



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

The extradition hearing

86 Conviction in person's absence

- (1) If the judge is required to proceed under this section he must decide whether there is evidence which would be sufficient to make a case requiring an answer by the person if the proceedings were the summary trial of an information against him.
- (2) In deciding the question in subsection (1) the judge may treat a statement made by a person in a document as admissible evidence of a fact if—
 - (a) the statement is made by the person to a police officer or another person charged with the duty of investigating offences or charging offenders, and
 - (b) direct oral evidence by the person of the fact would be admissible.
- (3) In deciding whether to treat a statement made by a person in a document as admissible evidence of a fact, the judge must in particular have regard—
 - (a) to the nature and source of the document;
 - (b) to whether or not, having regard to the nature and source of the document and to any other circumstances that appear to the judge to be relevant, it is likely that the document is authentic;
 - (c) to the extent to which the statement appears to supply evidence which would not be readily available if the statement were not treated as being admissible evidence of the fact;
 - (d) to the relevance of the evidence that the statement appears to supply to any issue likely to have to be determined by the judge in deciding the question in subsection (1);
 - (e) to any risk that the admission or exclusion of the statement will result in unfairness to the person whose extradition is sought, having regard in

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for the Extradition Act 2003, Section 86. (See end of Document for details)*

particular to whether it is likely to be possible to controvert the statement if the person making it does not attend to give oral evidence in the proceedings.

- (4) A summary in a document of a statement made by a person must be treated as a statement made by the person in the document for the purposes of subsection (2).
- (5) If the judge decides the question in subsection (1) in the negative he must order the person's discharge.
- (6) If the judge decides that question in the affirmative he must proceed under section 87.
- (7) If the judge is required to proceed under this section and the category 2 territory to which extradition is requested is designated for the purposes of this section by order made by the Secretary of State—
 - (a) the judge must not decide under subsection (1), and
 - (b) he must proceed under section 87.
- (8) Subsection (1) applies to Scotland with the substitution of “ summary proceedings in respect of an offence alleged to have been committed by the person (except that for this purpose evidence from a single source shall be sufficient) ” for “the summary trial of an information against him”.
- (9) Subsection (1) applies to Northern Ireland with the substitution of “ the hearing and determination of a complaint ” for “the summary trial of an information”.

Modifications etc. (not altering text)

- C1** S. 86(1) modified (10.11.2016) by [The Extradition Act 2003 \(Overseas Territories\) Order 2016 \(S.I. 2016/990\)](#), arts. 1(1), 6(2), **Sch. 3**

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))

Changes to legislation:

There are currently no known outstanding effects for the Extradition Act 2003, Section 86.