



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 2

#### EXTRADITION TO CATEGORY 2 TERRITORIES

##### *Repatriation cases*

#### **136 Persons serving sentences outside territory where convicted**

- (1) This section applies if—
- a request is made for a person's extradition to a category 2 territory and the request contains the statement referred to in subsection (2),<sup>F1</sup>...
  - a provisional warrant for a person's arrest is sought on behalf of a category 2 territory and the information laid before the justice contains the statement referred to in subsection (2)<sup>F2</sup>, or
  - a request for the person's arrest is made by an authority of a specified category 2 territory (within the meaning of section 74B(7)) and the request contains the statement referred to in subsection (2).]
- (2) The statement is one that the person—
- is alleged to be unlawfully at large from a prison in one territory (the imprisoning territory) in which he was serving a sentence after conviction of an offence specified in the request by a court in another territory (the convicting territory), and
  - was serving the sentence in pursuance of international arrangements for prisoners sentenced in one territory to be repatriated to another territory in order to serve their sentence.
- (3) If the category 2 territory is either the imprisoning territory or the convicting territory—
- section 70(3) has effect as if the reference to the statement referred to in subsection (4) of that section were a reference to the statement referred to in subsection (2) of this section;

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*Changes to legislation: There are currently no known outstanding effects  
for the Extradition Act 2003, Section 136. (See end of Document for details)*

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- (b) section 73(1) has effect as if the reference to a person within subsection (2) of that section were a reference to the person referred to in subsection (1)(b) [F<sup>3</sup>or (c) (as the case may be) ] of this section.
  - [F<sup>4</sup>(c) section 74C(1)(b) has effect as if the reference to the statement referred to in subsection (4) of that section were a reference to the statement in subsection (2) of this section;
  - (d) section 74C(5) has effect as if paragraph (c) were omitted and as if in paragraph (d)—
    - (i) “the category 2 territory” read “the convicting territory”;
    - (ii) “if the person has been sentenced for the offence” were omitted.]
- (4) If the category 2 territory is the imprisoning territory—
- (a) sections 71(2)(a), 73(3)(a) and 78(4)(b) have effect as if “an extradition offence” read “an extradition offence in relation to the convicting territory ”;
  - [F<sup>5</sup>(aa) section 74(7)(a) has effect as if “accused of the commission of an offence in a category 2 territory or that he is alleged to be unlawfully at large after conviction of an offence by a court in a category 2 territory” read “alleged to be unlawfully at large from a prison in the imprisoning territory after conviction of an offence in the convicting territory”];
  - (b) sections 74(8)(a) and 127(2) have effect as if “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” read “ the imprisoning territory ”;
  - (c) section 74(11)(b) has effect as if “the category 2 territory” read “ the imprisoning territory ”;
  - [F<sup>6</sup>(ca) section 74B(1)(b) has effect as if sub-paragraph (i) were omitted and as if for sub-paragraph (ii) there were substituted—
    - “(ii) the person is alleged to be unlawfully at large from a prison in the imprisoning territory after conviction of an offence in the convicting territory”;
  - (cb) section 74B(1)(c) has effect as if “a serious extradition offence” read “a serious extradition offence in relation to the convicting territory”;
  - (cc) section 74E(1)(a) has effect as if “accused of the commission of an offence in a category 2 territory or are alleged to be unlawfully at large after conviction of an offence by a court in a category 2 territory” read “alleged to be unlawfully at large from a prison in the imprisoning territory after conviction of an offence in the convicting territory”;
  - (cd) section 74E(2)(a) has effect as if “the category 2 territory in which the person is accused of the commission of an offence or is alleged to have been convicted of an offence” read “the imprisoning territory”];
  - (d) section 78(2)(e) has effect as if “the category 2 territory” read “ the convicting territory ”;
  - (e) section 85(5) has effect as if after “entitled” there were inserted “ in the convicting territory ”;
  - (f) section 119(4) has effect as if “a category 2 territory” read “ the convicting territory ” and as if “the category 2 territory” in both places read “ the convicting territory ”;
  - (g) section 138(1) has effect as if “a category 2 territory” read “ the convicting territory ”;
  - (h) in section 138, subsections (2), (3), (4), (5) and (7) have effect as if “the category 2 territory” read “ the convicting territory ”.

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Section 136. (See end of Document for details)*

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- (5) Subsection (1)(b) applies to Scotland with the substitution of “ application by the procurator fiscal sets out the matters referred to in paragraphs (a) and (b) of subsection (2) ” for “information laid by the justice contains the statement referred to in subsection (2)”.
- (6) Subsection (1)(b) applies to Northern Ireland with the substitution of “ the complaint made to ” for “the information laid before”.

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#### **Textual Amendments**

- F1** Word in s. 136(1)(a) omitted (31.12.2020) by virtue of Extradition (Provisional Arrest) Act 2020 (c. 18), s. 2(4), **Sch. para. 15(2)(a)**; S.I. 2020/1652, reg. 2(1)(b)
- F2** S. 136(1)(c) and word inserted (31.12.2020) by Extradition (Provisional Arrest) Act 2020 (c. 18), s. 2(4), **Sch. para. 15(2)(b)**; S.I. 2020/1652, reg. 2(1)(b)
- F3** Words in s. 136(3)(b) inserted (31.12.2020) by Extradition (Provisional Arrest) Act 2020 (c. 18), s. 2(4), **Sch. para. 15(3)(a)**; S.I. 2020/1652, reg. 2(1)(b)
- F4** S. 136(3)(c)(d) inserted (31.12.2020) by Extradition (Provisional Arrest) Act 2020 (c. 18), s. 2(4), **Sch. para. 15(3)(b)**; S.I. 2020/1652, reg. 2(1)(b)
- F5** S. 136(4)(aa) inserted (31.12.2020) by Extradition (Provisional Arrest) Act 2020 (c. 18), s. 2(4), **Sch. para. 15(4)(a)**; S.I. 2020/1652, reg. 2(1)(b)
- F6** S. 136(4)(ca)-(cd) inserted (31.12.2020) by Extradition (Provisional Arrest) Act 2020 (c. 18), s. 2(4), **Sch. para. 15(4)(b)**; S.I. 2020/1652, reg. 2(1)(b)

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#### **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 136.