



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);

Status: This is the original version (as it was originally enacted).

- (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.