



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 1

#### EXTRADITION TO CATEGORY 1 TERRITORIES

##### *The extradition hearing*

#### **[<sup>F1</sup>21A Person not convicted: human rights and proportionality**

- (1) If the judge is required to proceed under this section (by virtue of section 11), the judge must decide both of the following questions in respect of the extradition of the person (“D”)—
  - (a) whether the extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998;
  - (b) whether the extradition would be disproportionate.
- (2) In deciding whether the extradition would be disproportionate, the judge must take into account the specified matters relating to proportionality (so far as the judge thinks it appropriate to do so); but the judge must not take any other matters into account.
- (3) These are the specified matters relating to proportionality—
  - (a) the seriousness of the conduct alleged to constitute the extradition offence;
  - (b) the likely penalty that would be imposed if D was found guilty of the extradition offence;
  - (c) the possibility of the relevant foreign authorities taking measures that would be less coercive than the extradition of D.
- (4) The judge must order D's discharge if the judge makes one or both of these decisions—
  - (a) that the extradition would not be compatible with the Convention rights;
  - (b) that the extradition would be disproportionate.
- (5) The judge must order D to be extradited to the category 1 territory in which the warrant was issued if the judge makes both of these decisions—
  - (a) that the extradition would be compatible with the Convention rights;

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Section 21A. (See end of Document for details)*

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- (b) that the extradition would not be disproportionate.
- (6) If the judge makes an order under subsection (5) he must remand the person in custody or on bail to wait for extradition to the category 1 territory.
- (7) If the person is remanded in custody, the appropriate judge may later grant bail.
- (8) In this section “ relevant foreign authorities ” means the authorities in the territory to which D would be extradited if the extradition went ahead. ]

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**Textual Amendments**

- F1** S. 21A inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), ss. [157\(2\)\(4\)](#), [185\(1\)](#) (with ss. [3](#), [21](#), [33](#), [42](#), [58](#), [75](#), [93](#), [157\(5\)](#)); S.I. 2014/1916, art. 2(d)

**Changes to legislation:**

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