



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 2

#### EXTRADITION TO CATEGORY 2 TERRITORIES

##### *Interpretation*

#### **137 Extradition offences: person not sentenced for offence**

- [<sup>F1</sup>(1) This section sets out whether a person's conduct constitutes an “extradition offence” for the purposes of this Part in a case where the person—
- (a) is accused in a category 2 territory of an offence constituted by the conduct, or
  - (b) has been convicted in that territory of an offence constituted by the conduct but not sentenced for it.
- (2) The conduct constitutes an extradition offence in relation to the category 2 territory if the conditions in subsection (3), (4) or (5) are satisfied.
- (3) The conditions in this subsection are that—
- (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.
- (4) The conditions in this subsection are that—
- (a) the conduct occurs outside the category 2 territory;
  - (b) 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;
  - (c) the conduct is so punishable under the law of the category 2 territory.

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*Changes to legislation: There are currently no known outstanding effects  
for the Extradition Act 2003, Section 137. (See end of Document for details)*

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- (5) The conditions in this subsection are that—
- (a) the conduct occurs outside the category 2 territory;
  - (b) no part of the conduct occurs in the United Kingdom;
  - (c) the conduct constitutes, or if committed in the United Kingdom would constitute, an offence mentioned in subsection (6);
  - (d) 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.]
- (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.

[<sup>F2</sup>(7A) References in this section to “conduct” (except in the expression “equivalent conduct”) are to the conduct specified in the request for the person's extradition]

- (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.

<sup>F3</sup>(9) .....

#### **Textual Amendments**

- F1** S. 137(1)-(5) substituted (21.7.2014) by *Anti-social Behaviour, Crime and Policing Act 2014 (c. 12)*, **ss. 164(3), 185(1)** (with **ss. 21, 33, 42, 58, 75, 93**); S.I. 2014/1916, art. 2(j) (with art. 6)
- F2** S. 137(7A) inserted (21.7.2014) by *Anti-social Behaviour, Crime and Policing Act 2014 (c. 12)*, **ss. 164(4), 185(1)** (with **ss. 21, 33, 42, 58, 75, 93**); S.I. 2014/1916, art. 2(j) (with art. 6)
- F3** S. 137(9) repealed (21.7.2014) by *Anti-social Behaviour, Crime and Policing Act 2014 (c. 12)*, s. 185(1), **Sch. 11 para. 117** (with **ss. 21, 33, 42, 58, 75, 93**); S.I. 2014/1916, art. 2(t)

#### **Commencement Information**

- I1** Act wholly in force at 1.1.2004, see s. 221 and S.I. 2003/3103, **art. 2** (subject to **arts. 3-5**) (as amended by S.I. 2003/3258 art. 2(2) and S.I. 2003/3312 art. 2(2))

**Changes to legislation:**

There are currently no known outstanding effects for the Extradition Act 2003, Section 137.