



Extradition Act 2003

2003 CHAPTER 41

PART 1

EXTRADITION TO CATEGORY 1 TERRITORIES

The extradition hearing

Commencement Information

- II** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103, art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258 art. 2\(2\)](#) and [S.I. 2003/3312 art. 2\(2\)](#))

9 Judge's powers at extradition hearing

- (1) In England and Wales, at the extradition hearing the appropriate judge has the same powers (as nearly as may be) as a magistrates' court would have if the proceedings were the summary trial of an information against the person in respect of whom the Part 1 warrant was issued.
- (2) In Scotland, at the extradition hearing the appropriate judge has the same powers (as nearly as may be) as if the proceedings were summary proceedings in respect of an offence alleged to have been committed by the person in respect of whom the Part 1 warrant was issued.
- (3) In Northern Ireland, at the extradition hearing the appropriate judge has the same powers (as nearly as may be) as a magistrates' court would have if the proceedings were the hearing and determination of a complaint against the person in respect of whom the Part 1 warrant was issued.
- (4) If the judge adjourns the extradition hearing he must remand the person in custody or on bail.
- (5) [^{F1}If the person is remanded in custody, the appropriate judge may]^{F1} later grant bail.

Status: Point in time view as at 03/12/2012. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Cross Heading: The extradition hearing. (See end of Document for details)

Textual Amendments

- F1** Words in s. 9(5) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 16](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

Commencement Information

- I2** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

10 Initial stage of extradition hearing

- (1) This section applies if a person in respect of whom a Part 1 warrant is issued appears or is brought before the appropriate judge for the extradition hearing.
- (2) The judge must decide whether the offence specified in the Part 1 warrant is an extradition offence.
- (3) If the judge decides the question in subsection (2) in the negative he must order the person's discharge.
- (4) If the judge decides that question in the affirmative he must proceed under section 11.

Commencement Information

- I3** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

11 Bars to extradition

- (1) If the judge is required to proceed under this section he must decide whether the person's extradition to the category 1 territory is barred by reason of—
 - (a) the rule against double jeopardy;
 - (b) extraneous considerations;
 - (c) the passage of time;
 - (d) the person's age;
 - (e) hostage-taking considerations;
 - (f) speciality;
 - (g) the person's earlier extradition to the United Kingdom from another category 1 territory;
 - (h) the person's earlier extradition to the United Kingdom from a non-category 1 territory.
 - ^{F2}(i) the person's earlier transfer to the United Kingdom by the International Criminal Court.]

^{F2}(2) [^{F3}Sections 12 to 19A]^{F3} apply for the interpretation of subsection (1).

- (3) If the judge decides any of the questions in subsection (1) in the affirmative he must order the person's discharge.

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- (4) If the judge decides those questions in the negative and the person is alleged to be unlawfully at large after conviction of the extradition offence, the judge must proceed under section 20.
- (5) If the judge decides those questions in the negative and the person is accused of the commission of the extradition offence but is not alleged to be unlawfully at large after conviction of it, the judge must proceed under section 21.

Textual Amendments

- F2** S. 11(1)(i) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 3\(1\)\(a\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F3** Words in s. 11(2) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 3\(1\)\(b\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

Commencement Information

- I4** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

12 Rule against double jeopardy

A person's extradition to a category 1 territory is barred by reason of the rule against double jeopardy if (and only if) it appears that he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction on the assumption—

- (a) that the conduct constituting the extradition offence constituted an offence in the part of the United Kingdom where the judge exercises jurisdiction;
- (b) that the person were charged with the extradition offence in that part of the United Kingdom.

Commencement Information

- I5** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

13 Extraneous considerations

A person's extradition to a category 1 territory is barred by reason of extraneous considerations if (and only if) it appears that—

- (a) the Part 1 warrant issued in respect of him (though purporting to be issued on account of the extradition offence) is in fact issued for the purpose of prosecuting or punishing him on account of his race, religion, nationality, gender, sexual orientation or political opinions, or
- (b) if extradited he might be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, gender, sexual orientation or political opinions.

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- I6** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), **art. 2** (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

14 Passage of time

A person's extradition to a category 1 territory is barred by reason of the passage of time if (and only if) it appears that it would be unjust or oppressive to extradite him by reason of the passage of time [^{F4} since he is alleged to have—

- (a) committed the extradition offence (where he is accused of its commission), or
- (b) become unlawfully at large (where he is alleged to have been convicted of it)]

^{F4}

Textual Amendments

- F4** Words in s. 14 substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, **Sch. 13 para. 2(1)**; [S.I. 2006/3364](#), **art. 2(d)(e)**

Commencement Information

- I7** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), **art. 2** (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

15 Age

A person's extradition to a category 1 territory is barred by reason of his age if (and only if) it would be conclusively presumed because of his age that he could not be guilty of the extradition offence on the assumption—

- (a) that the conduct constituting the extradition offence constituted an offence in the part of the United Kingdom where the judge exercises jurisdiction;
- (b) that the person carried out the conduct when the extradition offence was committed (or alleged to be committed);
- (c) that the person carried out the conduct in the part of the United Kingdom where the judge exercises jurisdiction.

Commencement Information

- I8** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), **art. 2** (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

16 Hostage-taking considerations

(1) A person's extradition to a category 1 territory is barred by reason of hostage-taking considerations if (and only if) the territory is a party to the Hostage-taking Convention and it appears that—

- (a) if extradited he might be prejudiced at his trial because communication between him and the appropriate authorities would not be possible, and

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- (b) the act or omission constituting the extradition offence also constitutes an offence under section 1 of the Taking of Hostages Act 1982 (c. 28) or an attempt to commit such an offence.
- (2) The appropriate authorities are the authorities of the territory which are entitled to exercise rights of protection in relation to him.
- (3) A certificate issued by the Secretary of State that a territory is a party to the Hostage-taking Convention is conclusive evidence of that fact for the purposes of subsection (1).
- (4) The Hostage-taking Convention is the International Convention against the Taking of Hostages opened for signature at New York on 18 December 1979.

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- 19** Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

17 Speciality

- (1) A person's extradition to a category 1 territory is barred by reason of speciality if (and only if) there are no speciality arrangements with the category 1 territory.
- (2) There are speciality arrangements with a category 1 territory if, under the law of that territory or arrangements made between it and the United Kingdom, a person who is extradited to the territory from the United Kingdom may be dealt with in the territory for an offence committed before his extradition only if—
 - (a) the offence is one falling within subsection (3), or
 - (b) the condition in subsection (4) is satisfied.
- (3) The offences are—
 - (a) the offence in respect of which the person is extradited;
 - (b) an extradition offence disclosed by the same facts as that offence;
 - (c) an extradition offence in respect of which the appropriate judge gives his consent under section 55 to the person being dealt with;
 - (d) an offence which is not punishable with imprisonment or another form of detention;
 - (e) an offence in respect of which the person will not be detained in connection with his trial, sentence or appeal;
 - (f) an offence in respect of which the person waives the right that he would have (but for this paragraph) not to be dealt with for the offence.
- (4) The condition is that the person is given an opportunity to leave the category 1 territory and—
 - (a) he does not do so before the end of the permitted period, or
 - (b) if he does so before the end of the permitted period, he returns there.
- (5) The permitted period is 45 days starting with the day on which the person arrives in the category 1 territory.
- (6) Arrangements made with a category 1 territory which is a Commonwealth country or a British overseas territory may be made for a particular case or more generally.

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- (7) A certificate issued by or under the authority of the Secretary of State confirming the existence of arrangements with a category 1 territory which is a Commonwealth country or a British overseas territory and stating the terms of the arrangements is conclusive evidence of those matters.

Commencement Information

I10 Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), **art. 2** (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

18 Earlier extradition to United Kingdom from category 1 territory

A person's extradition to a category 1 territory is barred by reason of his earlier extradition to the United Kingdom from another category 1 territory if (and only if)—

- (a) the person was extradited to the United Kingdom from another category 1 territory (the extraditing territory);
- (b) under arrangements between the United Kingdom and the extraditing territory, that territory's consent is required to the person's extradition from the United Kingdom to the category 1 territory in respect of the extradition offence under consideration;
- (c) that consent has not been given on behalf of the extraditing territory.

Commencement Information

I11 Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), **art. 2** (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

19 Earlier extradition to United Kingdom from non-category 1 territory

A person's extradition to a category 1 territory is barred by reason of his earlier extradition to the United Kingdom from a non-category 1 territory if (and only if)—

- (a) the person was extradited to the United Kingdom from a territory that is not a category 1 territory (the extraditing territory);
- (b) under arrangements between the United Kingdom and the extraditing territory, that territory's consent is required to the person's being dealt with in the United Kingdom in respect of the extradition offence under consideration;
- (c) consent has not been given on behalf of the extraditing territory to the person's extradition from the United Kingdom to the category 1 territory in respect of the extradition offence under consideration.

Commencement Information

I12 Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), **art. 2** (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

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[^{F5}19A Earlier transfer to United Kingdom by International Criminal Court

- (1) A person's extradition to a category 1 territory is barred by reason of his earlier transfer by the International Criminal Court if (and only if)—
 - (a) the person was transferred to the United Kingdom to serve a sentence imposed by the Court;
 - (b) under arrangements between the United Kingdom and the Court, the consent of the Presidency of the Court is required to the person's extradition from the United Kingdom to the category 1 territory in respect of the extradition offence under consideration;
 - (c) that consent has not been given.
- (2) Subsection (1) does not apply if the person has served the sentence imposed by the Court and has subsequently—
 - (a) remained voluntarily in the United Kingdom for more than 30 days, or
 - (b) left the United Kingdom and returned to it.]

Textual Amendments

F5 S. 19A inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 3\(2\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

Commencement Information

I13 Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

VALID FROM 18/09/2013

[^{F6}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.]

Textual Amendments

F6 [S. 19B](#) inserted (prosp.) by [Police and Justice Act 2006 \(c. 48\)](#), s. 42, [Sch. 13 paras. 4\(2\), 6](#)

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20 Case where person has been convicted

- (1) If the judge is required to proceed under this section (by virtue of section 11) he must decide whether the person was convicted in his presence.
- (2) If the judge decides the question in subsection (1) in the affirmative he must proceed under section 21.
- (3) If the judge decides that question in the negative he must decide whether the person deliberately absented himself from his trial.
- (4) If the judge decides the question in subsection (3) in the affirmative he must proceed under section 21.
- (5) If the judge decides that question in the negative he must decide whether the person would be entitled to a retrial or (on appeal) to a review amounting to a retrial.
- (6) If the judge decides the question in subsection (5) in the affirmative he must proceed under section 21.
- (7) If the judge decides that question in the negative he must order the person's discharge.
- (8) The judge must not decide the question in subsection (5) in the affirmative unless, in any proceedings that it is alleged would constitute a retrial or a review amounting to a retrial, the person would have these rights—
 - (a) the right to defend himself in person or through legal assistance of his own choosing or, if he had not sufficient means to pay for legal assistance, to be given it free when the interests of justice so required;
 - (b) the right to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.

Commencement Information

I14 Act wholly in force at 1.1.2004, see s. 221 and [S.I. 2003/3103, art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258 art. 2\(2\)](#) and [S.I. 2003/3312 art. 2\(2\)](#))

21 Human rights

- (1) If the judge is required to proceed under this section (by virtue of section 11 or 20) he must decide whether the person's extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998 (c. 42).
- (2) If the judge decides the question in subsection (1) in the negative he must order the person's discharge.
- (3) If the judge decides that question in the affirmative he must order the person to be extradited to the category 1 territory in which the warrant was issued.
- (4) If the judge makes an order under subsection (3) he must remand the person in custody or on bail to wait for his extradition to the category 1 territory.
- (5) ^{F7}If the person is remanded in custody, the appropriate judge may^{F7} later grant bail.

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Textual Amendments

F7 Words in s. 21(5) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 16](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

Commencement Information

I15 Act wholly in force at 1.1.2004, see [s. 221](#) and [S.I. 2003/3103](#), [art. 2](#) (subject to [arts. 3-5](#)) (as amended by [S.I. 2003/3258](#) art. 2(2) and [S.I. 2003/3312](#) art. 2(2))

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