
STATUTORY INSTRUMENTS

1994 No. 1952

**MAGISTRATES COURTS SUMMARY
JURISDICTION, SCOTLAND**

**The Backing of Warrants (Republic of
Ireland) (Rule of Speciality) Order 1994**

<i>Made</i>	- - - -	<i>20th July 1994</i>
<i>Laid before Parliament</i>		<i>28th July 1994</i>
<i>Coming into force</i>	- -	<i>22nd August 1994</i>

In exercise of the powers conferred by sections 2(5), 6A, 6B and 6C of the Backing of Warrants (Republic of Ireland) Act 1965⁽¹⁾, I hereby make the following Order:

1.—(1) This Order may be cited as the Backing of Warrants (Republic of Ireland) (Rule of Speciality) Order 1994 and shall come into force on 22nd August 1994.

(2) This Order applies where a warrant for the arrest of a person is endorsed on or after 22nd August 1994 for execution in a part of the United Kingdom under section 1 of the Backing of Warrants (Republic of Ireland) Act 1965 or in the Republic under corresponding arrangements.

(3) This Order extends to the United Kingdom, the Channel Islands and the Isle of Man.

2.—(1) In this Order—

“corresponding arrangements” means arrangements in force in the Republic for the delivery up of a person to the United Kingdom by the Republic corresponding to provisions contained in the 1965 Act for the delivery up of a person to the Republic by the United Kingdom;

“defendant” means a person delivered up to the United Kingdom under corresponding arrangements;

“the 1965 Act” means the Backing of Warrants (Republic of Ireland) Act 1965, including that Act as it has effect in the Channel Islands and the Isle of Man, hereinafter referred to as the Islands;

“the Republic” means the Republic of Ireland;

except in article 1(3), “the United Kingdom” includes the Islands; and

“a part of the United Kingdom” includes each of the Islands.

(1) 1965 c. 45 (sections 2(5), 6A and 6B and 6C were inserted by section 72 of the Criminal Justice Act 1993 c. 36).

(2) For the purposes of this Order, references to a defendant being dealt with for, or in respect of, an offence include a reference to his being dealt with by being proceeded against, sentenced, detained with a view to carrying out a sentence or detention order or otherwise restricted in his personal freedom for or in respect of an offence, and “detention order” means any order involving deprivation of liberty which has been made by a criminal court in addition to or instead of a prison sentence.

(3) For the purposes of this Order, a defendant is not to be regarded as having had an opportunity to leave the United Kingdom, or of having returned to any part of the United Kingdom, at any time whilst he was on bail granted to him in any part of the United Kingdom.

3. An order shall not be made under section 2(1) of the 1965 Act if it is shown to the satisfaction of the court that no provision is made in the law of the Republic, in respect of a person delivered up to the Republic by the United Kingdom, corresponding to the provision made by articles 4 and 5 of this Order in respect of a person delivered up to the United Kingdom by the Republic.

4.—(1) Unless his case is a specified case for the purposes of this article, no defendant may be dealt with in the United Kingdom for, or in respect of, any offence, other than that for which he was delivered up, committed before his surrender, and accordingly, a provision of law for the time being in force in any part of the United Kingdom which would, but for this article, require or allow that person to be so dealt with, shall not have effect in respect of him unless his case is a specified case for the purposes of this article.

(2) A defendant's case is a specified case for the purposes of this article if—

- (a) the Minister for Justice of the Republic has consented by notice in writing given to the Secretary of State to the defendant being dealt with for, or in respect of, the offence in question;
- (b) the defendant, having had an opportunity to leave the United Kingdom, has not done so within 45 days of his final discharge in respect of the offence for which he was delivered up;
- (c) the defendant has, after being returned to the United Kingdom, left the United Kingdom and subsequently returned to it; or
- (d) the description of the offence with which the defendant is charged in the United Kingdom is altered in the course of the proceedings but the offence under its new description is shown by its constituent elements to be an offence for which he could have been delivered up under corresponding arrangements.

(3) A defendant's case is also a specified case for the purposes of this article where the offence in question is, under the law for the time being in force in the part of the United Kingdom in which the warrant was issued, an offence of which, on his trial on a charge for the offence for which he was delivered up, he could (disregarding paragraph (1) of this article) be convicted.

5.—(1) Unless his case is a specified case for the purposes of this article, no defendant may be delivered up to a territory other than the Republic to be dealt with for, in respect of, any offence committed before his surrender to the United Kingdom.

(2) A defendant's case is a specified case for the purposes of this article if—

- (a) the Minister for Justice of the Republic has consented by notice in writing given to the Secretary of State to the defendant being so delivered up;
- (b) the defendant, having had the opportunity to leave the United Kingdom has not done so within 45 days of his final discharge in respect of the offence for which he was delivered up; or
- (c) the defendant has, after being returned to the United Kingdom, left the United Kingdom and subsequently returned to it.

Home Office
20th July 1994

Michael Howard
One of Her Majesty's Principal Secretaries of
State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order introduces into the backing of warrants arrangements for the surrender of defendants to and from the Republic of Ireland a statutory speciality rule. By virtue of this, an order for a persons delivery up to the custody of the Irish police may not be made if it is shown that Irish law does not make provision corresponding to articles 4 and 5 of this Order. Article 4 introduces a statutory bar on a person who has been delivered up to the United Kingdom by the Republic under the backing of warrants arrangements being dealt with in the United Kingdom for or in respect of an offence committed before his surrender other than that for which he was delivered up except where his case is a specified case under article 4. Article 5 introduces a statutory bar on such a person being extradited to another State for or in respect of an offence committed before his surrender unless his case is a specified case under article 5. One of the specified cases under articles 4 and 5 is where the Minister for Justice of the Republic has consented to the defendant being dealt with for, or in respect of, the offence in question. Such consent is to be by notice in writing given to the Secretary of State.

The Order extends throughout the United Kingdom and to the Channel Islands and Isle of Man.