

EXTRADITION ACT 2003

EXPLANATORY NOTES

TERRITORIAL APPLICATION: WALES

Part 2

Extradition to Category 2 Territories

Section 95: Speciality

278. The speciality rule is a long-standing protection in extradition. It prohibits a person from being prosecuted after his extradition for an offence committed before his extradition. The exceptions are where the offence is that in respect of which he was extradited, where the consent of the requested state is obtained or the person has had an opportunity to leave the country to which he was extradited.
279. This section prohibits the Secretary of State from ordering a person's extradition to a category 2 territory where there are no speciality arrangements in place (*subsection (1)*). This does not apply if a person has consented to his extradition under section 127 (*subsection (2)*). *Subsection (3)* explains when speciality arrangements are considered to be in place. These are if the offence falls within *subsection (4)* or the person has first had the opportunity to leave the territory. The offences within subsection (4) are:
- the offence for which the person was extradited;
 - an extradition offence disclosed by the same facts as that offence;
 - an extradition offence for which the Secretary of State has consented to the person being dealt with;
 - an offence in respect of which the person has waived his right not to be dealt with.
280. *Subsection (5)* allows speciality arrangements with a Commonwealth country or a British overseas territory to be made either generally or for particular cases. A certificate issued by or under the authority of the Secretary of State confirming the existence of such arrangements and stating their terms is conclusive evidence of those matters (*subsection (6)*).