



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

Consent to extradition

Commencement Information

- II** 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\(2\)](#))

127 Consent to extradition: general

- (1) A person arrested under a warrant issued under section 71 may consent to his extradition to the category 2 territory to which his extradition is requested.
- (2) A person arrested under a provisional warrant [^{F1}or under section 74A] may consent to his extradition to the category 2 territory in which he is accused of the commission of an offence or is alleged to have been convicted of an offence.
- (3) Consent under this section—
 - (a) must be given in writing;
 - (b) is irrevocable.
- (4) Consent under this section which is given by a person before his case is sent to the Secretary of State for the Secretary of State's decision whether he is to be extradited must be given before the appropriate judge.
- (5) Consent under this section which is given in any other case must be given to the Secretary of State.
- (6) A person may not give his consent under this section before the appropriate judge unless—

Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Cross Heading: Consent to extradition. (See end of Document for details)

- (a) he is legally represented before the appropriate judge at the time he gives consent, or
 - (b) he is a person to whom subsection (7) applies.
- (7) This subsection applies to a person if—
- (a) he has been informed of his right to apply for legal aid and has had the opportunity to apply for legal aid, but he has refused or failed to apply;
 - (b) he has applied for legal aid but his application has been refused;
 - (c) he was granted legal aid but the legal aid was withdrawn.
- (8) In subsection (7) “legal aid” means—
- [^{F2}(a) in England and Wales, representation for the purposes of criminal proceedings provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;]
 - (b) in Scotland, such legal aid as is available by virtue of section 183(a) of this Act;
 - (c) in Northern Ireland, such free legal aid as is available by virtue of sections 184 and 185 of this Act.
- (9) For the purposes of subsection (6) a person is to be treated as legally represented before the appropriate judge if (and only if) he has the assistance of counsel or a solicitor to represent him in the proceedings before the appropriate judge.

Textual Amendments

F1 Words in s. 127(2) inserted (31.12.2020) by [Extradition \(Provisional Arrest\) Act 2020 \(c. 18\), s. 2\(4\), Sch. para. 14](#); [S.I. 2020/1652, reg. 2\(1\)\(b\)](#)

F2 S. 127(8)(a) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 5 para. 64](#); [S.I. 2013/453, art. 3\(h\)](#) (with savings and transitional provisions in [S.I. 2013/534, art. 6](#))

Commencement Information

I2 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\(2\)](#))

128 Consent to extradition before case sent to Secretary of State

- (1) This section applies if a person gives his consent under section 127 to the appropriate judge.
- (2) If the judge has not fixed a date under section 75 or 76 on which the extradition hearing is to begin he is not required to do so.
- (3) If the extradition hearing has begun the judge is no longer required to proceed or continue proceeding under sections 78 to 91.
- (4) The judge must send the case to the Secretary of State for his decision whether the person is to be extradited.
- ^{F3}(5)

Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Cross Heading: Consent to extradition. (See end of Document for details)

Textual Amendments

- F3** S. 128(5) repealed (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 163(b), 185(1)** (with **ss. 21, 33, 42, 58, 75, 93**); [S.I. 2014/1916](#), **art. 2(i)** (with **art. 5**)

Commencement Information

- I3** 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, Cross Heading:
Consent to extradition.