



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 2

#### EXTRADITION TO CATEGORY 2 TERRITORIES

##### *The extradition hearing*

#### **78 Initial stages of extradition hearing**

- (1) This section applies if a person alleged to be the person whose extradition is requested appears or is brought before the appropriate judge for the extradition hearing.
- (2) The judge must decide whether the documents sent to him by the Secretary of State consist of (or include)—
  - (a) the documents referred to in section 70(9);
  - (b) particulars of the person whose extradition is requested;
  - (c) particulars of the offence specified in the request;
  - (d) in the case of a person accused of an offence, a warrant for his arrest issued in the category 2 territory;
  - (e) in the case of a person alleged to be unlawfully at large after conviction of an offence, a certificate issued in the category 2 territory of the conviction and (if he has been sentenced) of the sentence.
- (3) If the judge decides the question in subsection (2) in the negative he must order the person's discharge.
- (4) If the judge decides that question in the affirmative he must decide whether—
  - (a) the person appearing or brought before him is the person whose extradition is requested;
  - (b) the offence specified in the request is an extradition offence;
  - (c) copies of the documents sent to the judge by the Secretary of State have been served on the person.
- (5) The judge must decide the question in subsection (4)(a) on a balance of probabilities.

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Section 78. (See end of Document for details)*

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- (6) If the judge decides any of the questions in subsection (4) in the negative he must order the person's discharge.
- (7) If the judge decides those questions in the affirmative he must proceed under section 79.
- (8) The reference in subsection (2)(d) to a warrant for a person's arrest includes a reference to a judicial document authorising his arrest.

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**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))

**Changes to legislation:**

There are currently no known outstanding effects for the Extradition Act 2003, Section 78.