extradition treaty between the United Kingdom and Kuwait and the extradition treaty between the United Kingdom and the Kingdom of Morocco which require Kuwait and Morocco to provide these documents to the Secretary of State within 60 days, and then provides a further 5 days in order to enable the Secretary of State to provide these documents to the appropriate judge.

An impact assessment has not been produced for this Order as no impact on business, charities, voluntary bodies or the public sector is foreseen.

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