



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

Interpretation

137 Extradition offences: person not sentenced for offence

- (1) This section applies in relation to conduct of a person if—
 - (a) he is accused in a category 2 territory of the commission of an offence constituted by the conduct, or
 - (b) he is alleged to be unlawfully at large after conviction by a court in a category 2 territory of an offence constituted by the conduct and he has not been sentenced for the offence.
- (2) The conduct constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied—
 - (a) the conduct occurs in the category 2 territory;
 - (b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment if it occurred in that part of the United Kingdom;
 - (c) the conduct is so punishable under the law of the category 2 territory (however it is described in that law).
- (3) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied—
 - (a) the conduct occurs outside the category 2 territory;
 - (b) the conduct is punishable under the law of the category 2 territory with imprisonment or another form of detention for a term of 12 months or a greater punishment (however it is described in that law);

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- (c) in corresponding circumstances equivalent conduct would constitute an extra-territorial offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment.
- (4) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied—
- (a) the conduct occurs outside the category 2 territory and no part of it occurs in the United Kingdom;
 - (b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment if it occurred in that part of the United Kingdom;
 - (c) the conduct is so punishable under the law of the category 2 territory (however it is described in that law).
- (5) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied—
- (a) the conduct occurs outside the category 2 territory and no part of it occurs in the United Kingdom;
 - (b) the conduct is punishable under the law of the category 2 territory with imprisonment for a term of 12 months or another form of detention or a greater punishment (however it is described in that law);
 - (c) the conduct constitutes or if committed in the United Kingdom would constitute an offence mentioned in subsection (6).
- (6) The offences are—
- (a) an offence under section 51 or 58 of the International Criminal Court Act 2001 (c. 17) (genocide, crimes against humanity and war crimes);
 - (b) an offence under section 52 or 59 of that Act (conduct ancillary to genocide etc. committed outside the jurisdiction);
 - (c) an ancillary offence, as defined in section 55 or 62 of that Act, in relation to an offence falling within paragraph (a) or (b);
 - (d) an offence under section 1 of the International Criminal Court (Scotland) Act 2001 (asp 13) (genocide, crimes against humanity and war crimes);
 - (e) an offence under section 2 of that Act (conduct ancillary to genocide etc. committed outside the jurisdiction);
 - (f) an ancillary offence, as defined in section 7 of that Act, in relation to an offence falling within paragraph (d) or (e).
- (7) If the conduct constitutes an offence under the military law of the category 2 territory but does not constitute an offence under the general criminal law of the relevant part of the United Kingdom it does not constitute an extradition offence; and subsections (1) to (6) have effect subject to this.
- (8) The relevant part of the United Kingdom is the part of the United Kingdom in which—
- (a) the extradition hearing took place, if the question of whether conduct constitutes an extradition offence is to be decided by the Secretary of State;
 - (b) proceedings in which it is necessary to decide that question are taking place, in any other case.
- (9) Subsections (1) to (7) apply for the purposes of this Part.

138 Extradition offences: person sentenced for offence

- (1) This section applies in relation to conduct of a person if—
 - (a) he is alleged to be unlawfully at large after conviction by a court in a category 2 territory of an offence constituted by the conduct, and
 - (b) he has been sentenced for the offence.
- (2) The conduct constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied—
 - (a) the conduct occurs in the category 2 territory;
 - (b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment if it occurred in that part of the United Kingdom;
 - (c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 2 territory in respect of the conduct.
- (3) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied—
 - (a) the conduct occurs outside the category 2 territory;
 - (b) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 2 territory in respect of the conduct;
 - (c) in corresponding circumstances equivalent conduct would constitute an extra-territorial offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment.
- (4) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied—
 - (a) the conduct occurs outside the category 2 territory and no part of it occurs in the United Kingdom;
 - (b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment if it occurred in that part of the United Kingdom;
 - (c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 2 territory in respect of the conduct.
- (5) The conduct also constitutes an extradition offence in relation to the category 2 territory if these conditions are satisfied—
 - (a) the conduct occurs outside the category 2 territory and no part of it occurs in the United Kingdom;
 - (b) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 2 territory in respect of the conduct;
 - (c) the conduct constitutes or if committed in the United Kingdom would constitute an offence mentioned in subsection (6).
- (6) The offences are—

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- (a) an offence under section 51 or 58 of the International Criminal Court Act 2001 (c. 17) (genocide, crimes against humanity and war crimes);
 - (b) an offence under section 52 or 59 of that Act (conduct ancillary to genocide etc. committed outside the jurisdiction);
 - (c) an ancillary offence, as defined in section 55 or 62 of that Act, in relation to an offence falling within paragraph (a) or (b);
 - (d) an offence under section 1 of the International Criminal Court (Scotland) Act 2001 (asp 13) (genocide, crimes against humanity and war crimes);
 - (e) an offence under section 2 of that Act (conduct ancillary to genocide etc. committed outside the jurisdiction);
 - (f) an ancillary offence, as defined in section 7 of that Act, in relation to an offence falling within paragraph (d) or (e).
- (7) If the conduct constitutes an offence under the military law of the category 2 territory but does not constitute an offence under the general criminal law of the relevant part of the United Kingdom it does not constitute an extradition offence; and subsections (1) to (6) have effect subject to this.
- (8) The relevant part of the United Kingdom is the part of the United Kingdom in which—
- (a) the extradition hearing took place, if the question of whether conduct constitutes an extradition offence is to be decided by the Secretary of State;
 - (b) proceedings in which it is necessary to decide that question are taking place, in any other case.
- (9) Subsections (1) to (7) apply for the purposes of this Part.

139 The appropriate judge

- (1) The appropriate judge is—
- (a) in England and Wales, a District Judge (Magistrates' Courts) designated for the purposes of this Part by the Lord Chancellor;
 - (b) in Scotland, the sheriff of Lothian and Borders;
 - (c) in Northern Ireland, such county court judge or resident magistrate as is designated for the purposes of this Part by the Lord Chancellor.
- (2) A designation under subsection (1) may be made for all cases or for such cases (or cases of such description) as the designation stipulates.
- (3) More than one designation may be made under subsection (1).
- (4) This section applies for the purposes of this Part.

140 The extradition hearing

- (1) The extradition hearing is the hearing at which the appropriate judge is to deal with a request for extradition to a category 2 territory.
- (2) This section applies for the purposes of this Part.

141 Scotland: references to Secretary of State

- (1) This Part applies in relation to any function which falls under this Part to be exercised in relation to Scotland only as if references in this Part to the Secretary of State were to the Scottish Ministers.
- (2) Subsection (1) does not apply to the references to the Secretary of State in sections 83(3), 101(5) and 121.