



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

Introduction

70 Extradition request and certificate

(1) The Secretary of State must [^{F1}(subject to subsection (2))] issue a certificate under this section if he receives a valid request for the extradition [^{F2}of a person to a category 2 territory].

[^{F3}(2) The Secretary of State may refuse to issue a certificate under this section if—

- (a) he has power under section 126 to order that proceedings on the request be deferred,
- (b) the person whose extradition is requested has been recorded by the Secretary of State as a refugee within the meaning of the Refugee Convention, or
- (c) the person whose extradition is requested has been granted leave to enter or remain in the United Kingdom on the ground that it would be a breach of Article 2 or 3 of the Human Rights Convention to remove him to the territory to which extradition is requested.

[^{F4}(2A)]

(3) A request for a person's extradition is valid if—

- (a) it contains the statement referred to in subsection (4) [^{F5}or the statement referred to in subsection (4A)], and
- (b) it is made in the approved way.

[^{F6}(4) The statement is one that—

- (a) the person is accused in the category 2 territory of the commission of an offence specified in the request, and

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- (b) the request is made with a view to his arrest and extradition to the category 2 territory for the purpose of being prosecuted for the offence.
- (4A) The statement is one that—
- (a) the person has been convicted of an offence specified in the request by a court in the category 2 territory, and
- (b) the request is made with a view to his arrest and extradition to the category 2 territory for the purpose of being sentenced for the offence or of serving a sentence of imprisonment or another form of detention imposed in respect of the offence.]
- (5) A request for extradition to a category 2 territory which is a British overseas territory is made in the approved way if it is made by or on behalf of the person administering the territory.
- (6) A request for extradition to a category 2 territory which is the Hong Kong Special Administrative Region of the People’s Republic of China is made in the approved way if it is made by or on behalf of the government of the Region.
- (7) A request for extradition to any other category 2 territory is made in the approved way if it is made—
- (a) by an authority of the territory which the Secretary of State believes has the function of making requests for extradition in that territory, or
- (b) by a person recognised by the Secretary of State as a diplomatic or consular representative of the territory.
- (8) A certificate under this section must
- [^{F7}(a)] certify that the request is made in the approved way[^{F8}, and
- (b) identify the order by which the territory in question is designated as a category 2 territory.]
- (9) If a certificate is issued under this section the Secretary of State must send [^{F9}the request and the certificate to the appropriate judge]
- [^{F10}(10) Subsection (11) applies at all times after the Secretary of State issues a certificate under this section.
- (11) The Secretary of State is not to consider whether the extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998.]

Textual Amendments

- F1** Words in s. 70(1) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 17\(2\)\(a\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F2** Words in s. 70(1) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 17\(2\)\(b\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F3** S. 70(2)(2A) substituted (15.1.2007) for s. 70(2) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 17\(3\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F4** S. 70(2A) repealed (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 121\(4\)\(b\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1916, art. 2(t)
- F5** Words in s. 70(3) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 17\(2\)\(a\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F6** S. 70(4)(4A) substituted (15.1.2007) for s. 70(4) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 17\(2\)\(b\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)

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- F7** Words in s. 70(8) renumbered as s. 70(8)(a) (15.1.2007) by Police and Justice Act 2006 (c. 48), ss. 42, 53, **Sch. 13 para. 17(4)(a)**; S.I. 2006/3364, **art. 2(d)(e)**
- F8** S. 70(8)(b) and word inserted (15.1.2007) by Police and Justice Act 2006 (c. 48), ss. 42, 53, **Sch. 13 para. 17(4)(b)**; S.I. 2006/3364, **art. 2(d)(e)**
- F9** Words in s. 70(9) substituted (15.1.2007) by Police and Justice Act 2006 (c. 48), ss. 42, 53, **Sch. 13 para. 17(5)**; S.I. 2006/3364, **art. 2(d)(e)**
- F10** S. 70(10)(11) inserted (29.7.2013 for E.W., 14.10.2013 for N.I.) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 20 para. 11** (with Sch. 20 para. 1415); S.I. 2013/1682, art. 2(2)(b); S.I. 2013/2349, art. 2(4)

Modifications etc. (not altering text)

- C1** S. 70(2)(c) modified (10.11.2016) by The Extradition Act 2003 (Overseas Territories) Order 2016 (S.I. 2016/990), arts. 1(1), 6(1), **Sch. 3**

Commencement Information

- I1** 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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