



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 2

#### EXTRADITION TO CATEGORY 2 TERRITORIES

##### *Appeals*

#### **104 Court's powers on appeal under section 103**

- (1) On an appeal under section 103 the High Court may—
  - (a) allow the appeal;
  - (b) direct the judge to decide again a question (or questions) which he decided at the extradition hearing;
  - (c) dismiss the appeal.
- (2) The court may allow the appeal only if the conditions in subsection (3) or the conditions in subsection (4) are satisfied.
- (3) The conditions are that—
  - (a) the judge ought to have decided a question before him at the extradition hearing differently;
  - (b) if he had decided the question in the way he ought to have done, he would have been required to order the person's discharge.
- (4) The conditions are that—
  - (a) an issue is raised that was not raised at the extradition hearing or evidence is available that was not available at the extradition hearing;
  - (b) the issue or evidence would have resulted in the judge deciding a question before him at the extradition hearing differently;
  - (c) if he had decided the question in that way, he would have been required to order the person's discharge.
- (5) If the court allows the appeal it must—

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*Status: This is the original version (as it was originally enacted).*

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- (a) order the person's discharge;
  - (b) quash the order for his extradition.
- (6) If the judge comes to a different decision on any question that is the subject of a direction under subsection (1)(b) he must order the person's discharge.
- (7) If the judge comes to the same decision as he did at the extradition hearing on the question that is (or all the questions that are) the subject of a direction under subsection (1)(b) the appeal must be taken to have been dismissed by a decision of the High Court.