

*These notes refer to the Extradition Act 2003 (c.41)
which received Royal Assent on 20th November 2003*

EXTRADITION ACT 2003

EXPLANATORY NOTES

TERRITORIAL APPLICATION: WALES

Part 1

Extradition to Category 1 Territories

Section 29: Court's powers on appeal under section 28

84. This section sets out the powers available to the High Court following an appeal against any order to discharge the person at the extradition hearing.
85. The High Court may allow the appeal (*subsection (1)*) only if the conditions in *subsection (3)* or those in *subsection (4)* are met (*subsection (2)*). The conditions in *subsection (3)* are that the judge ought to have decided a question before him at the extradition hearing differently and, if he had done so, he would not have been required to order the person's discharge.
86. The conditions in *subsection (4)* are that:
- an issue is raised or evidence is available that was not raised or available at the extradition hearing;
 - the issue or evidence would have resulted in the judge making a different decision at the hearing; and
 - as a result the judge would not have been required to order the person's discharge.
87. If the High Court allows the appeal, the order discharging the person is quashed and the case sent back to the judge with a direction to proceed as he would have been required to do if he had decided the relevant question differently. *Subsection (6)* defines a relevant question as one that resulted in the order for the person's discharge.