



Extradition Act 2003

2003 CHAPTER 41

PART 1

EXTRADITION TO CATEGORY 1 TERRITORIES

Post-extradition matters

Annotations:

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\(2\)](#))

54 Request for consent to other offence being dealt with

- (1) This section applies if—
- a person is extradited to a category 1 territory in respect of an offence in accordance with this Part;
 - the appropriate judge receives a request for consent to the person being dealt with in the territory for another offence;
 - the request is certified under this section by the designated authority.
- (2) The designated authority may certify a request for consent under this section if it believes that the authority making the request—
- is a judicial authority of the territory, and
 - has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) A certificate under subsection (2) must certify that the authority making the request falls within paragraphs (a) and (b) of that subsection.
- (4) The judge 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.

Changes to legislation: *Extradition Act 2003, Cross Heading: Post-extradition matters is up to date with all changes known to be in force on or before 18 October 2017. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) The consent hearing must begin before the end of the required period, which is 21 days starting with the day on which the request for consent is received by the designated authority.
- (6) The judge may extend the required period if he believes it to be in the interests of justice to do so; and this subsection may apply more than once.
- (7) The power in subsection (6) may be exercised even after the end of the required period.
- (8) If the consent hearing does not begin before the end of the required period and the judge does not exercise the power in subsection (6) to extend the period, he must refuse consent.
- (9) The judge may at any time adjourn the consent hearing.
- (10) The consent hearing is the hearing at which the judge is to consider the request for consent.

Annotations:

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))

55 Questions for decision at consent hearing

- (1) At the consent hearing under section 54 the judge must decide whether consent is required to the person being dealt with in the territory for the offence for which consent is requested.
- (2) If the judge decides the question in subsection (1) in the negative he must inform the authority making the request of his decision.
- (3) If the judge decides that question in the affirmative he must decide whether the offence for which consent is requested is an extradition offence.
- (4) If the judge decides the question in subsection (3) in the negative he must refuse consent.
- (5) If the judge decides that question in the affirmative he must decide whether he 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 consent is requested.
- (6) If the judge decides the question in subsection (5) in the affirmative he must give consent.
- (7) If the judge decides that question in the negative he must refuse consent.
- (8) Consent is not required to the person being dealt with in the territory for the offence if the person has been given an opportunity to leave the territory and—
 - (a) he has not done so before the end of the permitted period, or
 - (b) if he did so before the end of the permitted period, he has returned there.

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- (9) The permitted period is 45 days starting with the day on which the person arrived in the territory following his extradition there in accordance with this Part.
- (10) Subject to subsection (8), the judge must decide whether consent is required to the person being dealt with in the territory for the offence by reference to what appears to him to be the law of the territory or arrangements made between the territory and the United Kingdom.

Annotations:

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))

56 Request for consent to further extradition to category 1 territory

- (1) This section applies if—
 - (a) a person is extradited to a category 1 territory (the requesting territory) in accordance with this Part;
 - (b) the appropriate judge receives a request for consent to the person's extradition to another category 1 territory for an offence;
 - (c) the request is certified under this section by the designated authority.
- (2) The designated authority may certify a request for consent under this section if it believes that the authority making the request—
 - (a) is a judicial authority of the requesting territory, and
 - (b) has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) A certificate under subsection (2) must certify that the authority making the request falls within paragraphs (a) and (b) of that subsection.
- (4) The judge 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.
- (5) The consent hearing must begin before the end of the required period, which is 21 days starting with the day on which the request for consent is received by the designated authority.
- (6) The judge may extend the required period if he believes it to be in the interests of justice to do so; and this subsection may apply more than once.
- (7) The power in subsection (6) may be exercised even after the end of the required period.
- (8) If the consent hearing does not begin before the end of the required period and the judge does not exercise the power in subsection (6) to extend the period, he must refuse consent.
- (9) The judge may at any time adjourn the consent hearing.
- (10) The consent hearing is the hearing at which the judge is to consider the request for consent.

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Annotations:

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))

57 Questions for decision at consent hearing

- (1) At the consent hearing under section 56 the judge must decide whether consent is required to the person's extradition to the other category 1 territory for the offence.
- (2) If the judge decides the question in subsection (1) in the negative he must inform the authority making the request of his decision.
- (3) If the judge decides that question in the affirmative he must decide whether the offence is an extradition offence in relation to the category 1 territory referred to in section 56(1)(b).
- (4) If the judge decides the question in subsection (3) in the negative he must refuse consent.
- (5) If the judge decides that question in the affirmative he must decide whether he 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 consent is requested.
- (6) If the judge decides the question in subsection (5) in the affirmative he must give consent.
- (7) If the judge decides that question in the negative he must refuse consent.
- (8) Consent is not required to the person's extradition to the other territory for the offence if the person has been given an opportunity to leave the requesting territory and—
 - (a) he has not done so before the end of the permitted period, or
 - (b) if he did so before the end of the permitted period, he has returned there.
- (9) The permitted period is 45 days starting with the day on which the person arrived in the requesting territory following his extradition there in accordance with this Part.
- (10) Subject to subsection (8), the judge must decide whether consent is required to the person's extradition to the other territory for the offence by reference to what appears to him to be the arrangements made between the requesting territory and the United Kingdom.

Annotations:

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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58 Consent to further extradition to category 2 territory

- (1) This section applies if—
 - (a) a person is extradited to a category 1 territory (the requesting territory) in accordance with this Part;
 - (b) the Secretary of State receives a request for consent to the person's extradition to a category 2 territory for an offence;
 - (c) the request is certified under this section by the designated authority.
- (2) The designated authority may certify a request for consent under this section if it believes that the authority making the request—
 - (a) is a judicial authority of the requesting territory, and
 - (b) has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) A certificate under subsection (2) must certify that the authority making the request falls within paragraphs (a) and (b) of that subsection.
- (4) 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.
- (5) The Secretary of State must decide whether the offence is an extradition offence within the meaning given by section 137 in relation to the category 2 territory.
- (6) If the Secretary of State decides the question in subsection (5) in the negative he must refuse consent.
- (7) 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.
- (8) If the Secretary of State decides the question in subsection (7) in the negative he must refuse his consent.
- (9) 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 to the category 2 territory in respect of the offence would be prohibited under section 94, 95 or 96.
- (10) If the Secretary of State decides the question in subsection (9) in the negative he may give consent.
- (11) If the Secretary of State decides that question in the affirmative he must refuse consent.
- (12) This section applies in relation to any function which falls under this section to be exercised in relation to Scotland only as if the references in this section to the Secretary of State were to the Scottish Ministers.

Annotations:

Commencement Information

- 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))

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[F159] 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 1 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 1 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.
- (10) In calculating a period of 5 days for the purposes of subsection (9) no account is to be taken of—
 - (a) any Saturday or Sunday,
 - (b) Christmas Day,
 - (c) Good Friday, or
 - (d) in any part of the United Kingdom, any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in that part of the United Kingdom.

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- (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.]

Annotations:

Amendments (Textual)

- F1** S. 59 substituted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\), ss. 72, 116](#); S.I. 2009/3096, [art. 3\(o\)](#)
- F2** S. 59(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. 10\(a\)](#); S.I. 2012/2906, [art. 2\(n\)](#)
- F3** Words in s. 59(11)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 16 para. 10\(b\)](#); S.I. 2012/2906, [art. 2\(n\)](#)
- F4** Words in s. 59(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\(2\)\(a\)](#); S.I. 2012/2906, [art. 2\(h\)](#)

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\(2\)](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 189A-189E and cross-heading inserted by [2014 c. 12 s. 168](#)