



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

Post-extradition matters

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\(2\)](#))

129 Consent to other offence being dealt with

- (1) This section applies if—
- (a) a person is extradited to a category 2 territory in accordance with this Part;
 - (b) the Secretary of State receives a valid request for his consent to the person being dealt with in the territory for an offence other than the offence in respect of which he was extradited.
- (2) A request for consent is valid if it is made by an authority which is an authority of the territory and which the Secretary of State believes has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) The Secretary of State must serve notice on the person that he has received the request for consent, unless he is satisfied that it would not be practicable to do so.
- (4) The Secretary of State must decide whether the offence is an extradition offence.
- (5) If the Secretary of State decides the question in subsection (4) in the negative he must refuse his consent.

Status: Point in time view as at 03/12/2012.

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

- (6) If the Secretary of State decides that question in the affirmative he must decide whether the appropriate judge would send the case to him (for his decision whether the person was to be extradited) under sections 79 to 91 if—
 - (a) the person were in the United Kingdom, and
 - (b) the judge were required to proceed under section 79 in respect of the offence for which the Secretary of State’s consent is requested.
- (7) If the Secretary of State decides the question in subsection (6) in the negative he must refuse his consent.
- (8) If the Secretary of State decides that question in the affirmative he must decide whether, if the person were in the United Kingdom, his extradition in respect of the offence would be prohibited under section 94, 95 or 96.
- (9) If the Secretary of State decides the question in subsection (8) in the affirmative he must refuse his consent.
- (10) If the Secretary of State decides that question in the negative he may give his consent.

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))

130 Consent to further extradition to category 2 territory

- (1) This section applies if—
 - (a) a person is extradited to a category 2 territory (the requesting territory) in accordance with this Part;
 - (b) the Secretary of State receives a valid request for his consent to the person’s extradition to another category 2 territory for an offence other than the offence in respect of which he was extradited.
- (2) A request for consent is valid if it is made by an authority which is an authority of the requesting territory and which the Secretary of State believes has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) The Secretary of State must serve notice on the person that he has received the request for consent, unless he is satisfied that it would not be practicable to do so.
- (4) The Secretary of State must decide whether the offence is an extradition offence in relation to the category 2 territory referred to in subsection (1)(b).
- (5) If the Secretary of State decides the question in subsection (4) in the negative he must refuse his consent.
- (6) If the Secretary of State decides that question in the affirmative he must decide whether the appropriate judge would send the case to him (for his decision whether the person was to be extradited) under sections 79 to 91 if—
 - (a) the person were in the United Kingdom, and
 - (b) the judge were required to proceed under section 79 in respect of the offence for which the Secretary of State’s consent is requested.

Status: Point in time view as at 03/12/2012.

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- (7) If the Secretary of State decides the question in subsection (6) in the negative he must refuse his consent.
- (8) If the Secretary of State decides that question in the affirmative he must decide whether, if the person were in the United Kingdom, his extradition in respect of the offence would be prohibited under section 94, 95 or 96.
- (9) If the Secretary of State decides the question in subsection (8) in the affirmative he must refuse his consent.
- (10) If the Secretary of State decides that question in the negative he may give his consent.

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))

131 Consent to further extradition to category 1 territory

- (1) This section applies if—
 - (a) a person is extradited to a category 2 territory (the requesting territory) in accordance with this Part;
 - (b) the Secretary of State receives a valid request for his consent to the person's extradition to a category 1 territory for an offence other than the offence in respect of which he was extradited.
- (2) A request for consent is valid if it is made by an authority which is an authority of the requesting territory and which the Secretary of State believes has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) The Secretary of State must serve notice on the person that he has received the request for consent, unless he is satisfied that it would not be practicable to do so.
- (4) The Secretary of State must decide whether the offence is an extradition offence within the meaning given by section 64 in relation to the category 1 territory.
- (5) If the Secretary of State decides the question in subsection (4) in the negative he must refuse his consent.
- (6) If the Secretary of State decides that question in the affirmative he must decide whether the appropriate judge would order the person's extradition under sections 11 to 25 if—
 - (a) the person were in the United Kingdom, and
 - (b) the judge were required to proceed under section 11 in respect of the offence for which the Secretary of State's consent is requested.
- (7) If the Secretary of State decides the question in subsection (6) in the affirmative he must give his consent.
- (8) If the Secretary of State decides that question in the negative he must refuse his consent.

Status: Point in time view as at 03/12/2012.

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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))

[^{F1}132 Return of person to serve remainder of sentence

- (1) This section applies if—
 - (a) a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom is extradited to a category 2 territory in accordance with this Part;
 - (b) the person is returned to the United Kingdom to serve the remainder of the sentence or the person otherwise returns to the United Kingdom.
- (2) Time during which the person was outside the United Kingdom as a result of the extradition does not count as time served by the person as part of the sentence.
- (3) But subsection (2) does not apply if—
 - (a) the person was extradited for the purpose of being prosecuted for an offence, and
 - (b) the person has not been convicted of the offence or of any other offence in respect of which the person was permitted to be dealt with in the category 2 territory.
- (4) In a case falling within subsection (3), time during which the person was outside the United Kingdom as a result of the extradition counts as time served by the person as part of the sentence if (and only if) it was spent in custody in connection with the offence or any other offence in respect of which the person was permitted to be dealt with in the territory.
- (5) In a case where the person is not entitled to be released from detention pursuant to the sentence—
 - (a) the person is liable to be detained in pursuance of the sentence, and
 - (b) if at large, the person must be treated as being unlawfully at large.
- (6) In a case where the person is entitled to be released from detention on licence pursuant to the sentence—
 - (a) if the person was released on licence at the time of extradition, the licence is suspended until the person's return,
 - (b) if the person was not released on licence at that time, subsections (7) to (10) apply in relation to the person (“the offender”).
- (7) The offender is liable to be detained, on return, in any place in which the offender could have been detained pursuant to the sentence before the time of extradition.
- (8) A constable or immigration officer may—
 - (a) take the offender into custody, and
 - (b) convey the offender to the place mentioned in subsection (7).
- (9) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.

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- (10) In calculating a period of 5 days for the purposes of subsection (9) no account is to be taken of any day mentioned in any of paragraphs (a) to (d) of section 59(10).
- (11) A person is entitled to be released from detention if there is—
- ^{F2}(a)
 - (b) a duty to release the person under [^{F3} Chapter 6 of Part 12] of the Criminal Justice Act 2003 ^{F4} ...,
 - (c) a duty to release the person under section 1, 1AA or 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 or section 5, 11(2), 13, 19 or 23 of the Custodial Sentences and Weapons (Scotland) Act 2007, or
 - (d) a duty to release the person under section 1 of the Northern Ireland (Remission of Sentences) Act 1995, Article 26 of the Criminal Justice (Northern Ireland) Order 1996 or Article 17 or 18(8) of the Criminal Justice (Northern Ireland) Order 2008.
- (12) The powers conferred on a constable by subsection (8) are exercisable in any part of the United Kingdom.
- (13) An immigration officer is a person who is an immigration officer within the meaning of the Immigration Act 1971.]

Textual Amendments

- F1** S. 132 substituted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 73, 116; S.I. 2009/3096, art. 3(p)
- F2** S. 132(11)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 16 para. 11(a); S.I. 2012/2906, art. 2(n)
- F3** Words in s. 132(11)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 16 para. 11(b); S.I. 2012/2906, art. 2(n)
- F4** Words in s. 132(11)(b) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 10 para. 11(2)(b); S.I. 2012/2906, art. 2(h)

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))

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