



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 2

#### EXTRADITION TO CATEGORY 2 TERRITORIES

##### *Post-extradition matters*

#### **129 Consent to other offence being dealt with**

- (1) This section applies if—
  - (a) a person is extradited to a category 2 territory in accordance with this Part;
  - (b) the Secretary of State receives a valid request for his consent to the person being dealt with in the territory for an offence other than the offence in respect of which he was extradited.
- (2) A request for consent is valid if it is made by an authority which is an authority of the territory and which the Secretary of State believes has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) The Secretary of State must serve notice on the person that he has received the request for consent, unless he is satisfied that it would not be practicable to do so.
- (4) The Secretary of State must decide whether the offence is an extradition offence.
- (5) If the Secretary of State decides the question in subsection (4) in the negative he must refuse his consent.
- (6) If the Secretary of State decides that question in the affirmative he must decide whether the appropriate judge would send the case to him (for his decision whether the person was to be extradited) under sections 79 to 91 if—
  - (a) the person were in the United Kingdom, and
  - (b) the judge were required to proceed under section 79 in respect of the offence for which the Secretary of State's consent is requested.

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*Status: This is the original version (as it was originally enacted).*

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- (7) If the Secretary of State decides the question in subsection (6) in the negative he must refuse his consent.
- (8) If the Secretary of State decides that question in the affirmative he must decide whether, if the person were in the United Kingdom, his extradition in respect of the offence would be prohibited under section 94, 95 or 96.
- (9) If the Secretary of State decides the question in subsection (8) in the affirmative he must refuse his consent.
- (10) If the Secretary of State decides that question in the negative he may give his consent.

### **130 Consent to further extradition to category 2 territory**

- (1) This section applies if—
  - (a) a person is extradited to a category 2 territory (the requesting territory) in accordance with this Part;
  - (b) the Secretary of State receives a valid request for his consent to the person's extradition to another category 2 territory for an offence other than the offence in respect of which he was extradited.
- (2) A request for consent is valid if it is made by an authority which is an authority of the requesting territory and which the Secretary of State believes has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) The Secretary of State must serve notice on the person that he has received the request for consent, unless he is satisfied that it would not be practicable to do so.
- (4) The Secretary of State must decide whether the offence is an extradition offence in relation to the category 2 territory referred to in subsection (1)(b).
- (5) If the Secretary of State decides the question in subsection (4) in the negative he must refuse his consent.
- (6) If the Secretary of State decides that question in the affirmative he must decide whether the appropriate judge would send the case to him (for his decision whether the person was to be extradited) under sections 79 to 91 if—
  - (a) the person were in the United Kingdom, and
  - (b) the judge were required to proceed under section 79 in respect of the offence for which the Secretary of State's consent is requested.
- (7) If the Secretary of State decides the question in subsection (6) in the negative he must refuse his consent.
- (8) If the Secretary of State decides that question in the affirmative he must decide whether, if the person were in the United Kingdom, his extradition in respect of the offence would be prohibited under section 94, 95 or 96.
- (9) If the Secretary of State decides the question in subsection (8) in the affirmative he must refuse his consent.
- (10) If the Secretary of State decides that question in the negative he may give his consent.

### **131 Consent to further extradition to category 1 territory**

- (1) This section applies if—
  - (a) a person is extradited to a category 2 territory (the requesting territory) in accordance with this Part;
  - (b) the Secretary of State receives a valid request for his consent to the person's extradition to a category 1 territory for an offence other than the offence in respect of which he was extradited.
- (2) A request for consent is valid if it is made by an authority which is an authority of the requesting territory and which the Secretary of State believes has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) The Secretary of State must serve notice on the person that he has received the request for consent, unless he is satisfied that it would not be practicable to do so.
- (4) The Secretary of State must decide whether the offence is an extradition offence within the meaning given by section 64 in relation to the category 1 territory.
- (5) If the Secretary of State decides the question in subsection (4) in the negative he must refuse his consent.
- (6) If the Secretary of State decides that question in the affirmative he must decide whether the appropriate judge would order the person's extradition under sections 11 to 25 if—
  - (a) the person were in the United Kingdom, and
  - (b) the judge were required to proceed under section 11 in respect of the offence for which the Secretary of State's consent is requested.
- (7) If the Secretary of State decides the question in subsection (6) in the affirmative he must give his consent.
- (8) If the Secretary of State decides that question in the negative he must refuse his consent.

### **132 Return of person to serve remainder of sentence**

- (1) This section applies if—
  - (a) a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom is extradited to a category 2 territory in accordance with this Part;
  - (b) the person is returned to the United Kingdom to serve the remainder of his sentence.
- (2) The person is liable to be detained in pursuance of his sentence.
- (3) If he is at large he must be treated as being unlawfully at large.
- (4) Time during which the person was not in the United Kingdom as a result of his extradition does not count as time served by him as part of his sentence.
- (5) But subsection (4) does not apply if—
  - (a) the person was extradited for the purpose of being prosecuted for an offence, and
  - (b) the person has not been convicted of the offence or of any other offence in respect of which he was permitted to be dealt with in the category 2 territory.

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- (6) In a case falling within subsection (5), time during which the person was not in the United Kingdom as a result of his extradition counts as time served by him as part of his sentence if (and only if) it was spent in custody in connection with the offence or any other offence in respect of which he was permitted to be dealt with in the territory.