

# EXTRADITION ACT 2003

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## EXPLANATORY NOTES

### TERRITORIAL APPLICATION: WALES

#### Part 1

#### Extradition to Category 1 Territories

##### *Section 65: Extradition offences: person sentenced for offence*

196. This section defines the different types of conduct that constitute an extradition offence in respect of category 1 territories in cases where the person is unlawfully at large, having been convicted and sentenced for the offence (*subsection (1)*).
197. In these cases conduct constitutes an extradition offence (*subsection (2)*) if:
- the conduct occurs in the category 1 territory and no part of it occurs in the United Kingdom;
  - a certificate is issued by a category 1 territory which shows that the conduct falls within the European framework list; and
  - the certificate confirms that a sentence of detention for a term of 12 months or more has been imposed.
198. *Subsection (3)* states that conduct also constitutes an extradition offence if:
- the conduct occurs in the category 1 territory;
  - the conduct would constitute an offence in the United Kingdom;
  - a sentence of detention for a period of 4 months or more has been imposed.
199. Conduct also constitutes an extradition offence if (*subsection (4)*):
- the conduct occurs outside the category 1 territory;
  - a sentence of detention for a period of 4 months or more has been imposed in the category 1 territory for the conduct,
  - the equivalent conduct would constitute an extra-territorial offence under the law of the United Kingdom in the corresponding circumstances, punishable with imprisonment for a period of 12 months or more.
200. Conduct also constitutes an extradition offence if (*subsection (5)*):
- the conduct occurs outside the category 1 territory and no part of it occurs in the United Kingdom;
  - it would constitute an offence in the United Kingdom punishable with imprisonment for a period of 12 months or more if it occurred in this country;

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

- a custodial sentence of 4 months or more has been imposed in the category 1 territory for the conduct.
201. Under *subsection (6)* conduct also constitutes an extradition offence if:
- the conduct occurs outside the category 1 territory and no part of it occurs in the United Kingdom;
  - a custodial sentence of 4 months or more has been imposed in the category 1 territory for the conduct;
  - the conduct constitutes, or would do if it occurred in the United Kingdom, an offence referred to in *subsection (7)*.
202. The offences in *subsection (7)* are those covered by sections 51, 52, 58 and 59 of the International Criminal Court Act 2001 relating to genocide, crimes against humanity and war crimes, and ancillary offences under section 55 or 62 of that Act. For Scotland the relevant corresponding offences are those covered by sections 1 and 2 of the International Criminal Court (Scotland) Act 2001 and ancillary offences under section 7 of that Act.
203. *Subsection (8)* applies where equivalent circumstances in the United Kingdom are mentioned under subsections (3)(b), (4)(c) and (5)(b). Where the applicable conduct relates to a tax, duty, customs or exchange, *subsection (8)* explains that it is immaterial that United Kingdom law does not contain rules of the same kind as those of the category 1 territory.