



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 2

#### EXTRADITION TO CATEGORY 2 TERRITORIES

##### *Secretary of State's functions*

#### **93 Secretary of State's consideration of case**

- (1) This section applies if the appropriate judge sends a case to the Secretary of State under this Part for his decision whether a person is to be extradited.
- (2) The Secretary of State must decide whether he is prohibited from ordering the person's extradition under any of these sections—
  - (a) section 94 (death penalty);
  - (b) section 95 (speciality);
  - (c) section 96 (earlier extradition to United Kingdom from other territory).
  - [<sup>F1</sup>(d) section 96A (earlier transfer to United Kingdom by International Criminal Court).]
- (3) If the Secretary of State decides any of the questions in subsection (2) in the affirmative he must order the person's discharge.
- (4) If the Secretary of State decides those questions in the negative he must order the person to be extradited to the territory to which his extradition is requested unless—
  - (a) he is informed that the request has been withdrawn,
  - (b) he makes an order under section 126(2) or 179(2) for further proceedings on the request to be deferred and the person is discharged under section 180, or
  - (c) he orders the person's discharge [<sup>F2</sup>under subsection (6A) or] under section 208.
- (5) In deciding the questions in subsection (2), the Secretary of State is not required to consider any representations received by him after the end of the permitted period.

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Section 93. (See end of Document for details)*

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(6) The permitted period is the period of [<sup>F3</sup>4 weeks] starting with the appropriate day.

[<sup>F4</sup>(6A) The Secretary of State may order the person's discharge if the person—

- (a) has been recorded by the Secretary of State as a refugee within the meaning of the Refugee Convention, or
- (b) has been granted leave to enter or remain in the United Kingdom on the ground that it would be a breach of Article 2 or 3 of the Human Rights Convention to remove the person to the territory to which extradition is requested.]

[<sup>F5</sup>(7) In the case of a person who has consented under section 127 to his extradition, the Secretary of State is not required—

- (a) to wait until the end of the permitted period before ordering the person's extradition, or
- (b) to consider any representations received after the order is made. ]

#### **Textual Amendments**

- F1** S. 93(2)(d) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, **Sch. 13 para. 3(3)**; [S.I. 2006/3364](#), **art. 2(d)(e)**
- F2** Words in s. 93(4)(c) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 162(3)(a)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); [S.I. 2014/1916](#), art. 2(h)
- F3** Words in s. 93(6) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, **Sch. 13 para. 18(2)**; [S.I. 2006/3364](#), **art. 2(d)(e)**
- F4** S. 93(6A) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 162(3)(b)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); [S.I. 2014/1916](#), art. 2(h)
- F5** S. 93(7) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, **Sch. 13 para. 18(3)**; [S.I. 2006/3364](#), **art. 2(d)(e)**

#### **Modifications etc. (not altering text)**

- C1** S. 93(6A)(b) modified (10.11.2016) by [The Extradition Act 2003 \(Overseas Territories\) Order 2016 \(S.I. 2016/990\)](#), arts. 1(1), 6(1), **Sch. 3**

#### **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 93.