

Police and Justice Bill

COMMONS INSISTENCES AND AMENDMENTS IN LIEU

[The page and line references are to HL Bill 104, the bill as first printed for the Lords.]

After Clause 46

LORDS AMENDMENT 36

36 Insert the following new Clause –

“Designation of Part 2 territories: omission of United States of America

In the list of territories in paragraph 3(2) of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 (S.I. 2003/3334) “the United States of America” is omitted.”

COMMONS DISAGREEMENT AND REASON

The Commons disagree to this Amendment for the following Reason –

36A *Because it is appropriate for the United States of America to be a designated territory for the purposes of sections 71, 73, 84 and 86 of the Extradition Act 2003*

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 36 for the following Reason –

36B *Because it is not appropriate for the United States of America to be a designated territory for the purposes of sections 71, 73, 84 and 86 of the Extradition Act 2003*

COMMONS INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement to Lords Amendment 36 but propose the following Amendments in lieu –

36C Page 36, line 44, at end insert the following new Clause: –

“Designation of United States of America

- (1) In article 3(2) of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 (S.I. 2003/3334) (territories designated for the purposes of

sections 71, 73, 84 and 86 of the Extradition Act 2003) the entry for the United States of America is omitted.

- (2) An order bringing subsection (1) into force is not to be made—
- (a) within the period of 12 months beginning with the day on which this Act is passed, or
 - (b) if instruments of ratification of the 2003 treaty have been exchanged.

In this subsection “the 2003 treaty” means the Extradition Treaty between the United Kingdom of Great Britain and Northern Ireland and the United States of America signed at Washington on 31st March 2003.

- (3) Subject to subsection (2), if after the end of the period mentioned in subsection (2)(a) a resolution is made by each House of Parliament that subsection (1) should come into force, the Secretary of State shall make an order under section 51 bringing it into force.
- (4) An order made by virtue of subsection (3) must bring subsection (1) into force no later than one month after the day on which the resolutions referred to in subsection (3) are made or, if they are made on different days, the day on which the later resolution is made.
- (5) If subsection (1) is brought into force, it does not affect the power of the Secretary of State to make a further order under section 71(4), 73(5), 84(7) or 86(7) of the Extradition Act 2003 (c. 41) amending article 3 of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 so as to add a reference to the United States of America.
- (6) An order such as is mentioned in subsection (5) may include provision repealing this section.”

36D Page 39, line 1, at end insert—

“() section (*Designation of United States of America*)(2) to (6);”

Schedule 14

LORDS AMENDMENT 81

81 Page 134, line 3, at end insert—

“(j) forum.”;

COMMONS DISAGREEMENT AND REASON

The Commons disagree to this Amendment for the following Reason—

81A *Because the Lords Amendment, taken with Lords Amendments Nos. 82 and 83, could cause the United Kingdom to be in breach of existing international agreements and would unduly restrict its ability to enter into further ones*

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 81 for the following Reason—

81B *Because it is appropriate that judges should have discretion over requests for extradition in the manner proposed*

COMMONS INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement to Lords Amendments 81 to 84 but propose Amendments 84C and 84D in lieu

LORDS AMENDMENT 82

82 Page 134, line 5, leave out “19A” and insert “19B”

COMMONS DISAGREEMENT AND REASON

The Commons disagree to this Amendment for the following Reason –

82A *Because the Lords Amendment, taken with Lords Amendments Nos. 81 and 83, could cause the United Kingdom to be in breach of existing international agreements and would unduly restrict its ability to enter into further ones*

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 82 for the following Reason –

82B *Because it is appropriate that judges should have discretion over requests for extradition in the manner proposed*

COMMONS INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement to Lords Amendments 81 to 84 but propose Amendments 84C and 84D in lieu

LORDS AMENDMENT 83

83 Page 134, line 23, at end insert –

“19B Forum

- (1) If the conduct disclosed by the request was committed partly in the United Kingdom, the judge shall not order the extradition of the person unless it appears in the light of all the circumstances that it would be in the interests of justice that the person should be tried in the category 1 territory.
- (2) In deciding whether extradition is in the interests of justice, the judge shall take into account whether the competent United Kingdom authorities have decided to refrain from prosecuting the person whose surrender is sought for the conduct constituting the offence for which extradition is requested.”

COMMONS DISAGREEMENT AND REASON

The Commons disagree to this Amendment for the following Reason –

83A *Because the Lords Amendment, taken with Lords Amendments Nos. 81 and 82, could cause the United Kingdom to be in breach of existing international agreements and would unduly restrict its ability to enter into further ones*

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 83 for the following Reason –

- 83B** *Because it is appropriate that judges should have discretion over requests for extradition in the manner proposed*

COMMONS INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement to Lords Amendments 81 to 84 but propose Amendments 84C and 84D in lieu

LORDS AMENDMENT 84

- 84** Page 142, line 5, at end insert –

“Bars to extradition

- (1) Section 79 (bars to extradition) is amended as follows.
- (2) After paragraph (d) of subsection (1) there is inserted –
“(e) forum.”
- (3) In subsection (2), for “83” there is substituted “83A”.
- (4) After section 83 there is inserted –

“83A Forum

- (1) If the conduct disclosed by the request was committed partly in the United Kingdom, the judge shall not order the extradition of the person unless it appears in the light of all the circumstances that it would be in the interests of justice that the person should be tried in the category 2 territory.
- (2) In deciding whether extradition is in the interests of justice, the judge shall take into account whether the competent United Kingdom authorities have decided to refrain from prosecuting the person whose surrender is sought for the conduct constituting the offence for which extradition is requested.””

COMMONS DISAGREEMENT AND REASON

The Commons disagree to this Amendment for the following Reason –

- 84A** *Because the Lords Amendment could cause the United Kingdom to be in breach of existing international agreements and would unduly restrict its ability to enter into further ones*

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 84 for the following Reason –

- 84B** *Because it is appropriate that judges should have discretion over requests for extradition in the manner proposed*

COMMONS INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement to Lords Amendments 81 to 84 but propose Amendments 84C and 84D in lieu –

84C Page 134, line 44, at end insert –

“Restriction on extradition in cases where trial in United Kingdom more appropriate

3A (1) In section 11 (bars to extradition) –

(a) at the end of subsection (1) there is inserted –

“(j) forum.”;

(b) in subsection (2), for the words from “12” to “apply” there is substituted “12 to 19B apply”.

(2) After section 19A (inserted by paragraph 3 above) there is inserted –

“19B Forum

(1) A person’s extradition to a category 1 territory (“the requesting territory”) is barred by reason of forum if (and only if) it appears that –

(a) a significant part of the conduct alleged to constitute the extradition offence is conduct in the United Kingdom, and

(b) in view of that and all the other circumstances, it would not be in the interests of justice for the person to be tried for the offence in the requesting territory.

(2) For the purposes of subsection (1)(b) the judge must take into account whether the relevant prosecution authorities in the United Kingdom have decided not to take proceedings against the person in respect of the conduct in question.

(3) This section does not apply if the person is alleged to be unlawfully at large after conviction of the extradition offence.”

3B (1) In section 79 (bars to extradition) –

(a) at the end of subsection (1) there is inserted –

“(e) forum.”;

(b) in subsection (2), for “Sections 80 to 83” there is substituted “Sections 80 to 83A”.

(2) After section 83 there is inserted –

“83A Forum

(1) A person’s extradition to a category 2 territory (“the requesting territory”) is barred by reason of forum if (and only if) it appears that –

(a) a significant part of the conduct alleged to constitute the extradition offence is conduct in the United Kingdom, and

(b) in view of that and all the other circumstances, it would not be in the interests of justice for the person to be tried for the offence in the requesting territory.

- (2) For the purposes of subsection (1)(b) the judge must take into account whether the relevant prosecution authorities in the United Kingdom have decided not to take proceedings against the person in respect of the conduct in question.
 - (3) This section does not apply if the person is alleged to be unlawfully at large after conviction of the extradition offence.”
- 3C (1) An order bringing paragraph 3A or 3B into force is not to be made within the period of 12 months beginning with the day on which this Act is passed.
- (2) If after the end of that period a resolution is made by each House of Parliament that paragraphs 3A and 3B (or either of them) should come into force, the Secretary of State shall make an order under section 51 bringing the paragraphs (or paragraph) into force.
 - (3) An order made by virtue of sub-paragraph (2) must bring the provisions in question into force no later than one month after the day on which the resolutions referred to in that sub-paragraph are made or, if they are made on different days, the day on which the later resolution is made.”

84D

Page 39, line 1, at end insert –

“() paragraph 3C of Schedule 14;”