



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 1

#### EXTRADITION TO CATEGORY 1 TERRITORIES

##### 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))

##### *Introduction*

##### 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))

## **1 Extradition to category 1 territories**

- (1) This Part deals with extradition from the United Kingdom to the territories designated for the purposes of this Part by order made by the Secretary of State.
- (2) In this Act references to category 1 territories are to the territories designated for the purposes of this Part.
- (3) A territory may not be designated for the purposes of this Part if a person found guilty in the territory of a criminal offence may be sentenced to death for the offence under the general criminal law of the territory.

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

### 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))

## 2 Part 1 warrant and certificate

- (1) This section applies if the designated authority receives a Part 1 warrant in respect of a person.
- (2) A Part 1 warrant is an arrest warrant which is issued by a judicial authority of a category 1 territory and which contains—
  - (a) the statement referred to in subsection (3) and the information referred to in subsection (4), or
  - (b) the statement referred to in subsection (5) and the information referred to in subsection (6).
- (3) The statement is one that—
  - (a) the person in respect of whom the Part 1 warrant is issued is accused in the category 1 territory of the commission of an offence specified in the warrant, and
  - (b) the Part 1 warrant is issued with a view to his arrest and extradition to the category 1 territory for the purpose of being prosecuted for the offence.
- (4) The information is—
  - (a) particulars of the person's identity;
  - (b) particulars of any other warrant issued in the category 1 territory for the person's arrest in respect of the offence;
  - (c) particulars of the circumstances in which the person is alleged to have committed the offence, including the conduct alleged to constitute the offence, the time and place at which he is alleged to have committed the offence and any provision of the law of the category 1 territory under which the conduct is alleged to constitute an offence;
  - (d) particulars of the sentence which may be imposed under the law of the category 1 territory in respect of the offence if the person is convicted of it.
- (5) The statement is one that—
  - (a) the person in respect of whom the Part 1 warrant is issued [<sup>F1</sup>has been convicted]<sup>F1</sup> of an offence specified in the warrant by a court in the category 1 territory, and
  - (b) the Part 1 warrant is issued with a view to his arrest and extradition to the category 1 territory for the purpose of being sentenced for the offence or of serving a sentence of imprisonment or another form of detention imposed in respect of the offence.
- (6) The information is—
  - (a) particulars of the person's identity;
  - (b) particulars of the conviction;
  - (c) particulars of any other warrant issued in the category 1 territory for the person's arrest in respect of the offence;

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- (d) particulars of the sentence which may be imposed under the law of the category 1 territory in respect of the offence, if the person has not been sentenced for the offence;
  - (e) particulars of the sentence which has been imposed under the law of the category 1 territory in respect of the offence, if the person has been sentenced for the offence.
- (7) The designated authority may issue a certificate under this section if it believes that the authority which issued the Part 1 warrant has the function of issuing arrest warrants in the category 1 territory.
- [<sup>F2</sup>(7A) But in the case of a Part 1 warrant containing the statement referred to in subsection (3), the designated authority must not issue a certificate under this section if it is clear to the designated authority that a judge proceeding under section 21A would be required to order the person's discharge on the basis that extradition would be disproportionate.
- In deciding that question, the designated authority must apply any general guidance issued for the purposes of this subsection.
- (7B) Any guidance under subsection (7A) may be revised, withdrawn or replaced.
- (7C) The function of issuing guidance under subsection (7A), or of revising, withdrawing or replacing any such guidance, is exercisable by the Lord Chief Justice of England and Wales with the concurrence of—
- (a) the Lord Justice General of Scotland, and
  - (b) the Lord Chief Justice of Northern Ireland.]
- (8) A certificate under this section must certify that the authority which issued the Part 1 warrant has the function of issuing arrest warrants in the category 1 territory.
- (9) The designated authority is the authority designated for the purposes of this Part by order made by the Secretary of State.
- (10) An order made under subsection (9) may—
- (a) designate more than one authority;
  - (b) designate different authorities for different parts of the United Kingdom.

#### Textual Amendments

- F1** Words in s. 2(5)(a) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 1\(1\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F2** S. 2(7A)-(7C) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), ss. [157\(3\)](#), [185\(1\)](#) (with ss. 3, 21, 33, 42, 58, 75, 93, 157(5)); [S.I. 2014/1916](#), art. 2(d)

#### Commencement Information

- I4** 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))

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

## *Arrest*

### **Commencement Information**

**I5** 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))

### **3 Arrest under certified Part 1 warrant**

- (1) This section applies if a certificate is issued under section 2 in respect of a Part 1 warrant issued in respect of a person.
- (2) The warrant may be executed by a constable or a customs officer in any part of the United Kingdom.
- [<sup>F3</sup>(3) The warrant may be executed by a service policeman anywhere, but only if the person is subject to service law or is a civilian subject to service discipline.]
- <sup>F3</sup>(5) The warrant may be executed even if neither the warrant nor a copy of it is in the possession of the person executing it at the time of the arrest.
- (6) <sup>F4</sup> .....

### **Textual Amendments**

- F3** [S. 3\(3\)](#) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) for [s. 3\(3\)\(4\)](#) by [Armed Forces Act 2006 \(c. 52\), ss. 378, 383, Sch. 16 para. 200\(a\)](#); [S.I. 2009/812, art. 3](#) (with transitional provisions (24.4.2009 for certain purposes otherwise 31.10.2009) in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)
- F4** [S. 3\(6\)](#) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 378, 383, Sch. 16 para. 200\(b\), Sch. 17](#); [S.I. 2009/812, art. 3](#) (with transitional provisions (24.4.2009 for certain purposes otherwise 31.10.2009) in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

### **Commencement Information**

**I6** 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))

### **4 Person arrested under Part 1 warrant**

- (1) This section applies if a person is arrested under a Part 1 warrant.
- (2) A copy of the warrant must be given to the person as soon as practicable after his arrest.
- (3) The person must be brought as soon as practicable before the appropriate judge.
- (4) If subsection (2) is not complied with and the person applies to the judge to be discharged, the judge may order his discharge.
- (5) If subsection (3) is not complied with and the person applies to the judge to be discharged, the judge must order his discharge.
- (6) A person arrested under the warrant must be treated as continuing in legal custody until he is brought before the appropriate judge under subsection (3) or he is discharged under subsection (4) or (5).

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### Commencement Information

- I7** 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))

## 5 Provisional arrest

- (1) A constable, a customs officer or a service policeman may arrest a person without a warrant if he has reasonable grounds for believing—
- (a) that a Part 1 warrant has been or will be issued in respect of the person by an authority of a category 1 territory, and
  - (b) that the authority has the function of issuing arrest warrants in the category 1 territory.
- (2) A constable or a customs officer may arrest a person under subsection (1) in any part of the United Kingdom.
- [<sup>F5</sup>(3) A service policeman may arrest a person under subsection (1) only if the person is subject to service law or is a civilian subject to service discipline.
- (4) If a service policeman has power to arrest a person under subsection (1) he may exercise the power anywhere.<sup>F5]</sup>

#### Textual Amendments

- F5** [S. 5\(3\)\(4\)](#) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) for [s. 5\(3\)-\(5\)](#) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 378, 383](#), [Sch. 16 para. 201](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions (24.4.2009 for certain purposes otherwise 31.10.2009) in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

#### Commencement Information

- I8** 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))

## 6 Person arrested under section 5

- (1) This section applies if a person is arrested under section 5.
- [<sup>F6</sup>(2) The person must be brought before the appropriate judge within 48 hours starting with the time when the person is arrested.
- (2A) The documents specified in subsection (4) must be produced to the judge within 48 hours starting with the time when the person is arrested but this is subject to any extension under subsection (3B).
- (2B) Subsection (3) applies if—
- (a) the person has been brought before the judge in compliance with subsection (2); but
  - (b) documents have not been produced to the judge in compliance with subsection (2A).

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- (3) The person must be brought before the judge when the documents are produced to the judge.
- (3A) While the person is before the judge in pursuance of subsection (2), the authority of the category 1 territory may apply to the judge for an extension of the 48 hour period mentioned in subsection (2A) by a further 48 hours.
- (3B) The judge may grant an extension if the judge decides that subsection (2A) could not reasonably be complied with within the initial 48 hour period.
- (3C) The judge must decide whether that subsection could reasonably be so complied with on a balance of probabilities.
- (3D) Notice of an application under subsection (3A) must be given in accordance with rules of court.]
- <sup>F6</sup>(4) The documents are—
- (a) a Part 1 warrant in respect of the person;
  - (b) a certificate under section 2 in respect of the warrant.
- (5) A copy of the warrant must be given to the person as soon as practicable after his arrest.
- [<sup>F7</sup>(5A) Subsection (5B) applies if—
- (a) the person is before the judge in pursuance of subsection (2); and
  - (b) the documents specified in subsection (4) have not been produced to the judge.
- (5B) The judge must remand the person in custody or on bail (subject to subsection (6)).]
- <sup>F7</sup>(6) If subsection (2) [<sup>F8</sup>, (2A) or (3)]<sup>F8</sup> is not complied with and the person applies to the judge to be discharged, the judge must order his discharge.
- (7) If subsection (5) is not complied with and the person applies to the judge to be discharged, the judge may order his discharge.
- (8) The person must be treated as continuing in legal custody until he is brought before the appropriate judge under subsection (2) or he is discharged under subsection (6) or (7).
- [<sup>F9</sup>(8A) In calculating a period of 48 hours for the purposes of this section no account is to be taken of—
- (a) any Saturday or Sunday;
  - (b) Christmas Day;
  - (c) Good Friday; or
  - (d) any day falling within subsection (8B).
- (8B) The following days fall within this subsection—
- (a) in Scotland, any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in the court of the appropriate judge;
  - (b) in any part of the United Kingdom, any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in that part of the United Kingdom.]

<sup>F9</sup>(9) Subsection (10) applies if—

    - (a) a person is arrested under section 5 on the basis of a belief that a Part 1 warrant has been or will be issued in respect of him;
    - (b) the person is discharged under subsection (6) or (7).

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- (10) The person must not be arrested again under section 5 on the basis of a belief relating to the same Part 1 warrant.

#### Textual Amendments

- F6** S. 6(2)-(3D) substituted (25.1.2010) for s. 6(2)(3) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 77\(2\)](#), 116; [S.I. 2009/3096](#), [art. 3\(t\)](#) (with [art. 4](#))
- F7** S. 6(5A)(5B) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 77\(3\)](#), 116; [S.I. 2009/3096](#), [art. 3\(t\)](#) (with [art. 4](#))
- F8** Words in s. 6(6) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 77\(4\)](#), 116; [S.I. 2009/3096](#), [art. 3\(t\)](#) (with [art. 4](#))
- F9** S. 6(8A)(8B) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 77\(5\)](#), 116; [S.I. 2009/3096](#), [art. 3\(t\)](#) (with [art. 4](#))

#### Commencement Information

- I9** 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))

### *The initial hearing*

#### Commencement Information

- I10** 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))

## 7 Identity of person arrested

- (1) This section applies if—
- a person arrested under a Part 1 warrant is brought before the appropriate judge under section 4(3), or
  - a person [<sup>F10</sup>arrested under section 5 is brought before the appropriate judge under section 6 and section 6(2A)]<sup>F10</sup> is complied with in relation to him.
- (2) The judge must decide whether the person brought before him is the person in respect of whom—
- the warrant referred to in subsection (1)(a) was issued, or
  - the warrant referred to in section 6(4) was issued.
- (3) The judge must decide the question in subsection (2) on a balance of probabilities.
- (4) If the judge decides the question in subsection (2) in the negative he must order the person's discharge.
- (5) If the judge decides that question in the affirmative he must proceed under section 8.
- (6) In England and Wales, the judge has the same powers (as nearly as may be) as a magistrates' court would have if the proceedings were the summary trial of an information against the person.
- (7) In Scotland—

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- (a) the judge has the same powers (as nearly as may be) as if the proceedings were summary proceedings in respect of an offence alleged to have been committed by the person; but
  - (b) in his making any decision under subsection (2) evidence from a single source shall be sufficient.
- (8) In Northern Ireland, the judge has the same powers (as nearly as may be) as a magistrates' court would have if the proceedings were the hearing and determination of a complaint against the person.
- (9) If the judge exercises his power to adjourn the proceedings he must remand the person in custody or on bail.
- (10) <sup>F11</sup>If the person is remanded in custody, the appropriate judge may<sup>F11</sup> later grant bail.

#### Textual Amendments

- F10** Words in s. 7(1)(b) substituted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\), ss. 77\(3\), 116](#); [S.I. 2009/3096, art. 3\(t\)](#) (with art. 4)
- F11** Words in s. 7(10) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 42, 53, Sch. 13 para. 16](#); [S.I. 2006/3364, art. 2\(d\)\(e\)](#)

#### Commencement Information

- I11** 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\(2\)](#))

## 8 Remand etc.

- (1) If the judge is required to proceed under this section he must—
- (a) fix a date on which the extradition hearing is to begin;
  - (b) inform the person of the contents of the Part 1 warrant;
  - (c) give the person the required information about consent;
  - (d) remand the person in custody or on bail.
- (2) <sup>F12</sup>If the person is remanded in custody, the appropriate judge may<sup>F12</sup> later grant bail.
- (3) The required information about consent is—
- (a) that the person may consent to his extradition to the category 1 territory in which the Part 1 warrant was issued;
  - (b) an explanation of the effect of consent and the procedure that will apply if he gives consent;
  - (c) that consent must be given before the judge and is irrevocable.
- (4) The date fixed under subsection (1) must not be later than the end of the permitted period, which is 21 days starting with the date of the arrest referred to in section 7(1) (a) or (b).
- <sup>F13</sup>(4A) But if proceedings in respect of the extradition are adjourned under section 8A or 8B, the permitted period is extended by the number of days for which the proceedings are so adjourned.]
- (5) If before the date fixed under subsection (1) (or this subsection) a party to the proceedings applies to the judge for a later date to be fixed and the judge believes it



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to be in the interests of justice to do so, he may fix a later date; and this subsection may apply more than once.

- (6) Subsections (7) and (8) apply if the extradition hearing does not begin on or before the date fixed under this section.
- (7) If the person applies to the judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.
- (8) If no application is made under subsection (7) the judge must order the person's discharge on the first occasion after the date fixed under this section when the person appears or is brought before the judge, unless reasonable cause is shown for the delay.

#### Textual Amendments

**F12** Words in s. 8(2) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 16](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

**F13** S. 8(4A) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 155, 185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2014/1916](#), [art. 2\(b\)](#)

#### Commencement Information

**I12** 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\(2\)](#))

### **[<sup>F14</sup>8A Person charged with offence in United Kingdom before extradition hearing**

- (1) This section applies if—
  - (a) a person has been brought before the appropriate judge under section 4(3) or 6(2) but the extradition hearing has not begun; and
  - (b) the judge is informed that the person is charged with an offence in the United Kingdom.
- (2) The judge must order further proceedings in respect of the extradition to be adjourned until one of these occurs—
  - (a) the charge is disposed of;
  - (b) the charge is withdrawn;
  - (c) proceedings in respect of the charge are discontinued;
  - (d) an order is made for the charge to lie on the file, or in relation to Scotland, the diet is deserted *pro loco et tempore*.
- (3) If a sentence of imprisonment or another form of detention is imposed in respect of the offence charged, the judge may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

#### Textual Amendments

**F14** [Ss. 8A 8B](#) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 69, 116](#); [S.I. 2009/3096](#), [art. 3\(l\)](#) (with [art. 4](#))

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

## **8B Person serving sentence in United Kingdom before extradition hearing**

- (1) This section applies if—
- (a) a person has been brought before the appropriate judge under section 4(3) or 6(2) but the extradition hearing has not begun; and
  - (b) the judge is informed that the person is in custody serving a sentence of imprisonment or another form of detention in the United Kingdom.
- (2) The judge may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).
- (3) In a case where further proceedings in respect of the extradition are adjourned under subsection (2)—
- (a) section 131 of the Magistrates' Courts Act 1980 (remand of accused already in custody) has effect as if a reference to 28 clear days in subsection (1) or (2) of that section were a reference to six months;
  - (b) Article 47(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (period of remand in custody) has effect as if a reference to 28 days in—
    - (i) sub-paragraph (a)(iii), or
    - (ii) the words after sub-paragraph (b),
 were a reference to six months.]

### **Textual Amendments**

**F14** Ss. 8A 8B inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 69, 116](#); [S.I. 2009/3096](#), [art. 3\(1\)](#) (with [art. 4](#))

### *The extradition hearing*

### **Commencement Information**

**I13** 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))

## **9 Judge's powers at extradition hearing**

- (1) In England and Wales, at the extradition hearing the appropriate judge has the same powers (as nearly as may be) as a magistrates' court would have if the proceedings were the summary trial of an information against the person in respect of whom the Part 1 warrant was issued.
- (2) In Scotland, at the extradition hearing the appropriate judge has the same powers (as nearly as may be) as if the proceedings were summary proceedings in respect of an offence alleged to have been committed by the person in respect of whom the Part 1 warrant was issued.
- (3) In Northern Ireland, at the extradition hearing the appropriate judge has the same powers (as nearly as may be) as a magistrates' court would have if the proceedings were the hearing and determination of a complaint against the person in respect of whom the Part 1 warrant was issued.

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- (4) If the judge adjourns the extradition hearing he must remand the person in custody or on bail.
- (5) <sup>F15</sup>If the person is remanded in custody, the appropriate judge may<sup>F15</sup> later grant bail.

#### Textual Amendments

**F15** Words in s. 9(5) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 42, 53, Sch. 13 para. 16; S.I. 2006/3364, art. 2\(d\)\(e\)](#)

#### Commencement Information

**I14** 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\(2\)](#))

### 10 Initial stage of extradition hearing

- (1) This section applies if a person in respect of whom a Part 1 warrant is issued appears or is brought before the appropriate judge for the extradition hearing.
- (2) The judge must decide whether the offence specified in the Part 1 warrant is an extradition offence.
- (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 proceed under section 11.

#### Commencement Information

**I15** 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\(2\)](#))

### 11 Bars to extradition

- (1) If the judge is required to proceed under this section he must decide whether the person's extradition to the category 1 territory is barred by reason of—
  - (a) the rule against double jeopardy;
  - <sup>F16</sup>(aa) absence of prosecution decision;
  - (b) extraneous considerations;
  - (c) the passage of time;
  - (d) the person's age;
  - <sup>F17</sup>(e) .....
  - (f) speciality;
  - (g) the person's earlier extradition to the United Kingdom from another category 1 territory;
  - (h) the person's earlier extradition to the United Kingdom from a non-category 1 territory.
  - <sup>F18</sup>(i) the person's earlier transfer to the United Kingdom by the International Criminal Court.]
  - <sup>F19</sup>(j) forum.]

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- [<sup>F20</sup>(1A) But the judge is to decide whether the person's extradition is barred [<sup>F21</sup>by reason of—
- (a) absence of prosecution decision, or
  - (b) forum,
- only]
- in a case where the Part 1 warrant contains the statement referred to in section 2(3) (warrant issued for purposes of prosecution for offence in category 1 territory).]
- (2) Sections [<sup>F22</sup>12 to 19F apply] for the interpretation of subsection (1).
  - (3) If the judge decides any of the questions in subsection (1) in the affirmative he must order the person's discharge.
  - (4) If the judge decides those questions in the negative and the person is alleged to be unlawfully at large after conviction of the extradition offence, the judge must proceed under section 20.
  - (5) If the judge decides those questions in the negative and the person is accused of the commission of the extradition offence but is not alleged to be unlawfully at large after conviction of it, the judge must proceed under section [<sup>F23</sup>21A].

#### Textual Amendments

- F16** S. 11(1)(aa) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 156\(1\), 185\(1\)](#) (with [ss. 3, 21, 33, 42, 58, 75, 93, 156\(3\)](#)); S.I. 2014/1916, art. 2(c)
- F17** S. 11(1)(e) omitted (21.7.2014) by virtue of [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 158\(2\), 185\(1\)](#) (with [ss. 3, 21, 33, 42, 58, 75, 93, 158\(3\)](#)); S.I. 2014/1916, art. 2(e)
- F18** S. 11(1)(i) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), [ss. 42, 53](#), [Sch. 13 para. 3\(1\)\(a\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F19** S. 11(1)(j) inserted (14.10.2013 for E.W.N.I., 17.9.2021 for S.) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(2\)](#), [Sch. 20 para. 2\(a\)](#) (with [Sch. 20 paras. 7, 8](#)); S.I. 2013/2349, art. 2(3); S.I. 2021/1018, art. 3
- F20** S. 11(1A) inserted (14.10.2013 for E.W.N.I., 17.9.2021 for S.) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(2\)](#), [Sch. 20 para. 2\(b\)](#) (with [Sch. 20 paras. 7, 8](#)); S.I. 2013/2349, art. 2(3); S.I. 2021/1018, art. 3
- F21** Words in s. 11(1A) substituted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [s. 185\(1\)](#), [Sch. 11 para. 104](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/1916, art. 2(t)
- F22** Words in s. 11(2) substituted (14.10.2013 for E.W.N.I., 17.9.2021 for S.) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(2\)](#), [Sch. 20 para. 2\(c\)](#) (with [Sch. 20 paras. 7, 8](#)); S.I. 2013/2349, art. 2(3); S.I. 2021/1018, art. 3
- F23** Word in s. 11(5) substituted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 157\(1\), 185\(1\)](#) (with [ss. 3, 21, 33, 42, 58, 75, 93, 157\(5\)](#)); S.I. 2014/1916, art. 2(d)

#### Commencement Information

- I16** 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\(2\)](#))

## 12 Rule against double jeopardy

A person's extradition to a category 1 territory is barred by reason of the rule against double jeopardy if (and only if) it appears that he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction on the assumption—

- (a) that the conduct constituting the extradition offence constituted an offence in the part of the United Kingdom where the judge exercises jurisdiction;

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- (b) that the person were charged with the extradition offence in that part of the United Kingdom.

#### Commencement Information

**I17** 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))

### [<sup>F24</sup>12A Absence of prosecution decision

- (1) A person's extradition to a category 1 territory is barred by reason of absence of prosecution decision if (and only if)—
- (a) it appears to the appropriate judge that there are reasonable grounds for believing that—
- (i) the competent authorities in the category 1 territory have not made a decision to charge or have not made a decision to try (or have made neither of those decisions), and
- (ii) the person's absence from the category 1 territory is not the sole reason for that failure,
- and
- (b) those representing the category 1 territory do not prove that—
- (i) the competent authorities in the category 1 territory have made a decision to charge and a decision to try, or
- (ii) in a case where one of those decisions has not been made (or neither of them has been made), the person's absence from the category 1 territory is the sole reason for that failure.
- (2) In this section “to charge” and “to try”, in relation to a person and an extradition offence, mean—
- (a) to charge the person with the offence in the category 1 territory, and
- (b) to try the person for the offence in the category 1 territory.]

#### Textual Amendments

**F24** S. 12A inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 156\(2\), 185\(1\)](#) (with [ss. 3, 21, 33, 42, 58, 75, 93, 156\(3\)](#)); [S.I. 2014/1916](#), [art. 2\(c\)](#)

### 13 Extraneous considerations

A person's extradition to a category 1 territory is barred by reason of extraneous considerations if (and only if) it appears that—

- (a) the Part 1 warrant issued in respect of him (though purporting to be issued on account of the extradition offence) is in fact issued for the purpose of prosecuting or punishing him on account of his race, religion, nationality, gender, sexual orientation or political opinions, or
- (b) if extradited he might be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, gender, sexual orientation or political opinions.

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### Commencement Information

**I18** 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))

## 14 Passage of time

A person's extradition to a category 1 territory is barred by reason of the passage of time if (and only if) it appears that it would be unjust or oppressive to extradite him by reason of the passage of time [<sup>F25</sup> since he is alleged to have—

- (a) committed the extradition offence (where he is accused of its commission), or
- (b) become unlawfully at large (where he is alleged to have been convicted of it)]

<sup>F25</sup>

#### Textual Amendments

**F25** Words in s. 14 substituted (15.1.2007) by [Police and Justice Act 2006](#) (c. 48), ss. 42, 53, [Sch. 13 para. 2\(1\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

**I19** 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))

## 15 Age

A person's extradition to a category 1 territory is barred by reason of his age if (and only if) it would be conclusively presumed because of his age that he could not be guilty of the extradition offence on the assumption—

- (a) that the conduct constituting the extradition offence constituted an offence in the part of the United Kingdom where the judge exercises jurisdiction;
- (b) that the person carried out the conduct when the extradition offence was committed (or alleged to be committed);
- (c) that the person carried out the conduct in the part of the United Kingdom where the judge exercises jurisdiction.

#### Commencement Information

**I20** 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))

## <sup>F26</sup>16 Hostage-taking considerations

#### Textual Amendments

**F26** S. 16 repealed (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), [ss. 158\(1\), 185\(1\)](#) (with [ss. 3, 21, 33, 42, 58, 75, 93, 158\(3\)](#)); [S.I. 2014/1916](#), art. 2(e)

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### **Commencement Information**

**I21** 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))

## **17 Speciality**

- (1) A person's extradition to a category 1 territory is barred by reason of speciality if (and only if) there are no speciality arrangements with the category 1 territory.
- (2) There are speciality arrangements with a category 1 territory if, under the law of that territory or arrangements made between it and the United Kingdom, a person who is extradited to the territory from the United Kingdom may be dealt with in the territory for an offence committed before his extradition only if—
  - (a) the offence is one falling within subsection (3), or
  - (b) the condition in subsection (4) is satisfied.
- (3) The offences are—
  - (a) the offence in respect of which the person is extradited;
  - (b) an extradition offence disclosed by the same facts as that offence;
  - (c) an extradition offence in respect of which the appropriate judge gives his consent under section 55 to the person being dealt with;
  - (d) an offence which is not punishable with imprisonment or another form of detention;
  - (e) an offence in respect of which the person will not be detained in connection with his trial, sentence or appeal;
  - (f) an offence in respect of which the person waives the right that he would have (but for this paragraph) not to be dealt with for the offence.
- (4) The condition is that the person is given an opportunity to leave the category 1 territory and—
  - (a) he does not do so before the end of the permitted period, or
  - (b) if he does so before the end of the permitted period, he returns there.
- (5) The permitted period is 45 days starting with the day on which the person arrives in the category 1 territory.
- (6) Arrangements made with a category 1 territory which is a Commonwealth country or a British overseas territory may be made for a particular case or more generally.
- (7) A certificate issued by or under the authority of the Secretary of State confirming the existence of arrangements with a category 1 territory which is a Commonwealth country or a British overseas territory and stating the terms of the arrangements is conclusive evidence of those matters.

#### **Commencement Information**

**I22** 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))



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## 18 Earlier extradition to United Kingdom from category 1 territory

A person's extradition to a category 1 territory is barred by reason of his earlier extradition to the United Kingdom from another category 1 territory if (and only if)—

- (a) the person was extradited to the United Kingdom from another category 1 territory (the extraditing territory);
- (b) under arrangements between the United Kingdom and the extraditing territory, that territory's consent is required to the person's extradition from the United Kingdom to the category 1 territory in respect of the extradition offence under consideration;
- (c) that consent has not been given on behalf of the extraditing territory.

### Commencement Information

**I23** 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))

## 19 Earlier extradition to United Kingdom from non-category 1 territory

A person's extradition to a category 1 territory is barred by reason of his earlier extradition to the United Kingdom from a non-category 1 territory if (and only if)—

- (a) the person was extradited to the United Kingdom from a territory that is not a category 1 territory (the extraditing territory);
- (b) under arrangements between the United Kingdom and the extraditing territory, that territory's consent is required to the person's being dealt with in the United Kingdom in respect of the extradition offence under consideration;
- (c) consent has not been given on behalf of the extraditing territory to the person's extradition from the United Kingdom to the category 1 territory in respect of the extradition offence under consideration.

### Commencement Information

**I24** 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))

## [<sup>F27</sup>19A Earlier transfer to United Kingdom by International Criminal Court

(1) A person's extradition to a category 1 territory is barred by reason of his earlier transfer by the International Criminal Court if (and only if)—

- (a) the person was transferred to the United Kingdom to serve a sentence imposed by the Court;
- (b) under arrangements between the United Kingdom and the Court, the consent of the Presidency of the Court is required to the person's extradition from the United Kingdom to the category 1 territory in respect of the extradition offence under consideration;
- (c) that consent has not been given.

(2) Subsection (1) does not apply if the person has served the sentence imposed by the Court and has subsequently—

- (a) remained voluntarily in the United Kingdom for more than 30 days, or



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(b) left the United Kingdom and returned to it.]

#### Textual Amendments

**F27** S. 19A inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 3\(2\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

**I25** 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))

### [<sup>F28</sup>19B Forum

- (1) The extradition of a person (“D”) to a category 1 territory is barred by reason of forum if the extradition would not be in the interests of justice.
- (2) For the purposes of this section, the extradition would not be in the interests of justice if the judge—
  - (a) decides that a substantial measure of D's relevant activity was performed in the United Kingdom; and
  - (b) decides, having regard to the specified matters relating to the interests of justice (and only those matters), that the extradition should not take place.
- (3) These are the specified matters relating to the interests of justice—
  - (a) the place where most of the loss or harm resulting from the extradition offence occurred or was intended to occur;
  - (b) the interests of any victims of the extradition offence;
  - (c) any belief of a prosecutor that the United Kingdom, or a particular part of the United Kingdom, is not the most appropriate jurisdiction in which to prosecute D in respect of the conduct constituting the extradition offence;
  - (d) were D to be prosecuted in a part of the United Kingdom for an offence that corresponds to the extradition offence, whether evidence necessary to prove the offence is or could be made available in the United Kingdom;
  - (e) any delay that might result from proceeding in one jurisdiction rather than another;
  - (f) the desirability and practicability of all prosecutions relating to the extradition offence taking place in one jurisdiction, having regard (in particular) to—
    - (i) the jurisdictions in which witnesses, co-defendants and other suspects are located, and
    - (ii) the practicability of the evidence of such persons being given in the United Kingdom or in jurisdictions outside the United Kingdom;
  - (g) D's connections with the United Kingdom.
- (4) In deciding whether the extradition would not be in the interests of justice, the judge must have regard to the desirability of not requiring the disclosure of material which is subject to restrictions on disclosure in the category 1 territory concerned.
- (5) If, on an application by a prosecutor, it appears to the judge that the prosecutor has considered the offences for which D could be prosecuted in the United Kingdom, or a part of the United Kingdom, in respect of the conduct constituting the extradition

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offence, the judge must make that prosecutor a party to the proceedings on the question of whether D's extradition is barred by reason of forum.

- (6) In this section “ D's relevant activity ” means activity which is material to the commission of the extradition offence and which is alleged to have been performed by D.

#### **Textual Amendments**

**F28** Ss. 19B-19F inserted (18.9.2013 for specified purposes, 14.10.2013 for E.W.N.I. in so far as not already in force) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 3](#) (with [Sch. 20 para. 78](#)); [S.I. 2013/2349](#), art. 2(2)(3)

### **19C Effect of prosecutor's certificates on forum proceedings**

- (1) The judge hearing proceedings under section 19B (the “forum proceedings”) must decide that the extradition is not barred by reason of forum if (at a time when the judge has not yet decided the proceedings) the judge receives a prosecutor's certificate relating to the extradition.
- (2) That duty to decide the forum proceedings in that way is subject to the determination of any question relating to the prosecutor's certificate raised in accordance with section 19E.
- (3) A designated prosecutor may apply for the forum proceedings to be adjourned for the purpose of assisting that or any other designated prosecutor—
- (a) in considering whether to give a prosecutor's certificate relating to the extradition,
  - (b) in giving such a certificate, or
  - (c) in sending such a certificate to the judge.
- (4) If such an application is made, the judge must—
- (a) adjourn the forum proceedings until the application is decided; and
  - (b) continue the adjournment, for such period as appears to the judge to be reasonable, if the application is granted.
- (5) But the judge must end the adjournment if the application is not granted.

#### **Textual Amendments**

**F28** Ss. 19B-19F inserted (18.9.2013 for specified purposes, 14.10.2013 for E.W.N.I. in so far as not already in force) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 3](#) (with [Sch. 20 para. 78](#)); [S.I. 2013/2349](#), art. 2(2)(3)

### **19D Prosecutor's certificates**

- (1) A “prosecutor's certificate” is a certificate given by a designated prosecutor which—
- (a) certifies both matter A and matter B, and
  - (b) certifies either matter C or matter D.

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- (2) Matter A is that a responsible prosecutor has considered the offences for which D could be prosecuted in the United Kingdom, or a part of the United Kingdom, in respect of the conduct constituting the extradition offence.
- (3) Matter B is that the responsible prosecutor has decided that there are one or more such offences that correspond to the extradition offence (the “corresponding offences”).
- (4) Matter C is that—
  - (a) the responsible prosecutor has made a formal decision as to the prosecution of D for the corresponding offences,
  - (b) that decision is that D should not be prosecuted for the corresponding offences, and
  - (c) the reason for that decision is a belief that—
    - (i) there would be insufficient admissible evidence for the prosecution; or
    - (ii) the prosecution would not be in the public interest.
- (5) Matter D is that the responsible prosecutor believes that D should not be prosecuted for the corresponding offences because there are concerns about the disclosure of sensitive material in—
  - (a) the prosecution of D for the corresponding offences, or
  - (b) any other proceedings.
- (6) In relation to the extradition of any person to a category 1 territory, neither this section nor any other rule of law (whether or not contained in an enactment) may require a designated prosecutor—
  - (a) to consider any matter relevant to giving a prosecutor's certificate; or
  - (b) to consider whether to give a prosecutor's certificate.
- (7) In this section “ sensitive material ” means material which appears to the responsible prosecutor to be sensitive, including material appearing to be sensitive on grounds relating to—
  - (a) national security,
  - (b) international relations, or
  - (c) the prevention or detection of crime (including grounds relating to the identification or activities of witnesses, informants or any other persons supplying information to the police or any other law enforcement agency who may be in danger if their identities are revealed).

#### Textual Amendments

**F28** Ss. 19B-19F inserted (18.9.2013 for specified purposes, 14.10.2013 for E.W.N.I. in so far as not already in force) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 3](#) (with [Sch. 20 para. 78](#)); [S.I. 2013/2349](#), art. 2(2)(3)

### 19E Questioning of prosecutor's certificate

- (1) No decision of a designated prosecutor relating to a prosecutor's certificate in respect of D's extradition (a “relevant certification decision”) may be questioned except on an appeal under section 26 against an order for that extradition.

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- (2) In England and Wales, and Northern Ireland, for the purpose of—
  - (a) determining whether to give permission for a relevant certification decision to be questioned, and
  - (b) determining any such question (if that permission is given),
 the High Court must apply the procedures and principles which would be applied by it on an application for judicial review.
- (3) In Scotland, for the purpose of determining any questioning of a relevant certification decision, the High Court must apply the procedures and principles that would be applied by it on an application for judicial review.
- (4) In a case where the High Court quashes a prosecutor's certificate, the High Court is to decide the question of whether or not the extradition is barred by reason of forum.
- (5) Where the High Court is required to decide that question by virtue of subsection (4)—
  - (a) sections 19B to 19D and this section apply in relation to that decision (with the appropriate modifications) as they apply to a decision by a judge; and
  - (b) in particular—
    - (i) a reference in this section to an appeal under section 26 has effect as a reference to an appeal under section 32 to the Supreme Court;
    - (ii) a reference in this section to the High Court has effect as a reference to the Supreme Court.

#### **Textual Amendments**

**F28** Ss. 19B-19F inserted (18.9.2013 for specified purposes, 14.10.2013 for E.W.N.I. in so far as not already in force) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 3](#) (with [Sch. 20 para. 78](#)); [S.I. 2013/2349](#), art. 2(2)(3)

#### **19F Interpretation of sections 19B to 19E**

- (1) This section applies for the purposes of sections 19B to 19E (and this section).
- (2) These expressions have the meanings given—
  - “ D ” has the meaning given in section 19B(1);
  - “ designated prosecutor ” means—
    - (a) a member of the Crown Prosecution Service, or
    - (b) any other person who—
      - (i) is a prosecutor designated for the purposes of this section by order made by the Secretary of State, or
      - (ii) is within a description of prosecutors so designated;
  - “ extradition offence ” means the offence specified in the Part 1 warrant (including the conduct that constitutes the extradition offence);
  - “ forum proceedings ” has the meaning given in section 19C(1);
  - “ part of the United Kingdom ” means—
    - (a) England and Wales;
    - (b) Scotland;
    - (c) Northern Ireland;

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“ prosecutor ” means a person who has responsibility for prosecuting offences in any part of the United Kingdom (whether or not the person also has other responsibilities);

“ prosecutor's certificate ” has the meaning given in section 19D(1);

“ responsible prosecutor ”, in relation to a prosecutor's certificate, means—

- (a) the designated prosecutor giving the certificate, or
- (b) another designated prosecutor.

- (3) In determining for any purpose whether an offence corresponds to the extradition offence, regard must be had, in particular, to the nature and seriousness of the two offences.
- (4) A reference to a formal decision as to the prosecution of D for an offence is a reference to a decision (made after complying with, in particular, any applicable requirement concerning a code of practice) that D should, or should not, be prosecuted for the offence.]

#### Textual Amendments

**F28** Ss. 19B-19F inserted (18.9.2013 for specified purposes, 14.10.2013 for E.W.N.I. in so far as not already in force) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 3](#) (with [Sch. 20 para. 78](#)); [S.I. 2013/2349](#), art. 2(2)(3)

## 20 Case where person has been convicted

- (1) If the judge is required to proceed under this section (by virtue of section 11) he must decide whether the person was convicted in his presence.
- (2) If the judge decides the question in subsection (1) in the affirmative he must proceed under section 21.
- (3) If the judge decides that question in the negative he must decide whether the person deliberately absented himself from his trial.
- (4) If the judge decides the question in subsection (3) in the affirmative he must proceed under section 21.
- (5) If the judge decides that question in the negative he must decide whether the person would be entitled to a retrial or (on appeal) to a review amounting to a retrial.
- (6) If the judge decides the question in subsection (5) in the affirmative he must proceed under section 21.
- (7) If the judge decides that question in the negative he must order the person's discharge.
- (8) The judge must not decide the question in subsection (5) in the affirmative unless, in any proceedings that it is alleged would constitute a retrial or a review amounting to a retrial, the person would have these rights—
  - (a) the right to defend himself in person or through legal assistance of his own choosing or, if he had not sufficient means to pay for legal assistance, to be given it free when the interests of justice so required;
  - (b) the right to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

### Commencement Information

**I26** 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))

## 21 <sup>F29</sup>Person unlawfully at large: human rights]

- (1) If the judge is required to proceed under this section (by virtue of section <sup>F30</sup>... 20) he must decide whether the person's extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998 (c. 42).
- (2) If the judge decides the question in subsection (1) in the negative he must order the person's discharge.
- (3) If the judge decides that question in the affirmative he must order the person to be extradited to the category 1 territory in which the warrant was issued.
- (4) If the judge makes an order under subsection (3) he must remand the person in custody or on bail to wait for his extradition to the category 1 territory.
- (5) [<sup>F31</sup>If the person is remanded in custody, the appropriate judge may] later grant bail.

### Textual Amendments

- F29** S. 21 heading substituted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 105(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1916, art. 2(t)
- F30** Words in s. 21(1) omitted (21.7.2014) by virtue of [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 105(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1916, art. 2(t)
- F31** Words in s. 21(5) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, **Sch. 13 para. 16**; S.I. 2006/3364, **art. 2(d)(e)**

## <sup>F32</sup>21A Person not convicted: human rights and proportionality

- (1) If the judge is required to proceed under this section (by virtue of section 11), the judge must decide both of the following questions in respect of the extradition of the person ("D")—
  - (a) whether the extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998;
  - (b) whether the extradition would be disproportionate.
- (2) In deciding whether the extradition would be disproportionate, the judge must take into account the specified matters relating to proportionality (so far as the judge thinks it appropriate to do so); but the judge must not take any other matters into account.
- (3) These are the specified matters relating to proportionality—
  - (a) the seriousness of the conduct alleged to constitute the extradition offence;
  - (b) the likely penalty that would be imposed if D was found guilty of the extradition offence;
  - (c) the possibility of the relevant foreign authorities taking measures that would be less coercive than the extradition of D.
- (4) The judge must order D's discharge if the judge makes one or both of these decisions—

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- (a) that the extradition would not be compatible with the Convention rights;
  - (b) that the extradition would be disproportionate.
- (5) The judge must order D to be extradited to the category 1 territory in which the warrant was issued if the judge makes both of these decisions—
- (a) that the extradition would be compatible with the Convention rights;
  - (b) that the extradition would not be disproportionate.
- (6) If the judge makes an order under subsection (5) he must remand the person in custody or on bail to wait for extradition to the category 1 territory.
- (7) If the person is remanded in custody, the appropriate judge may later grant bail.
- (8) In this section “ relevant foreign authorities ” means the authorities in the territory to which D would be extradited if the extradition went ahead. ]

#### Textual Amendments

**F32** S. 21A inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), ss. [157\(2\)\(4\)](#), [185\(1\)](#) (with ss. [3](#), [21](#), [33](#), [42](#), [58](#), [75](#), [93](#), [157\(5\)](#)); S.I. 2014/1916, art. 2(d)

#### [<sup>F33</sup>21B Request for temporary transfer etc

- (1) This section applies if—
  - (a) a Part 1 warrant is issued which contains the statement referred to in section 2(3) (warrant issued for purposes of prosecution for offence in category 1 territory), and
  - (b) at any time before or in the extradition hearing, the appropriate judge is informed that a request under subsection (2) or (3) has been made.
- (2) A request under this subsection is a request by a judicial authority of the category 1 territory in which the warrant is issued (“the requesting territory”)—
  - (a) that the person in respect of whom the warrant is issued be temporarily transferred to the requesting territory, or
  - (b) that arrangements be made to enable the person to speak with representatives of an authority in the requesting territory responsible for investigating, prosecuting or trying the offence specified in the warrant.
- (3) A request under this subsection is a request by the person in respect of whom the warrant is issued—
  - (a) to be temporarily transferred to the requesting territory, or
  - (b) that arrangements be made to enable the person to speak with representatives of an authority in the requesting territory responsible for investigating, prosecuting or trying the offence specified in the warrant.
- (4) The judge must order further proceedings in respect of the extradition to be adjourned if the judge thinks it necessary to do so to enable the person (in the case of a request under subsection (2)) or the authority by which the warrant is issued (in the case of a request under subsection (3)) to consider whether to consent to the request.

An adjournment under this subsection must not be for more than 7 days.

- (5) If the person or authority consents to the request, the judge must—



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- (a) make whatever orders and directions seem appropriate for giving effect to the request;
  - (b) order further proceedings in respect of the extradition to be adjourned for however long seems necessary to enable the orders and directions to be carried out.
- (6) If the request, or consent to the request, is withdrawn before effect (or full effect) has been given to it—
- (a) no steps (or further steps) may be taken to give effect to the request;
  - (b) the judge may make whatever further orders and directions seem appropriate (including an order superseding one made under subsection (5)(b)).
- (7) A person may not make a request under paragraph (a) or (b) of subsection (3) in respect of a warrant if the person has already given consent to a request under the corresponding paragraph of subsection (2) in respect of that warrant (even if that consent has been withdrawn).
- (8) A person may not make a further request under paragraph (a) or (b) of subsection (3) in respect of a warrant if the person has already made a request under that paragraph in respect of that warrant (even if that request has been withdrawn).
- (9) If—
- (a) a request under subsection (2) or (3) is made before a date has been fixed on which the extradition hearing is to begin, and
  - (b) the proceedings are adjourned under this section,
- the permitted period for the purposes of fixing that date (see section 8(4)) is extended by the number of days for which the proceedings are so adjourned.]

#### **Textual Amendments**

**F33** S. 21B inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 159, 185(1)** (with **ss. 21, 33, 42, 58, 75, 93**); [S.I. 2014/1916](#), **art. 2(f)**

#### *Matters arising before end of extradition hearing*

#### **Commencement Information**

**I27** 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)**)

## **22 Person charged with offence in United Kingdom**

- (1) This section applies if at any time in the extradition hearing the judge is informed that the person in respect of whom the Part 1 warrant is issued is charged with an offence in the United Kingdom.
- (2) The judge must adjourn the extradition hearing until one of these occurs—
- (a) the charge is disposed of;
  - (b) the charge is withdrawn;
  - (c) proceedings in respect of the charge are discontinued;



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- (d) an order is made for the charge to lie on the file, or in relation to Scotland, the diet is deserted *pro loco et tempore*.
- (3) If a sentence of imprisonment or another form of detention is imposed in respect of the offence charged, the judge may adjourn the extradition hearing until [F34 the person is released from detention pursuant to the sentence (whether on licence or otherwise)]<sup>F34</sup>.
- (4) If before he adjourns the extradition hearing under subsection (2) the judge has decided under section 11 whether the person's extradition is barred by reason of the rule against double jeopardy, the judge must decide that question again after the resumption of the hearing.

#### Textual Amendments

**F34** Words in s. 23(2) substituted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 71(2), 116; S.I. 2009/3096, art. 3(n) (with art. 4)

#### Commencement Information

**I28** 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))

### 23 Person serving sentence in United Kingdom

- (1) This section applies if at any time in the extradition hearing the judge is informed that the person in respect of whom the Part 1 warrant is issued is [F35 in custody]<sup>F35</sup> serving a sentence of imprisonment or another form of detention in the United Kingdom.
- (2) The judge may adjourn the extradition hearing until [F36 the person is released from detention pursuant to the sentence (whether on licence or otherwise)]<sup>F36</sup>.
- [F37 (3) In a case where an extradition hearing is adjourned under subsection (2)—
- (a) section 131 of the Magistrates' Courts Act 1980 (remand of accused already in custody) has effect as if a reference to 28 clear days in subsection (1) or (2) of that section were a reference to six months;
- (b) Article 47(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (period of remand in custody) has effect as if a reference to 28 days in—
- (i) paragraph (a)(iii), or
- (ii) the words after paragraph (b),
- were a reference to six months.<sup>F37</sup>]

#### Textual Amendments

**F35** Words in s. 23(1) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 71(3)(a), 116; S.I. 2009/3096, art. 3(n) (with art. 4)

**F36** Words in s. 23(2) substituted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 71(3)(b), 116; S.I. 2009/3096, art. 3(n) (with art. 4)

**F37** S. 23(3) inserted (15.1.2007) by Police and Justice Act 2006 (c. 48), ss. 42, 53, Sch. 13 para. 7; S.I. 2006/3364, art. 2(d)(e)

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### Commencement Information

**I29** 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))

## 24 Extradition request

- (1) This section applies if at any time in the extradition hearing the judge is informed that—
  - (a) a certificate has been issued under section 70 in respect of a request for the person’s extradition;
  - (b) the request has not been disposed of;
  - (c) an order has been made under section 179(2) for further proceedings on the warrant to be deferred until the request has been disposed of.
- (2) The judge must remand the person in custody or on bail.
- (3) [<sup>F38</sup>If the person is remanded in custody, the appropriate judge may]<sup>F38</sup> later grant bail.

#### Textual Amendments

**F38** Words in s. 24(3) substituted (15.1.2007) by Police and Justice Act 2006 (c. 48), ss. 42, 53, Sch. 13 para. 16; S.I. 2006/3364, art. 2(d)(e)

#### Commencement Information

**I30** 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))

## 25 Physical or mental condition

- (1) This section applies if at any time in the extradition hearing it appears to the judge that the condition in subsection (2) is satisfied.
- (2) The condition is that the physical or mental condition of the person in respect of whom the Part 1 warrant is issued is such that it would be unjust or oppressive to extradite him.
- (3) The judge must—
  - (a) order the person’s discharge, or
  - (b) adjourn the extradition hearing until it appears to him that the condition in subsection (2) is no longer satisfied.

#### Commencement Information

**I31** 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))

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## Appeals

### Commencement Information

**I32** 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))

## 26 Appeal against extradition order

- (1) If the appropriate judge orders a person's extradition under this Part, the person may appeal to the High Court against the order.
- (2) But subsection (1) does not apply if the order is made under section 46 or 48.
- (3) An appeal under this <sup>F39</sup>section—
  - (a) may] be brought on a question of law or fact<sup>F40</sup>, but
  - (b) lies only with the leave of the High Court.]
- (4) [<sup>F41</sup>Notice of application for leave to appeal] under this section must be given in accordance with rules of court before the end of the permitted period, which is 7 days starting with the day on which the order is made.
- <sup>F42</sup>(5) But where a person gives notice of application for leave to appeal after the end of the permitted period, the High Court must not for that reason refuse to entertain the application if the person did everything reasonably possible to ensure that the notice was given as soon as it could be given.]

### Textual Amendments

- F39** Words in s. 26(3) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 160\(1\)\(a\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(a) (with art. 4)
- F40** S. 26(3)(b) and preceding word inserted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 160\(1\)\(b\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(a) (with art. 4)
- F41** Words in s. 26(4) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 106](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(c)(i) (with art. 4)
- F42** S. 26(5) inserted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 160\(1\)\(c\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(a) (with art. 4)

### Commencement Information

**I33** 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))

## 27 Court's powers on appeal under section 26

- (1) On an appeal under section 26 the High Court may—
  - (a) allow the appeal;
  - (b) dismiss the appeal.
- (2) The court may allow the appeal only if the conditions in subsection (3) or the conditions in subsection (4) are satisfied.

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (3) The conditions are that—
- (a) the appropriate judge ought to have decided a question before him at the extradition hearing differently;
  - (b) if he had decided the question in the way he ought to have done, he would have been required to order the person's discharge.
- (4) The conditions are that—
- (a) an issue is raised that was not raised at the extradition hearing or evidence is available that was not available at the extradition hearing;
  - (b) the issue or evidence would have resulted in the appropriate judge deciding a question before him at the extradition hearing differently;
  - (c) if he had decided the question in that way, he would have been required to order the person's discharge.
- (5) If the court allows the appeal it must—
- (a) order the person's discharge;
  - (b) quash the order for his extradition.

#### Commencement Information

- I34** 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))

## 28 Appeal against discharge at extradition hearing

- (1) If the judge orders a person's discharge at the extradition hearing the authority which issued the Part 1 warrant may appeal to the High Court against the relevant decision.
- (2) But subsection (1) does not apply if the order for the person's discharge was under section 41.
- (3) The relevant decision is the decision which resulted in the order for the person's discharge.
- (4) An appeal under this <sup>F43</sup>section—
  - (a) may] be brought on a question of law or fact<sup>F44</sup>, but
  - (b) lies only with the leave of the High Court.]
- (5) <sup>F45</sup>[Notice of application for leave to appeal] under this section must be given in accordance with rules of court before the end of the permitted period, which is 7 days starting with the day on which the order for the person's discharge is made.

#### Textual Amendments

- F43** Words in s. 28(4) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), **ss. 160(2)(a)**, 185(1) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2015/987](#), art. 2(a) (with art. 4)
- F44** S. 28(4)(b) and preceding word inserted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), **ss. 160(2)(b)**, 185(1) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2015/987](#), art. 2(a) (with art. 4)
- F45** Words in s. 28(5) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 107** (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2015/987](#), art. 2(c)(i) (with art. 4)

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### Commencement Information

**I35** 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))

## 29 Court's powers on appeal under section 28

- (1) On an appeal under section 28 the High Court may—
  - (a) allow the appeal;
  - (b) dismiss the appeal.
- (2) The court may allow the appeal only if the conditions in subsection (3) or the conditions in subsection (4) are satisfied.
- (3) The conditions are that—
  - (a) the judge ought to have decided the relevant question differently;
  - (b) if he had decided the question in the way he ought to have done, he would not have been required to order the person's discharge.
- (4) The conditions are that—
  - (a) an issue is raised that was not raised at the extradition hearing or evidence is available that was not available at the extradition hearing;
  - (b) the issue or evidence would have resulted in the judge deciding the relevant question differently;
  - (c) if he had decided the question in that way, he would not have been required to order the person's discharge.
- (5) If the court allows the appeal it must—
  - (a) quash the order discharging the person;
  - (b) remit the case to the judge;
  - (c) direct him to proceed as he would have been required to do if he had decided the relevant question differently at the extradition hearing.
- (6) A question is the relevant question if the judge's decision on it resulted in the order for the person's discharge.
- [<sup>F46</sup>(7) If the court allows the appeal it must remand the person in custody or on bail.
- (8) If the court remands the person in custody it may later grant bail.]<sup>F46</sup>

#### Textual Amendments

**F46** S. 29(7)(8) inserted (15.1.2007) by [Police and Justice Act 2006](#) (c. 48), ss. 42, 53, [Sch. 13 para. 8\(1\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

**I36** 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))

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

### 30 Detention pending conclusion of appeal under section 28

- (1) This section applies if immediately after the judge orders the person's discharge the judge is informed by the authority which issued the Part 1 warrant that it intends to appeal under section 28.
- (2) The judge must remand the person in custody or on bail while the appeal is pending.
- (3) <sup>F47</sup>If the person is remanded in custody, the appropriate judge may] later grant bail.
- (4) An appeal under section 28 ceases to be pending at the earliest of these times—
  - (a) when the proceedings on the appeal are discontinued;
  - <sup>F48</sup>(b) when the High Court—
    - (i) allows the appeal, or
    - (ii) dismisses the appeal,
 unless, where the appeal is dismissed, the authority immediately informs the court that it intends to apply for leave to appeal to the <sup>F49</sup>Supreme Court ] ; ]
  - (c) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the <sup>F49</sup>Supreme Court] against the decision of the High Court on the appeal is granted <sup>F50</sup>, if no appeal to the <sup>F49</sup>Supreme Court] is brought before the end of that period];
  - (d) when there is no further step that can be taken by the authority which issued the Part 1 warrant in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).

<sup>F51</sup>(5) The preceding provisions of this section do not apply to Scotland.]

#### Textual Amendments

- F47** Words in s. 30(3) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 16](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F48** S. 30(4)(b) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 8\(2\)\(a\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F49** Words in s. 30 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 81\(4\)\(a\)](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)
- F50** Words in s. 30(4)(c) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 8\(2\)\(b\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F51** S. 30(5) substituted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 17\(1\)](#) (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), [art. 2\(1\)\(b\)](#) (with [art. 4\(1\)](#))

#### Commencement Information

- I37** 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\(2\)](#))

### <sup>F52</sup>30A Detention pending conclusion of appeal under section 28: Scotland

- (1) This section applies if immediately after the judge orders the person's discharge the judge is informed by the authority which issued the Part 1 warrant (“ the issuing authority ”) that it intends to appeal under section 28 (“the High Court appeal”).
- (2) The judge must remand the person in custody or on bail while the High Court appeal is pending.

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (3) The High Court appeal ceases to be pending at the earliest of these times—
- (a) when the proceedings on the appeal are abandoned;
  - <sup>F53</sup> [ when the decision of the High Court refusing leave to appeal to it becomes final;]
  - (aa) final;]
  - (b) when the High Court—
    - (i) allows the appeal, or
    - (ii) dismisses the appeal.
- <sup>F54</sup> [ The decision of the High Court refusing leave to appeal to it becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal (ignoring any power of a court to grant leave to take a step out of time).]
- (4) If—
- (a) the High Court appeal is dismissed, and
  - (b) immediately after dismissing it, the High Court is informed by the issuing authority that it intends to bring an appeal to the Supreme Court against a determination of a relevant devolution issue (“the Supreme Court appeal”),
- the High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.
- (5) The Supreme Court appeal ceases to be pending at the earliest of these times—
- (a) the end of the period of 28 days starting with the day when the High Court appeal is dismissed (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);
  - (b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);
  - (c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);
  - (d) the time when the proceedings on the Supreme Court appeal are abandoned;
  - (e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the issuing authority (ignoring any power of a court to grant leave to take a step out of time).
- (6) If the person is remanded in custody by the judge or the High Court, the High Court may later grant bail.
- (7) In this section “ relevant devolution issue ” means a devolution issue relating to the person's extradition.
- (8) This section applies only to Scotland.]

#### Textual Amendments

- F52** S. 30A inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 17\(2\)](#) (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), art. 2(1)(b) (with art. 4(1))
- F53** S. 30A(3)(aa) inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), [3\(2\)\(a\)](#) (with art. 1(4))



*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

**F54** S. 30A(3A) inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(2)(b)** (with art. 1(4))

### **31 Appeal to High Court: time limit for start of hearing**

- (1) Rules of court must prescribe the period (the relevant period) within which the High Court must begin to hear an appeal under section 26 or 28.
- (2) Rules of court must provide for the relevant period to start with the date on which the person in respect of whom a Part 1 warrant is issued—
  - (a) was arrested under section 5, if he was arrested under that section;
  - (b) was arrested under the Part 1 warrant, if he was not arrested under section 5.
- (3) The High Court must begin to hear the appeal before the end of the relevant period.
- (4) The High Court may extend the relevant period if it believes it to be in the interests of justice to do so; and this subsection may apply more than once.
- (5) The power in subsection (4) may be exercised even after the end of the relevant period.
- (6) If subsection (3) is not complied with and the appeal is under section 26—
  - (a) the appeal must be taken to have been allowed by a decision of the High Court;
  - (b) the person whose extradition has been ordered must be taken to have been discharged by the High Court;
  - (c) the order for the person's extradition must be taken to have been quashed by the High Court.
- (7) If subsection (3) is not complied with and the appeal is under section 28 the appeal must be taken to have been dismissed by a decision of the High Court.

#### **Commencement Information**

**I38** 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))

### **32 Appeal to [<sup>F55</sup>Supreme Court]<sup>F55</sup>**

- (1) An appeal lies to the [<sup>F56</sup>Supreme Court]<sup>F56</sup> from a decision of the High Court on an appeal under section 26 or 28.
- (2) An appeal under this section lies at the instance of—
  - (a) the person in respect of whom the Part 1 warrant was issued;
  - (b) the authority which issued the Part 1 warrant.
- (3) An appeal under this section lies only with the leave of the High Court or the [<sup>F57</sup>Supreme Court]<sup>F57</sup>.
- (4) Leave to appeal under this section must not be granted unless—
  - (a) the High Court has certified that there is a point of law of general public importance involved in the decision, and
  - (b) it appears to the court granting leave that the point is one which ought to be considered by the [<sup>F58</sup>Supreme Court]<sup>F58</sup>.



*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (5) An application to the High Court for leave to appeal under this section must be made before the end of the permitted period, which is 14 days starting with the day on which the court makes its decision on the appeal to it.
- (6) An application to the [<sup>F59</sup>Supreme Court]<sup>F59</sup> for leave to appeal under this section must be made before the end of the permitted period, which is 14 days starting with the day on which the High Court refuses leave to appeal.
- (7) If leave to appeal under this section is granted, the appeal must be brought before the end of the permitted period, which is 28 days starting with the day on which leave is granted.
- (8) If subsection (7) is not complied with—
- (a) the appeal must be taken to have been brought;
  - (b) the appeal must be taken to have been dismissed by the [<sup>F60</sup>Supreme Court]<sup>F60</sup> immediately after the end of the period permitted under that subsection.
- (9) These must be ignored for the purposes of subsection (8)(b)—
- (a) any power of a court to extend the period permitted for bringing the appeal;
  - (b) any power of a court to grant leave to take a step out of time.
- [<sup>F61</sup>(10) The High Court may grant bail to a person appealing under this section, or applying for leave to appeal under this section, against the dismissal of his appeal under section 26.]
- <sup>F61</sup>(11) Section 5 of the Appellate Jurisdiction Act 1876 (c. 59) (composition of House of Lords for hearing and determination of appeals) applies in relation to an appeal under this section or an application for leave to appeal under this section as it applies in relation to an appeal under that Act.
- (12) An order of the House of Lords which provides for an application for leave to appeal under this section to be determined by a committee constituted in accordance with section 5 of the Appellate Jurisdiction Act 1876 may direct that the decision of the committee is taken on behalf of the House.
- (13) The preceding provisions of this section do not apply to Scotland.

#### Textual Amendments

- F55** Words in s. 32 sidenote substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F56** Words in s. 32(1) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F57** Words in s. 32(3) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F58** Words in s. 32(4)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F59** Words in s. 32(6) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F60** Words in s. 32(8)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F61** S. 32(10) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 42, 53, Sch. 13 para. 8\(3\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

### Commencement Information

**I39** 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))

## 33 Powers of [F62Supreme Court]<sup>F62</sup> on appeal under section 32

- (1) On an appeal under section 32 the [F63Supreme Court]<sup>F63</sup> may—
  - (a) allow the appeal;
  - (b) dismiss the appeal.
- (2) Subsection (3) applies if—
  - (a) the person in respect of whom the Part 1 warrant was issued brings an appeal under section 32, and
  - (b) the [F63Supreme Court]<sup>F63</sup> allows the appeal.
- (3) The [F63Supreme Court]<sup>F63</sup> must—
  - (a) order the person’s discharge;
  - (b) quash the order for his extradition, if the appeal was against a decision of the High Court to dismiss an appeal under section 26.
- (4) Subsection (5) applies if—
  - (a) the High Court allows an appeal under section 26 by the person in respect of whom the Part 1 warrant was issued,
  - (b) the authority which issued the warrant brings an appeal under section 32 against the decision of the High Court, and
  - (c) the [F63Supreme Court]<sup>F63</sup> allows the appeal.
- (5) The [F63Supreme Court]<sup>F63</sup> must—
  - (a) quash the order of the High Court under section 27(5) discharging the person;
  - (b) order the person to be extradited to the category 1 territory in which the warrant was issued.
- (6) Subsections (7) and (8) apply if—
  - (a) the High Court dismisses an appeal under section 28 against a decision made by the judge at the extradition hearing,
  - (b) the authority which issued the Part 1 warrant brings an appeal under section 32 against the decision of the High Court, and
  - (c) the [F63Supreme Court]<sup>F63</sup> allows the appeal.
- (7) If the judge would have been required to order the person in respect of whom the warrant was issued to be extradited had he decided the relevant question differently, the [F63Supreme Court]<sup>F63</sup> must—
  - (a) quash the order of the judge discharging the person;
  - (b) order the person to be extradited to the category 1 territory in which the warrant was issued.
- (8) In any other case, the [F63Supreme Court]<sup>F63</sup> must—
  - (a) quash the order of the judge discharging the person in respect of whom the warrant was issued;
  - (b) remit the case to the judge;

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- (c) direct him to proceed as he would have been required to do if he had decided the relevant question differently at the extradition hearing.
- (9) A question is the relevant question if the judge's decision on it resulted in the order for the person's discharge.
- [<sup>F64</sup>(10) In a case where—
- (a) subsection (5) applies, or
  - (b) subsections (7) and (8) apply,
- the [<sup>F63</sup>Supreme Court]<sup>F63</sup> must remand, in custody or on bail, the person in respect of whom the warrant was issued.
- (11) If the [<sup>F63</sup>Supreme Court]<sup>F63</sup> remands the person in custody the High Court may later grant bail.]<sup>F64</sup>

#### Textual Amendments

- F62** Words in s. 33 sidenote substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(4\)\(b\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F63** Words in s. 33 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(4\)\(b\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F64** S. 33(10)(11) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 42, 53, Sch. 13 para. 8\(4\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)

#### Commencement Information

- I40** 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\(2\)](#))

#### [<sup>F65</sup>33ZA Scottish devolution issue: remand in custody or on bail

- (1) This section applies where, on an appeal to the Supreme Court against a determination of a devolution issue relating to a person's extradition under this Part, the Supreme Court—
- (a) remits the case to the High Court, or
  - (b) orders the person's extradition.
- (2) The Supreme Court must remand the person in custody or on bail pending the person's extradition.
- (3) If the Supreme Court remands the person in custody it may later grant bail.]

#### Textual Amendments

- F65** S. 33ZA inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 20 para. 18](#) (with [Sch. 20 para. 29](#)); S.I. 2013/1682, [art. 2\(1\)\(b\)](#) (with [art. 4\(2\)](#))

#### [<sup>F66</sup>33A Detention pending conclusion of certain appeals under section 32

- (1) This section applies if immediately after the High Court orders the person's discharge the court is informed by the authority which issued the Part 1 warrant that it intends to appeal under section 32.

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (2) The court must remand the person in custody or on bail while the appeal under section 32 is pending.
- (3) If the court remands the person in custody it may later grant bail.
- (4) An appeal under section 32 ceases to be pending at the earliest of these times—
  - (a) when the proceedings on the appeal are discontinued;
  - (b) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the House of Lords against the decision of the High Court on the appeal under section 26 is granted, if no appeal to the House of Lords is brought before the end of that period;
  - (c) when there is no further step that can be taken by the authority which issued the Part 1 warrant in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).
- (5) The preceding provisions of this section do not apply to Scotland.]

#### Textual Amendments

**F66** S. 33A inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 8\(5\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

**I41** 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))

### [<sup>F67</sup>33B Detention pending conclusion of appeals relating to devolution issues

- (1) This section applies if immediately after the High Court orders the person's discharge the court is informed by the authority which issued the Part 1 warrant (“the issuing authority”) that it intends to bring an appeal to the Supreme Court against a determination of a relevant devolution issue (“the Supreme Court appeal”).
- (2) The High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.
- (3) If the court remands the person in custody it may later grant bail.
- (4) The Supreme Court appeal ceases to be pending at the earliest of these times—
  - (a) the end of the period of 28 days starting with the day when the High Court orders the person's discharge (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);
  - (b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);
  - (c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);
  - (d) the time when the proceedings on the Supreme Court appeal are abandoned;

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- (e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the issuing authority (ignoring any power of a court to grant permission to take a step out of time).
- (5) In this section “relevant devolution issue” means a devolution issue relating to the person's extradition.
- (6) This section applies only to Scotland.]

#### Textual Amendments

- F67** S. 33B inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 19](#) (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), art. 2(1)(b) (with art. 4(3))

### 34 Appeals: general

[<sup>F68</sup>(1)] A decision of the judge under this Part may be questioned in legal proceedings only by means of an appeal under this Part.

[<sup>F69</sup>(2)] Subsection (1) does not prevent an appeal against a determination of a devolution issue.

- (3) In this Part “devolution issue” has the same meaning as in Schedule 6 to the Scotland Act 1998. ]

#### Textual Amendments

- F68** Word in s. 34 inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 20](#) (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), art. 2(1)(b)
- F69** S. 34(2)(3) inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 20](#) (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), art. 2(1)(b)

#### Commencement Information

- I42** 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))

### *Time for extradition*

### 35 Extradition where no appeal

[<sup>F70</sup>(1)] This section applies if the appropriate judge orders a person's extradition to a category 1 territory under this Part and either—

- (a) no notice of application for leave to appeal under section 26 is given before the end of the period permitted under that section, or
- (b) notice is given during that period but the High Court refuses leave to appeal to it.]

(2) But this section does not apply if the order is made under section 46 or 48.

(3) The person must be extradited to the category 1 territory before the end of the required period.

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (4) The required period is—
- [<sup>F71</sup>(a) 10 days starting with—
    - (i) the first day after the period permitted under section 26 for giving notice of application for leave to appeal against the judge’s order (where subsection (1)(a) applies), or
    - (ii) the day on which the decision of the High Court refusing leave to appeal to it becomes final (where subsection (1)(b) applies), or]
  - (b) if the judge and the authority which issued the Part 1 warrant agree a later date, 10 days starting with the later date.
- [<sup>F72</sup>(4ZA) The decision of the High Court refusing leave to appeal to it becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal.]
- [<sup>F73</sup>(4A) If the day referred to in [<sup>F74</sup>subsection (4)(a)(i) or (ii)] is earlier than the earliest day on which, by reason of an order under section 36A or 36B, the extradition order may be carried out (“the postponed date”), [<sup>F75</sup>subsection (4)(a) has effect as if it referred to the period of 10 days starting with the postponed date].]
- (5) If subsection (3) is not complied with and the person applies to the appropriate judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.
- (6) These must be ignored for the purposes of [<sup>F76</sup>subsections (1) to (4A)]—
- (a) any power of a court to extend the period permitted for giving [<sup>F77</sup>notice of application for leave to appeal];
  - (b) any power of a court to grant leave to take a step out of time.
- [<sup>F78</sup>(7) If leave to appeal to the High Court is granted on an application notice of which was given after the end of the period permitted under section 26, this section ceases to apply (but section 36 applies instead).]

#### Textual Amendments

- F70** S. 35(1) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(3)(a)** (with art. 1(4))
- F71** S. 35(4)(a) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(3)(b)** (with art. 1(4))
- F72** S. 35(4ZA) inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(3)(c)** (with art. 1(4))
- F73** S. 35(4A) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 108** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1916, art. 2(t)
- F74** Words in s. 35(4A) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(3)(d)(i)** (with art. 1(4))
- F75** Words in s. 35(4A) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(3)(d)(ii)** (with art. 1(4))
- F76** Words in s. 35(6) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(3)(e)(i)** (with art. 1(4))
- F77** Words in s. 35(6) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(3)(e)(ii)** (with art. 1(4))
- F78** S. 35(7) inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(3)(f)** (with art. 1(4))

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

### Commencement Information

**I43** 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))

## 36 Extradition following appeal

- (1) This section applies if—
    - (a) there is an appeal to the High Court under section 26 against an order for a person’s extradition to a category 1 territory, and
    - (b) the effect of the decision of the relevant court on the appeal is that the person is to be extradited there.
  - (2) The person must be extradited to the category 1 territory before the end of the required period.
  - (3) The required period is—
    - (a) 10 days starting with the day on which the decision of the relevant court on the appeal becomes final or proceedings on the appeal are discontinued, or
    - (b) if the relevant court and the authority which issued the Part 1 warrant agree a later date, 10 days starting with the later date.
- [<sup>F79</sup>(3A) If the day referred to in paragraph (a) of subsection (3) is earlier than the earliest day on which, by reason of an order under section 36A or 36B, the extradition order may be carried out (“the postponed date”), that paragraph has effect as if it referred instead to the postponed date.]
- (4) The relevant court is—
    - (a) the High Court, if there is no appeal to the [<sup>F80</sup>Supreme Court] against the decision of the High Court on the appeal;
    - (b) the [<sup>F80</sup>Supreme Court], if there is such an appeal.
  - (5) The decision of the High Court on the appeal becomes final—
    - (a) when the period permitted for applying to the High Court for leave to appeal to the [<sup>F80</sup>Supreme Court] ends, if there is no such application;
    - (b) when the period permitted for applying to the [<sup>F80</sup>Supreme Court] for leave to appeal to it ends, if the High Court refuses leave to appeal and there is no application to the [<sup>F80</sup>Supreme Court] for leave to appeal;
    - (c) when the [<sup>F80</sup>Supreme Court] refuses leave to appeal to it;
    - (d) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the [<sup>F80</sup>Supreme Court] is granted, if no such appeal is brought before the end of that period.
  - (6) These must be ignored for the purposes of subsection (5)—
    - (a) any power of a court to extend the period permitted for applying for leave to appeal;
    - (b) any power of a court to grant leave to take a step out of time.
  - (7) The decision of the [<sup>F80</sup>Supreme Court] on the appeal becomes final when it is made.
  - (8) If subsection (2) is not complied with and the person applies to the appropriate judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.



*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

[<sup>F81</sup>(9) The preceding provisions of this section do not apply to Scotland.]

#### Textual Amendments

- F79** S. 36(3A) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 109** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1916, art. 2(t)
- F80** Words in s. 36 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, **Sch. 9 para. 81(4)(c)**; S.I. 2009/1604, **art. 2(d)**
- F81** S. 36(9) substituted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 20 para. 21(1)** (with **Sch. 20 para. 29**); S.I. 2013/1682, art. 2(1)(b) (with art. 4(4))

#### Commencement Information

- I44** 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))

### [<sup>F82</sup>36A Extradition following appeal: Scotland

- (1) This section applies if—
- (a) there is an appeal to the High Court under section 26 against an order for a person's extradition to a category 1 territory, and
  - (b) the effect of the decision in the relevant proceedings is that the person must be extradited to the category 1 territory.
- (2) The “relevant proceedings” are—
- (a) the proceedings on the appeal under section 26 if—
    - (i) no Supreme Court devolution appeal is made, or
    - (ii) a Supreme Court devolution appeal is made and the Supreme Court remits the case to the High Court, or
  - (b) the proceedings on a Supreme Court devolution appeal if such an appeal is made and the Supreme Court does not remit the case to the High Court.
- (3) The person must be extradited to the category 1 territory before the end of the required period, which is 28 days starting with—
- (a) the day on which the decision in the relevant proceedings becomes final, or
  - (b) the day on which the relevant proceedings are abandoned.
- (4) In a case where the relevant proceedings are proceedings on the appeal under section 26 (except where the case has been remitted to the High Court on a Supreme Court devolution appeal), the decision in those proceedings becomes final—
- (a) at the end of the period of 28 days starting with the day of the decision (unless, within that period, an application is made to the High Court for permission to make a Supreme Court devolution appeal);
  - (b) at the end of the period of 28 days starting with the day when the High Court refuses permission to make a Supreme Court devolution appeal (unless, within that period, an application is made to the Supreme Court for permission to make that appeal);
  - (c) when the Supreme Court refuses permission to make a Supreme Court devolution appeal;



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- (d) at the end of the permitted period, which is 28 days starting with the day on which permission to make a Supreme Court devolution appeal is granted, if no such appeal is brought before the end of that period.
- (5) These must be ignored for the purposes of subsection (4)—
- (a) any power of a court to extend the period permitted for applying for permission to appeal;
- (b) any power of a court to grant permission to take a step out of time.
- (6) In a case where—
- (a) the relevant proceedings are proceedings on the appeal under section 26, and
- (b) the case has been remitted to the High Court on a Supreme Court devolution appeal,
- the decision in those proceedings becomes final when it is made.
- (7) In a case where—
- (a) the relevant proceedings are proceedings on a Supreme Court devolution appeal, and
- (b) the decision is not to remit the case to the High Court,
- the decision in those proceedings becomes final when it is made.
- (8) If subsection (3) is not complied with and the person applies to the appropriate judge to be discharged, the judge must order the person's discharge, unless reasonable cause is shown for the delay.
- (9) In this section “ Supreme Court devolution appeal ” means an appeal to the Supreme Court against a determination of a devolution issue relating to a person's extradition.
- (10) This section applies only to Scotland.]

#### Textual Amendments

**F82** S. 36A inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 21\(2\)](#) (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), art. 2(1)(b) (with [art. 4\(4\)](#))

### [<sup>F83</sup>36B Judge informed after extradition hearing that person is charged with offence in United Kingdom

- (1) This section applies if—
- (a) an order has been made for the extradition of the person in respect of whom the Part 1 warrant is issued, and
- (b) before the extradition order is carried out the appropriate judge is informed that the person is charged with an offence in the United Kingdom.
- (2) The appropriate judge must order the extradition order not to be carried out until one of these occurs—
- (a) the charge is disposed of;
- (b) the charge is withdrawn;
- (c) proceedings in respect of the charge are discontinued;
- (d) an order is made for the charge to lie on the file, or in relation to Scotland, the diet is deserted *pro loco et tempore*.

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (3) If a sentence of imprisonment or another form of detention is imposed in respect of the offence charged, the appropriate judge may order the extradition order not to be carried out until the person is released from detention pursuant to the sentence (whether on licence or otherwise).
- (4) Rules of court may provide that where there is an appeal against the extradition order—
- (a) a reference in this section to the appropriate judge has effect, in prescribed circumstances, as if it were a reference to the court hearing the appeal, and
  - (b) this section has effect with any other prescribed modifications.

#### **Textual Amendments**

**F83** Ss. 36B, 36C inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 161\(1\), 185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/1916, art. 2(g)

### **36C Judge informed after extradition hearing that person is serving sentence in United Kingdom**

- (1) This section applies if—
- (a) an order has been made for the extradition of the person in respect of whom the Part 1 warrant is issued, and
  - (b) before the extradition order is carried out the appropriate judge is informed that the person is serving a sentence of imprisonment or another form of detention in the United Kingdom.
- (2) The appropriate judge may order the extradition order not to be carried out until the person is released from detention pursuant to the sentence (whether on licence or otherwise).
- (3) Rules of court may provide that where there is an appeal against the extradition order —
- (a) a reference in this section to the appropriate judge has effect, in prescribed circumstances, as if it were a reference to the court hearing the appeal, and
  - (b) this section has effect with any other prescribed modifications.]

#### **Textual Amendments**

**F83** Ss. 36B, 36C inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 161\(1\), 185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/1916, art. 2(g)

### **37 Undertaking in relation to person serving sentence in United Kingdom**

- (1) This section applies if—
- (a) the appropriate judge orders a person’s extradition to a category 1 territory under this Part;
  - (b) the person is serving a sentence of imprisonment or another form of detention in the United Kingdom [<sup>F84</sup>, either—
    - (i) in custody, or
    - (ii) on licence].

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- (2) But this section does not apply if the order is made under section 46 or 48.
- (3) The judge may make the order for extradition subject to the condition that extradition is not to take place before he receives an undertaking given on behalf of the category 1 territory in terms specified by him.
- (4) The terms which may be specified by the judge in relation to a person [<sup>F85</sup>within subsection (1)(b)(i) who is] accused in a category 1 territory of the commission of an offence include terms—
- (a) that the person be kept in custody until the conclusion of the proceedings against him for the offence and any other offence in respect of which he is permitted to be dealt with in the category 1 territory;
  - (b) that the person be returned to the United Kingdom to serve the remainder of his sentence on the conclusion of those proceedings.
- [<sup>F86</sup>(4A) The terms which may be specified by the judge in relation to a person within subsection (1)(b)(ii) who is accused in a category 1 territory of the commission of an offence include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for—
- (a) the offence, and
  - (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.]
- (5) The terms which may be specified by the judge in relation to a person alleged to be unlawfully at large after conviction of an offence by a court in a category 1 territory include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for—
- (a) the offence, and
  - (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.
- (6) Subsections (7) and (8) apply if the judge makes an order for extradition subject to a condition under subsection (3).
- (7) If the judge does not receive the undertaking before the end of the period of 21 days starting with the day on which he makes the order and the person applies to the appropriate judge to be discharged, the judge must order his discharge.
- (8) If the judge receives the undertaking before the end of that period—
- (a) in a case where section 35 applies, the required period for the purposes of section 35(3) is 10 days starting with the day on which the judge receives the undertaking;
  - (b) in a case where section 36 applies, the required period for the purposes of section 36(2) is 10 days starting with the day on which the decision of the relevant court on the appeal becomes final (within the meaning of that section) or (if later) the day on which the judge receives the undertaking.

[<sup>F87</sup> Paragraph (a) applies only if the day mentioned in that paragraph is later than the day mentioned in [<sup>F88</sup>section 35(4)(a)(i) or (ii)].]

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### Textual Amendments

- F84** S. 37(b)(i)(ii) and word inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 10\(2\)](#); [S.I. 2006/3364, art. 2\(d\)\(e\)](#)
- F85** Words in s. 37(4) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 10\(3\)](#); [S.I. 2006/3364, art. 2\(d\)\(e\)](#)
- F86** S. 37(4A) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 10\(4\)](#); [S.I. 2006/3364, art. 2\(d\)\(e\)](#)
- F87** Words in s. 37(8) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 9\(2\)](#); [S.I. 2006/3364, art. 2\(d\)\(e\)](#)
- F88** Words in s. 37(8) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), [3\(4\)](#) (with art. 1(4))

#### Commencement Information

- I45** 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\(2\)](#))

### 38 Extradition following deferral for competing claim

- (1) This section applies if—
- (a) an order is made under this Part for a person to be extradited to a category 1 territory in pursuance of a Part 1 warrant;
  - (b) before the person is extradited to the territory an order is made under section 44(4)(b) or 179(2)(b) for the person's extradition in pursuance of the warrant to be deferred;
  - (c) the appropriate judge makes an order under section 181(2) for the person's extradition in pursuance of the warrant to cease to be deferred.
- (2) But this section does not apply if the order for the person's extradition is made under section 46 or 48.
- (3) In a case where section 35 applies, the required period for the purposes of section 35(3) is 10 days starting with the day on which the order under section 181(2) is made.<sup>[F89]</sup> This subsection applies only if the day on which the order is made is later than the day mentioned in <sup>[F90]</sup>section 35(4)(a)(i) or (ii).]
- <sup>F89</sup>(4) In a case where section 36 applies, the required period for the purposes of section 36(2) is 10 days starting with the day on which the decision of the relevant court on the appeal becomes final (within the meaning of that section) or (if later) the day on which the order under section 181(2) is made.

#### Textual Amendments

- F89** Words in s. 38(3) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 9\(3\)](#); [S.I. 2006/3364, art. 2\(d\)\(e\)](#)
- F90** Words in s. 38(3) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), [3\(5\)](#) (with art. 1(4))

#### Commencement Information

- I46** 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\(2\)](#))

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

### 39 Asylum claim

- <sup>F91</sup>(1) . . . . .
- <sup>F91</sup>(2) . . . . .
- (3) [<sup>F92</sup>If—
- (a) an order is made under this Part for a person to be extradited in pursuance of a Part 1 warrant, and
  - (b) the person has made an asylum claim (whether before or after the issue of the warrant),
- the person] must not be extradited in pursuance of the warrant before the asylum claim is finally determined; and sections 35, 36, 47 and 49 have effect subject to this.
- (4) Subsection (3) is subject to section 40.
- (5) If the Secretary of State allows the asylum claim, the claim is finally determined when he makes his decision on the claim.
- (6) If the Secretary of State rejects the asylum claim, the claim is finally determined—
- (a) when the Secretary of State makes his decision on the claim, if there is no right to appeal against the Secretary of State’s decision on the claim;
  - (b) when the period permitted for appealing against the Secretary of State’s decision on the claim ends, if there is such a right but there is no such appeal;
  - (c) when the appeal against that decision is finally determined or is withdrawn or abandoned, if there is such an appeal.
- (7) An appeal against the Secretary of State’s decision on an asylum claim is not finally determined for the purposes of subsection (6) at any time when a further appeal or an application for leave to bring a further appeal—
- (a) has been instituted and has not been finally determined or withdrawn or abandoned, or
  - (b) may be brought.
- (8) The remittal of an appeal is not a final determination for the purposes of subsection (7).
- (9) The possibility of an appeal out of time with leave must be ignored for the purposes of subsections (6) and (7).

#### Textual Amendments

**F91** S. 39(1)(2) repealed (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 162(1)(a)**, **185(1)** (with **ss. 21, 33, 42, 58, 75, 93**); [S.I. 2014/1916](#), art. 2(h); [S.I. 2014/1916](#), art. 2(h)

**F92** Words in s. 39(3) substituted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 162(1)(b)**, **185(1)** (with **ss. 21, 33, 42, 58, 75, 93**); [S.I. 2014/1916](#), art. 2(h)

#### Commencement Information

**I47** 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))

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### 40 Certificate in respect of asylum claimant

- (1) Section 39(3) does not apply in relation to a person if the Secretary of State has certified that the conditions in subsection (2) or the conditions in subsection (3) are satisfied in relation to him.
- (2) The conditions are that—
- (a) the category 1 territory to which the person’s extradition has been ordered has accepted that, under standing arrangements, it is the responsible State in relation to the person’s asylum claim;
  - (b) in the opinion of the Secretary of State, the person is not a national or citizen of the territory.
- (3) The conditions are that, in the opinion of the Secretary of State—
- (a) the person is not a national or citizen of the category 1 territory to which his extradition has been ordered;
  - (b) the person’s life and liberty would not be threatened in that territory by reason of his race, religion, nationality, political opinion or membership of a particular social group;
  - (c) the government of the territory would not send the person to another country otherwise than in accordance with the Refugee Convention.
- (4) In this section—

<sup>F93</sup>  
...

“standing arrangements” means arrangements in force between the United Kingdom and the category 1 territory for determining which State is responsible for considering applications for asylum.

#### Textual Amendments

**F93** Words in s. 40(4) repealed (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 121\(4\)\(a\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1916, art. 2(t)

#### Commencement Information

**I48** 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))

#### *Withdrawal of Part 1 warrant*

#### Commencement Information

**I49** 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))

#### 41 Withdrawal of warrant before extradition

- (1) This section applies if at any time in the relevant period the appropriate judge is informed by the designated authority that a Part 1 warrant issued in respect of a person has been withdrawn.
- (2) The relevant period is the period—

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- (a) starting when the person is first brought before the appropriate judge following his arrest under this Part;
  - (b) ending when the person is extradited in pursuance of the warrant or discharged.
- (3) The judge must order the person's discharge.
- (4) If the person is not before the judge at the time the judge orders his discharge, the judge must inform him of the order as soon as practicable.

#### Commencement Information

**I50** 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))

## 42 Withdrawal of warrant while<sup>[F94]</sup> application or] appeal to High Court pending

(1) This section applies if at any time in the relevant period the High Court is informed by the designated authority that a Part 1 warrant issued in respect of a person has been withdrawn.

(2) The relevant period is the period—

- (a) starting when <sup>[F95]</sup>notice of application for leave to appeal to the High Court] is given by the person or the authority which issued the warrant;
- (b) ending <sup>[F96]</sup>with the relevant day].

<sup>[F97]</sup>(2A) “The relevant day” is—

- (a) if the High Court refuses leave to appeal to it, the day on which the decision to refuse leave becomes final;
- (b) if leave to appeal is given but proceedings on the appeal are discontinued, the day of discontinuance;
- (c) if leave to appeal is given and proceedings on the appeal are not discontinued, the day on which the court makes its decision on the appeal.

For the purposes of paragraph (a), the decision to refuse leave becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal (ignoring any power of a court to grant leave to take a step out of time).]

(3) The court must—

- (a) <sup>[F98]</sup>in the case of an application or appeal] under section 26, order the person's discharge and quash the order for his extradition;

<sup>[F99]</sup>(b) in the case of an application or appeal under section 28, dismiss the application or appeal.]

(4) If the person is not before the court at the time the court orders his discharge, the court must inform him of the order as soon as practicable.

#### Textual Amendments

**F94** Words in s. 42 heading inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), 3(6)(a) (with art. 1(4))



*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- F95** Words in s. 42(2)(a) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(6)(b)(i)** (with art. 1(4))
- F96** Words in s. 42(2)(b) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(6)(b)(ii)** (with art. 1(4))
- F97** S. 42(2A) inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(6)(c)** (with art. 1(4))
- F98** Words in s. 42(3)(a) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(6)(d)(i)** (with art. 1(4))
- F99** S. 42(3)(b) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(6)(d)(ii)** (with art. 1(4))

#### Commencement Information

- I51** 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))

### 43 Withdrawal of warrant while appeal to <sup>F100</sup>Supreme Court<sup>F100</sup> pending

- (1) This section applies if at any time in the relevant period the <sup>F101</sup>Supreme Court<sup>F101</sup> is informed by the designated authority that a Part 1 warrant issued in respect of a person has been withdrawn.
- (2) The relevant period is the period—
  - (a) starting when leave to appeal to the <sup>F101</sup>Supreme Court<sup>F101</sup> is granted to the person or the authority which issued the warrant;
  - (b) ending when proceedings on the appeal are discontinued or the <sup>F101</sup>Supreme Court<sup>F101</sup> makes its decision on the appeal.
- (3) If the appeal is brought by the person in respect of whom the warrant was issued the <sup>F101</sup>Supreme Court<sup>F101</sup> must—
  - (a) order the person's discharge;
  - (b) quash the order for his extradition, in a case where the appeal was against a decision of the High Court to dismiss an appeal under section 26.
- (4) If the appeal is brought by the authority which issued the warrant the <sup>F101</sup>Supreme Court<sup>F101</sup> must dismiss the appeal.
- (5) If the person is not before the <sup>F101</sup>Supreme Court<sup>F101</sup> at the time it orders his discharge, the <sup>F101</sup>Supreme Court<sup>F101</sup> must inform him of the order as soon as practicable.

#### Textual Amendments

- F100** Words in s. 43 sidenote substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, **Sch. 9 para. 81(4)(d)**; [S.I. 2009/1604](#), **art. 2(d)**
- F101** Words in s. 43 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, **Sch. 9 para. 81(4)(d)**; [S.I. 2009/1604](#), **art. 2(d)**

#### Commencement Information

- I52** 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))

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

### Competing Part 1 warrants

#### Commencement Information

**I53** 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))

#### 44 Competing Part 1 warrants

- (1) This section applies if at any time in the relevant period the conditions in subsection (3) are satisfied in relation to a person in respect of whom a Part 1 warrant has been issued.
- (2) The relevant period is the period—
  - (a) starting when the person is first brought before the appropriate judge following his arrest under this Part;
  - (b) ending when the person is extradited in pursuance of the warrant or discharged.
- (3) The conditions are that—
  - (a) the judge is informed that another Part 1 warrant has been issued in respect of the person;
  - (b) the other warrant falls to be dealt with by the judge or by a judge who is the appropriate judge in another part of the United Kingdom;
  - (c) the other warrant has not been disposed of.
- (4) The judge may—
  - (a) order further proceedings on the warrant under consideration to be deferred until the other warrant has been disposed of, if the warrant under consideration has not been disposed of;
  - (b) order the person's extradition in pursuance of the warrant under consideration to be deferred until the other warrant has been disposed of, if an order for his extradition in pursuance of the warrant under consideration has been made.
- (5) If the judge makes an order under subsection (4) and the person is not already remanded in custody or on bail, the judge must remand the person in custody or on bail.
- (6) [<sup>F102</sup>If the person is remanded in custody, the appropriate judge may]<sup>F102</sup> later grant bail.
- (7) In applying subsection (4) the judge must take account in particular of these matters—
  - (a) the relative seriousness of the offences concerned;
  - (b) the place where each offence was committed (or was alleged to have been committed);
  - (c) the date on which each warrant was issued;
  - (d) whether, in the case of each offence, the person is accused of its commission (but not alleged to have been convicted) or is alleged to be unlawfully at large after conviction.

#### Textual Amendments

**F102** Words in s. 44(6) substituted (15.1.2007) by Police and Justice Act 2006 (c. 48), ss. 42, 53, Sch. 13 para. 16; S.I. 2006/3364, art. 2(d)(e)

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### **Commencement Information**

**I54** 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))

### *Consent to extradition*

#### **Commencement Information**

**I55** 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))

## **45 Consent to extradition**

- (1) A person arrested under a Part 1 warrant may consent to his extradition to the category 1 territory in which the warrant was issued.
- (2) A person arrested under section 5 may consent to his extradition to the category 1 territory referred to in subsection (1) of that section.
- <sup>F103</sup>(3) . . . . .
- (4) Consent under this section—
  - (a) must be given before the appropriate judge;
  - (b) must be recorded in writing;
  - (c) is irrevocable.
- (5) A person may not give his consent under this section unless—
  - (a) he is legally represented before the appropriate judge at the time he gives consent, or
  - (b) he is a person to whom subsection (6) applies.
- (6) 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.
- (7) In subsection (6) “legal aid” means—
  - <sup>F104</sup>(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.
- (8) For the purposes of subsection (5) 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.

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### Textual Amendments

- F103** S. 45(3) repealed (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 163\(a\), 185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2014/1916](#), [art. 2\(i\)](#) (with [art. 5](#))
- F104** S. 45(7)(a) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 5 para. 63](#); [S.I. 2013/453](#), [art. 3\(h\)](#) (with savings and transitional provisions in [S.I. 2013/534](#), [art. 6](#))

#### Commencement Information

- I56** 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\(2\)](#))

### 46 Extradition order following consent

- (1) This section applies if a person consents to his extradition under section 45.
- (2) The judge must remand the person in custody or on bail.
- (3) [<sup>F105</sup>If the person is remanded in custody, the appropriate judge may]<sup>F105</sup> later grant bail.
- (4) If the judge has not fixed a date under section 8 on which the extradition hearing is to begin he is not required to do so.
- (5) If the extradition hearing has begun the judge is no longer required to proceed or continue proceeding under sections 10 to 25.
- (6) The judge must within the period of 10 days starting with the day on which consent is given order the person's extradition to the category 1 territory.
- (7) Subsection (6) has effect subject to sections 48 and 51.
- (8) If subsection (6) is not complied with and the person applies to the judge to be discharged the judge must order his discharge.

#### Textual Amendments

- F105** Words in [s. 46\(3\)](#) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), [ss. 42, 53](#), [Sch. 13 para. 16](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

- I57** 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\(2\)](#))

### 47 Extradition to category 1 territory following consent

- (1) This section applies if the appropriate judge makes an order under section 46(6) for a person's extradition to a category 1 territory.
- (2) The person must be extradited to the category 1 territory before the end of the required period.
- (3) The required period is—
  - (a) 10 days starting with the day on which the order is made, or

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (b) if the judge and the authority which issued the Part 1 warrant agree a later date, 10 days starting with the later date.
- (4) If subsection (2) is not complied with and the person applies to the judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.
- (5) If before the person is extradited to the category 1 territory the judge is informed by the designated authority that the Part 1 warrant has been withdrawn—
  - (a) subsection (2) does not apply, and
  - (b) the judge must order the person's discharge.

#### **Commencement Information**

**I58** 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))

#### **48 Other warrant issued following consent**

- (1) This section applies if—
  - (a) a person consents under section 45 to his extradition to a category 1 territory, and
  - (b) the conditions in subsection (2) are satisfied before the judge orders his extradition under section 46(6).
- (2) The conditions are that—
  - (a) the judge is informed that another Part 1 warrant has been issued in respect of the person;
  - (b) the warrant falls to be dealt with by the judge or by a judge who is the appropriate judge in another part of the United Kingdom;
  - (c) the warrant has not been disposed of.
- (3) Section 46(6) does not apply but the judge may—
  - (a) order the person's extradition in pursuance of his consent, or
  - (b) order further proceedings on the warrant under consideration to be deferred until the other warrant has been disposed of.
- (4) Subsection (3) is subject to section 51.
- (5) In applying subsection (3) the judge must take account in particular of these matters—
  - (a) the relative seriousness of the offences concerned;
  - (b) the place where each offence was committed (or was alleged to have been committed);
  - (c) the date on which each warrant was issued;
  - (d) whether, in the case of each offence, the person is accused of its commission (but not alleged to have been convicted) or is alleged to be unlawfully at large after conviction.

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### Commencement Information

**I59** 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))

#### 49 Other warrant issued: extradition to category 1 territory

- (1) This section applies if the appropriate judge makes an order under section 48(3)(a) for a person's extradition to a category 1 territory.
- (2) The person must be extradited to the category 1 territory before the end of the required period.
- (3) The required period is—
  - (a) 10 days starting with the day on which the order is made, or
  - (b) if the judge and the authority which issued the Part 1 warrant agree a later date, 10 days starting with the later date.
- (4) If subsection (2) is not complied with and the person applies to the judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.
- (5) If before the person is extradited to the category 1 territory the judge is informed by the designated authority that the Part 1 warrant has been withdrawn—
  - (a) subsection (2) does not apply, and
  - (b) the judge must order the person's discharge.

#### Commencement Information

**I60** 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))

#### 50 Other warrant issued: proceedings deferred

- (1) This section applies if the appropriate judge makes an order under section 48(3)(b) for further proceedings on a Part 1 warrant to be deferred.
- (2) The judge must remand the person in respect of whom the warrant was issued in custody or on bail.
- (3) <sup>F106</sup>If the person is remanded in custody, the appropriate judge may<sup>F106</sup> later grant bail.
- (4) If an order is made under section 180 for proceedings on the warrant to be resumed, the period specified in section 46(6) must be taken to be 10 days starting with the day on which the order under section 180 is made.

#### Textual Amendments

**F106** Words in s. 50(3) substituted (15.1.2007) by Police and Justice Act 2006 (c. 48), ss. 42, 53, Sch. 13 para. 16; S.I. 2006/3364, art. 2(d)(e)

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

### Commencement Information

**I61** 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))

## 51 Extradition request following consent

- (1) This section applies if—
  - (a) a person in respect of whom a Part 1 warrant is issued consents under section 45 to his extradition to the category 1 territory in which the warrant was issued, and
  - (b) the condition in subsection (2) is satisfied before the judge orders his extradition under section 46(6) or 48(3)(a).
- (2) The condition is that the judge is informed that—
  - (a) a certificate has been issued under section 70 in respect of a request for the person's extradition;
  - (b) the request has not been disposed of.
- (3) The judge must not make an order under section 46(6) or 48(3) until he is informed what order has been made under section 179(2).
- (4) If the order under section 179(2) is for further proceedings on the warrant to be deferred until the request has been disposed of, the judge must remand the person in custody or on bail.
- (5) <sup>F107</sup>If the person is remanded in custody, the appropriate judge may<sup>F107</sup> later grant bail.
- (6) If—
  - (a) the order under section 179(2) is for further proceedings on the warrant to be deferred until the request has been disposed of, and
  - (b) an order is made under section 180 for proceedings on the warrant to be resumed,

the period specified in section 46(6) must be taken to be 10 days starting with the day on which the order under section 180 is made.
- (7) If the order under section 179(2) is for further proceedings on the request to be deferred until the warrant has been disposed of, the period specified in section 46(6) must be taken to be 10 days starting with the day on which the judge is informed of the order.

### Textual Amendments

**F107** Words in s. 51(5) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 16](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)

### Commencement Information

**I62** 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))

## 52 Undertaking in relation to person serving sentence

- (1) This section applies if—



*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (a) the appropriate judge makes an order under section 46(6) or 48(3)(a) for a person's extradition to a category 1 territory;
  - (b) the person is serving a sentence of imprisonment or another form of detention in the United Kingdom <sup>F108</sup>, either—
    - (i) in custody, or
    - (ii) on licence]
- <sup>F108</sup>
- (2) The judge may make the order for extradition subject to the condition that extradition is not to take place before he receives an undertaking given on behalf of the category 1 territory in terms specified by him.
  - (3) The terms which may be specified by the judge in relation to a person <sup>F109</sup> within subsection (1)(b)(i) who is <sup>F109</sup> accused in a category 1 territory of the commission of an offence include terms—
    - (a) that the person be kept in custody until the conclusion of the proceedings against him for the offence and any other offence in respect of which he is permitted to be dealt with in the category 1 territory;
    - (b) that the person be returned to the United Kingdom to serve the remainder of his sentence on the conclusion of those proceedings.
- <sup>F110</sup>(3A) The terms which may be specified by the judge in relation to a person within subsection (1)(b)(ii) who is accused in a category 1 territory of the commission of an offence include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for—
  - (a) the offence, and
  - (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.]
- <sup>F110</sup>(4) The terms which may be specified by the judge in relation to a person alleged to be unlawfully at large after conviction of an offence by a court in a category 1 territory include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for—
  - (a) the offence, and
  - (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.
- (5) If the judge makes an order for extradition subject to a condition under subsection (2) the required period for the purposes of sections 47(2) and 49(2) is 10 days starting with the day on which the judge receives the undertaking.

#### Textual Amendments

- F108** S. 52(1)(b)(i)(ii) and words inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 11\(2\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F109** Words in s. 52(3) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 11\(3\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F110** S. 52(3A) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 11\(4\)](#); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

**Commencement Information**

**I63** 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))

**53 Extradition following deferral for competing claim**

- (1) This section applies if—
- (a) an order is made under section 46(6) or 48(3)(a) for a person to be extradited to a category 1 territory in pursuance of a Part 1 warrant;
  - (b) before the person is extradited to the territory an order is made under section 44(4)(b) or 179(2)(b) for the person’s extradition in pursuance of the warrant to be deferred;
  - (c) the appropriate judge makes an order under section 181(2) for the person’s extradition in pursuance of the warrant to cease to be deferred.
- (2) The required period for the purposes of sections 47(2) and 49(2) is 10 days starting with the day on which the order under section 181(2) is made.

**Commencement Information**

**I64** 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))

*Post-extradition matters*

**Commencement Information**

**I65** 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))

**54 Request for consent to other offence being dealt with**

- (1) This section applies if—
- (a) a person is extradited to a category 1 territory in respect of an offence in accordance with this Part;
  - (b) the appropriate judge receives a request for consent to the person being dealt with in the territory for another offence;
  - (c) the request is certified under this section by the designated authority.
- (2) The designated authority may certify a request for consent under this section if it believes that the authority making the request—
- (a) is a judicial authority of the territory, and
  - (b) has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) A certificate under subsection (2) must certify that the authority making the request falls within paragraphs (a) and (b) of that subsection.

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (4) The judge must serve notice on the person that he has received the request for consent, unless he is satisfied that it would not be practicable to do so.
- (5) The consent hearing must begin before the end of the required period, which is 21 days starting with the day on which the request for consent is received by the designated authority.
- (6) The judge may extend the required period if he believes it to be in the interests of justice to do so; and this subsection may apply more than once.
- (7) The power in subsection (6) may be exercised even after the end of the required period.
- (8) If the consent hearing does not begin before the end of the required period and the judge does not exercise the power in subsection (6) to extend the period, he must refuse consent.
- (9) The judge may at any time adjourn the consent hearing.
- (10) The consent hearing is the hearing at which the judge is to consider the request for consent.

#### **Commencement Information**

**I66** 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))

## **55 Questions for decision at consent hearing**

- (1) At the consent hearing under section 54 the judge must decide whether consent is required to the person being dealt with in the territory for the offence for which consent is requested.
- (2) If the judge decides the question in subsection (1) in the negative he must inform the authority making the request of his decision.
- (3) If the judge decides that question in the affirmative he must decide whether the offence for which consent is requested is an extradition offence.
- (4) If the judge decides the question in subsection (3) in the negative he must refuse consent.
- (5) If the judge decides that question in the affirmative he must decide whether he would order the person's extradition under sections 11 to 25 if—
  - (a) the person were in the United Kingdom, and
  - (b) the judge were required to proceed under section 11 in respect of the offence for which consent is requested.
- (6) If the judge decides the question in subsection (5) in the affirmative he must give consent.
- (7) If the judge decides that question in the negative he must refuse consent.
- (8) Consent is not required to the person being dealt with in the territory for the offence if the person has been given an opportunity to leave the territory and—
  - (a) he has not done so before the end of the permitted period, or

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (b) if he did so before the end of the permitted period, he has returned there.
- (9) The permitted period is 45 days starting with the day on which the person arrived in the territory following his extradition there in accordance with this Part.
- (10) Subject to subsection (8), the judge must decide whether consent is required to the person being dealt with in the territory for the offence by reference to what appears to him to be the law of the territory or arrangements made between the territory and the United Kingdom.

#### **Commencement Information**

**I67** 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))

### **56 Request for consent to further extradition to category 1 territory**

- (1) This section applies if—
  - (a) a person is extradited to a category 1 territory (the requesting territory) in accordance with this Part;
  - (b) the appropriate judge receives a request for consent to the person’s extradition to another category 1 territory for an offence;
  - (c) the request is certified under this section by the designated authority.
- (2) The designated authority may certify a request for consent under this section if it believes that the authority making the request—
  - (a) is a judicial authority of the requesting territory, and
  - (b) has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) A certificate under subsection (2) must certify that the authority making the request falls within paragraphs (a) and (b) of that subsection.
- (4) The judge must serve notice on the person that he has received the request for consent, unless he is satisfied that it would not be practicable to do so.
- (5) The consent hearing must begin before the end of the required period, which is 21 days starting with the day on which the request for consent is received by the designated authority.
- (6) The judge may extend the required period if he believes it to be in the interests of justice to do so; and this subsection may apply more than once.
- (7) The power in subsection (6) may be exercised even after the end of the required period.
- (8) If the consent hearing does not begin before the end of the required period and the judge does not exercise the power in subsection (6) to extend the period, he must refuse consent.
- (9) The judge may at any time adjourn the consent hearing.
- (10) The consent hearing is the hearing at which the judge is to consider the request for consent.

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### Commencement Information

**I68** 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))

### 57 Questions for decision at consent hearing

- (1) At the consent hearing under section 56 the judge must decide whether consent is required to the person's extradition to the other category 1 territory for the offence.
- (2) If the judge decides the question in subsection (1) in the negative he must inform the authority making the request of his decision.
- (3) If the judge decides that question in the affirmative he must decide whether the offence is an extradition offence in relation to the category 1 territory referred to in section 56(1)(b).
- (4) If the judge decides the question in subsection (3) in the negative he must refuse consent.
- (5) If the judge decides that question in the affirmative he must decide whether he would order the person's extradition under sections 11 to 25 if—
  - (a) the person were in the United Kingdom, and
  - (b) the judge were required to proceed under section 11 in respect of the offence for which consent is requested.
- (6) If the judge decides the question in subsection (5) in the affirmative he must give consent.
- (7) If the judge decides that question in the negative he must refuse consent.
- (8) Consent is not required to the person's extradition to the other territory for the offence if the person has been given an opportunity to leave the requesting territory and—
  - (a) he has not done so before the end of the permitted period, or
  - (b) if he did so before the end of the permitted period, he has returned there.
- (9) The permitted period is 45 days starting with the day on which the person arrived in the requesting territory following his extradition there in accordance with this Part.
- (10) Subject to subsection (8), the judge must decide whether consent is required to the person's extradition to the other territory for the offence by reference to what appears to him to be the arrangements made between the requesting territory and the United Kingdom.

#### Commencement Information

**I69** 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))

### 58 Consent to further extradition to category 2 territory

- (1) This section applies if—

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (a) a person is extradited to a category 1 territory (the requesting territory) in accordance with this Part;
  - (b) the Secretary of State receives a request for consent to the person's extradition to a category 2 territory for an offence;
  - (c) the request is certified under this section by the designated authority.
- (2) The designated authority may certify a request for consent under this section if it believes that the authority making the request—
- (a) is a judicial authority of the requesting territory, and
  - (b) has the function of making requests for the consent referred to in subsection (1)(b) in that territory.
- (3) A certificate under subsection (2) must certify that the authority making the request falls within paragraphs (a) and (b) of that subsection.
- (4) The Secretary of State must serve notice on the person that he has received the request for consent, unless he is satisfied that it would not be practicable to do so.
- (5) The Secretary of State must decide whether the offence is an extradition offence within the meaning given by section 137 in relation to the category 2 territory.
- (6) If the Secretary of State decides the question in subsection (5) in the negative he must refuse consent.
- (7) If the Secretary of State decides that question in the affirmative he must decide whether the appropriate judge would send the case to him (for his decision whether the person was to be extradited) under sections 79 to 91 if—
- (a) the person were in the United Kingdom, and
  - (b) the judge were required to proceed under section 79 in respect of the offence for which the Secretary of State's consent is requested.
- (8) If the Secretary of State decides the question in subsection (7) in the negative he must refuse his consent.
- (9) If the Secretary of State decides that question in the affirmative he must decide whether, if the person were in the United Kingdom, his extradition to the category 2 territory in respect of the offence would be prohibited under section 94, 95 or 96.
- (10) If the Secretary of State decides the question in subsection (9) in the negative he may give consent.
- (11) If the Secretary of State decides that question in the affirmative he must refuse consent.
- (12) This section applies in relation to any function which falls under this section to be exercised in relation to Scotland only as if the references in this section to the Secretary of State were to the Scottish Ministers.

**Commencement Information**

**I70** 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))

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

## **[F111]59 Return of person to serve remainder of sentence**

- (1) This section applies if—
  - (a) a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom is extradited to a category 1 territory in accordance with this Part;
  - (b) the person is returned to the United Kingdom to serve the remainder of the sentence or the person otherwise returns to the United Kingdom.
- (2) Time during which the person was outside the United Kingdom as a result of the extradition does not count as time served by the person as part of the sentence.
- (3) But subsection (2) does not apply if—
  - (a) the person was extradited for the purpose of being prosecuted for an offence, and
  - (b) the person has not been convicted of the offence or of any other offence in respect of which the person was permitted to be dealt with in the category 1 territory.
- (4) In a case falling within subsection (3), time during which the person was outside the United Kingdom as a result of the extradition counts as time served by the person as part of the sentence if (and only if) it was spent in custody in connection with the offence or any other offence in respect of which the person was permitted to be dealt with in the territory.
- (5) In a case where the person is not entitled to be released from detention pursuant to the sentence—
  - (a) the person is liable to be detained in pursuance of the sentence, and
  - (b) if at large, the person must be treated as being unlawfully at large.
- (6) In a case where the person is entitled to be released from detention on licence pursuant to the sentence—
  - (a) if the person was released on licence at the time of extradition, the licence is suspended until the person's return;
  - (b) if the person was not released on licence at that time, subsections (7) to (10) apply in relation to the person (“the offender”).
- (7) The offender is liable to be detained, on return, in any place in which the offender could have been detained pursuant to the sentence before the time of extradition.
- (8) A constable or immigration officer may—
  - (a) take the offender into custody, and
  - (b) convey the offender to the place mentioned in subsection (7).
- (9) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.
- (10) In calculating a period of 5 days for the purposes of subsection (9) no account is to be taken of—
  - (a) any Saturday or Sunday,
  - (b) Christmas Day,
  - (c) Good Friday, or
  - (d) in any part of the United Kingdom, any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in that part of the United Kingdom.



*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (11) A person is entitled to be released from detention if there is—
- <sup>F112</sup>(a) .....
- (b) a duty to release the person under [<sup>F113</sup>Chapter 6 of Part 12] of the Criminal Justice Act 2003 <sup>F114</sup> ...,
- (c) a duty to release the person under section 1, 1AA or 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 or section 5, 11(2), 13, 19 or 23 of the Custodial Sentences and Weapons (Scotland) Act 2007, or
- (d) a duty to release the person under section 1 of the Northern Ireland (Remission of Sentences) Act 1995, Article 26 of the Criminal Justice (Northern Ireland) Order 1996 or Article 17 or 18(8) of the Criminal Justice (Northern Ireland) Order 2008.
- (12) The powers conferred on a constable by subsection (8) are exercisable in any part of the United Kingdom.
- (13) An immigration officer is a person who is an immigration officer within the meaning of the Immigration Act 1971. ]

#### Textual Amendments

- F111** S. 59 substituted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 72**, 116; S.I. 2009/3096, **art. 3(o)**
- F112** S. 59(11)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 16 para. 10(a)**; S.I. 2012/2906, art. 2(n)
- F113** Words in s. 59(11)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 16 para. 10(b)**; S.I. 2012/2906, art. 2(n)
- F114** Words in s. 59(11)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 11(2)(a)**; S.I. 2012/2906, art. 2(h)

#### Commencement Information

- I71** 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))

### *Costs*

#### Commencement Information

- I72** 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))

## 60 Costs where extradition ordered

- (1) This section applies if any of the following occurs in relation to a person in respect of whom a Part 1 warrant is issued—
- (a) an order for the person’s extradition is made under this Part;
- <sup>F115</sup>(aa) the High Court dismisses an application for leave to appeal to it under section 26;]
- (b) the High Court dismisses an appeal under section 26;

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (c) the High Court or the <sup>F116</sup>Supreme Court] dismisses an application for leave to appeal to the <sup>F116</sup>Supreme Court] under section 32, if the application is made by the person;
  - (d) the <sup>F116</sup>Supreme Court] dismisses an appeal under section 32, if the appeal is brought by the person.
- (2) In a case falling within subsection (1)(a), the appropriate judge may make such order as he considers just and reasonable with regard to the costs to be paid by the person.
- (3) In a case falling within subsection <sup>F117</sup>(1)(aa), (b), (c) or (d), the court by which the application or appeal is dismissed may make such order as it considers just and reasonable with regard to the costs to be paid by the person.
- (4) An order for costs under this section—
- (a) must specify their amount;
  - (b) may name the person to whom they are to be paid.

#### Textual Amendments

- F115** S. 60(1)(aa) inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(7)(a)** (with art. 1(4))
- F116** Words in s. 60 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, **Sch. 9 para. 81(4)(e)**; [S.I. 2009/1604](#), **art. 2(d)**
- F117** Words in s. 60(3) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(7)(b)** (with art. 1(4))

#### Commencement Information

- I73** 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))

## 61 Costs where discharge ordered

- (1) This section applies if any of the following occurs in relation to a person in respect of whom a Part 1 warrant is issued—
- (a) an order for the person's discharge is made under this Part;
  - (b) the person is taken to be discharged under this Part;
  - <sup>F118</sup>(ba) the High Court dismisses an application for leave to appeal to it under section 28;
  - (c) the High Court dismisses an appeal under section 28;
  - (d) the High Court or the <sup>F119</sup>Supreme Court] dismisses an application for leave to appeal to the <sup>F119</sup>Supreme Court] under section 32, if the application is made by the authority which issued the warrant;
  - (e) the <sup>F119</sup>Supreme Court] dismisses an appeal under section 32, if the appeal is brought by the authority which issued the warrant.
- (2) In a case falling within subsection (1)(a), an order under subsection (5) in favour of the person may be made by—
- (a) the appropriate judge, if the order for the person's discharge is made by him;
  - (b) the High Court, if the order for the person's discharge is made by it;
  - (c) the <sup>F119</sup>Supreme Court], if the order for the person's discharge is made by it.

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (3) In a case falling within subsection (1)(b), the appropriate judge may make an order under subsection (5) in favour of the person.
- (4) In a case falling within subsection [F120(1)(ba), (c)], (d) or (e), the court by which the application or appeal is dismissed may make an order under subsection (5) in favour of the person.
- (5) An order under this subsection in favour of a person is an order for a payment of the appropriate amount to be made to the person out of money provided by Parliament.
- [F121(5A) In England and Wales, an order under subsection (5) is to be made, and the appropriate amount is to be determined, in accordance with sections 62A and 62B.
- (5B) In Scotland and Northern Ireland, an order under subsection (5) is to be made, and the appropriate amount is to be determined, in accordance with subsections (6) to (9).]
- (6) The appropriate amount is such amount as the judge or court making the order under subsection (5) considers reasonably sufficient to compensate the person in whose favour the order is made for any expenses properly incurred by him in the proceedings under this Part.
- (7) But if the judge or court making an order under subsection (5) is of the opinion that there are circumstances which make it inappropriate that the person in whose favour the order is made should recover the full amount mentioned in subsection (6), the judge or court must—
- (a) assess what amount would in his or its opinion be just and reasonable;
  - (b) specify that amount in the order as the appropriate amount.
- (8) Unless subsection (7) applies, the appropriate amount—
- (a) must be specified in the order, if the court considers it appropriate for it to be so specified and the person in whose favour the order is made agrees the amount;
  - (b) must be determined in accordance with regulations made by the Lord Chancellor for the purposes of this section, in any other case.
- [F122(9) In relation to proceedings in Northern Ireland (including proceedings in the Supreme Court on an appeal, or on an application for leave to appeal, from proceedings in Northern Ireland)—
- (a) subsection (5) has effect as if for “out of money provided by Parliament” there were substituted by the Department of Justice in Northern Ireland;
  - (b) the power to make regulations under subsection (8)(b) is exercisable by the Department of Justice in Northern Ireland (and not by the Lord Chancellor). ]

#### **Textual Amendments**

- F118** S. 61(1)(ba) inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(8)(a)** (with art. 1(4))
- F119** Words in s. 61 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, **Sch. 9 para. 81(4)(f)**; S.I. 2009/1604, **art. 2(d)**
- F120** Words in s. 61(4) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(8)(b)** (with art. 1(4))
- F121** S. 61(5A)(5B) inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 7 para. 13(2)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

**F122** S. 61(9) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(5), **Sch. 18 para. 70(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### Commencement Information

**I74** 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))

## 62 Costs where discharge ordered: supplementary

<sup>F123</sup>(1) .....

<sup>F123</sup>(2) .....

(3) In Northern Ireland, section 7 of the Costs in Criminal Cases Act (Northern Ireland) 1968 (c. 10) (rules relating to costs) applies in relation to section 61 as that section applies in relation to sections 2 to 5 of that Act.

#### Textual Amendments

**F123** S. 62(1)(2) omitted (1.10.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 7 para. 14** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g); S.I. 2012/2412, art. 2(g)

#### Commencement Information

**I75** 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))

## [<sup>F124</sup>62A Appropriate amount: England and Wales

- (1) For the purposes of an order under section 61(5), the appropriate amount is such amount as the judge or court making the order considers reasonably sufficient to compensate the person in whose favour the order is made for any expenses properly incurred by the person in the proceedings under this Part.
- (2) But if the judge or court considers that there are circumstances that make it inappropriate for the person to recover the full amount mentioned in subsection (1), the order under section 61(5) must be for the payment out of money provided by Parliament of such lesser amount as the judge or court considers just and reasonable.
- (3) Subsections (1) and (2) have effect subject to—
  - (a) section 62B, and
  - (b) regulations under section 20(1A)(d) of the Prosecution of Offences Act 1985 (as applied by this section).
- (4) When making an order under section 61(5), the judge or court must fix the amount to be paid out of money provided by Parliament in the order if the judge or court considers it appropriate to do so and—
  - (a) the person in whose favour the order is made agrees the amount, or
  - (b) subsection (2) applies.

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (5) Where the judge or court does not fix the amount to be paid out of money provided by Parliament in the order—
  - (a) the judge or court must describe in the order any reduction required under subsection (2), and
  - (b) the amount must be fixed by means of a determination made by or on behalf of the judge or court in accordance with procedures specified in regulations made by the Lord Chancellor.
- (6) Subsections (1A) to (1C) and (3) of section 20 of the Prosecution of Offences Act 1985 (regulations as to amounts ordered to be paid out of central funds) apply in relation to amounts payable out of money provided by Parliament in pursuance of an order under section 61 as they apply in relation to amounts payable out of central funds in pursuance of costs orders made under section 16 of that Act.
- (7) This section extends to England and Wales only.

#### **Textual Amendments**

**F124** Ss. 62A, 62B inserted (E.W.) (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 7 para. 15](#) (with [Sch. 7 Pt. 4](#)); S.I. 2012/2412, art. 2(g)

#### **62B Legal costs: England and Wales**

- (1) An order under section 61(5) may not require the payment out of money provided by Parliament of an amount that includes an amount in respect of legal costs incurred by the person in whose favour the order is made, subject to the following provisions of this section.
- (2) Subsection (1) does not apply in relation to legal costs incurred in—
  - (a) proceedings in a magistrates' court, or
  - (b) proceedings in the Supreme Court.
- (3) The Lord Chancellor may by regulations make provision about exceptions from the prohibition in subsection (1), including—
  - (a) provision amending this section by adding, modifying or removing an exception, and
  - (b) provision for an exception to arise where a determination has been made by a person specified in the regulations.
- (4) Regulations under subsection (3) may not remove or limit the exception provided by subsection (2)(b).
- (5) Where a judge or court makes an order under section 61(5) requiring the payment out of money provided by Parliament of an amount that includes an amount in respect of legal costs, the order must include a statement to that effect.
- (6) Where, in an order under section 61(5), a judge or court fixes an amount to be paid out of money provided by Parliament that includes an amount in respect of legal costs incurred in proceedings in a court other than the Supreme Court, the latter amount must not exceed an amount specified by regulations made by the Lord Chancellor.
- (7) In this section—

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

“ legal costs ” means fees, charges, disbursements and other amounts payable in respect of advocacy services or litigation services including, in particular, expert witness costs;

“ advocacy services ” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right of audience in relation to any proceedings, or contemplated proceedings, to provide;

“ expert witness costs ” means amounts payable in respect of the services of an expert witness, including amounts payable in connection with attendance by the witness at court or elsewhere;

“ litigation services ” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right to conduct litigation in relation to proceedings, or contemplated proceedings, to provide.

(8) This section extends to England and Wales only.]

#### Textual Amendments

**F124** Ss. 62A, 62B inserted (E.W.) (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 7 para. 15](#) (with [Sch. 7 Pt. 4](#)); S.I. 2012/2412, art. 2(g)

#### Repatriation cases

#### Commencement Information

**I76** 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))

### 63 Persons serving sentences outside territory where convicted

- (1) This section applies if an arrest warrant is issued in respect of a person by an authority of a category 1 territory and the warrant contains the statement referred to in subsection (2).
- (2) The statement is one that—
  - (a) 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 warrant by a court in another territory (the convicting territory), and
  - (b) the person 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, and
  - (c) the warrant is issued with a view to his arrest and extradition to the category 1 territory for the purpose of serving a sentence or another form of detention imposed in respect of the offence.
- (3) If the category 1 territory is either the imprisoning territory or the convicting territory, section 2(2)(b) has effect as if the reference to the statement referred to

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

in subsection (5) of that section were a reference to the statement referred to in subsection (2) of this section.

- (4) If the category 1 territory is the imprisoning territory—
- (a) section 2(6)(e) has effect as if “the category 1 territory” read “ the convicting territory ”;
  - (b) section 10(2) has effect as if “an extradition offence” read “ an extradition offence in relation to the convicting territory ”;
  - (c) section 20(5) has effect as if after “entitled” there were inserted “ in the convicting territory ”;
  - (d) section 37(5) has effect as if “a category 1 territory” read “ the convicting territory ” and as if “the category 1 territory” in both places read “ the convicting territory ”;
  - (e) section 52(4) has effect as if “a category 1 territory” read “ the convicting territory ” and as if “the category 1 territory” in both places read “ the convicting territory ”;
  - (f) section 65(1) has effect as if “a category 1 territory” read “ the convicting territory ”;
  - (g) section 65(2) has effect as if “the category 1 territory” in the opening words and paragraphs (a) and (c) read “ the convicting territory ” and as if “the category 1 territory” in paragraph (b) read “ the imprisoning territory ”;
  - (h) in section 65, subsections (3), (4), (5), (6) and (8) have effect as if “the category 1 territory” in each place read “ the convicting territory ”.

**Commencement Information**

**I77** 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))

*Interpretation*

**Commencement Information**

**I78** 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))

**[<sup>F125</sup>64 Extradition offences: person not sentenced for offence**

- (1) This section sets out whether a person's conduct constitutes an “ extradition offence ” for the purposes of this Part in a case where the person—
  - (a) is accused in a category 1 territory of an offence constituted by the conduct, or
  - (b) has been convicted in that territory of an offence constituted by the conduct but not sentenced for it.
- (2) The conduct constitutes an extradition offence in relation to the category 1 territory if the conditions in subsection (3), (4) or (5) are satisfied.
- (3) The conditions in this subsection are that—
  - (a) the conduct occurs in the category 1 territory;



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- (b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom if it occurred in that part of the United Kingdom;
  - (c) the conduct is punishable under the law of the category 1 territory with imprisonment or another form of detention for a term of 12 months or a greater punishment.
- (4) The conditions in this subsection are that—
- (a) the conduct occurs outside the category 1 territory;
  - (b) in corresponding circumstances equivalent conduct would constitute an extra-territorial offence under the law of the relevant part of the United Kingdom;
  - (c) the conduct is punishable under the law of the category 1 territory with imprisonment or another form of detention for a term of 12 months or a greater punishment.
- (5) The conditions in this subsection are that—
- (a) the conduct occurs in the category 1 territory;
  - (b) no part of the conduct occurs in the United Kingdom;
  - (c) a certificate issued by an appropriate authority of the category 1 territory shows that the conduct falls within the European framework list;
  - (d) the certificate shows that the conduct is punishable under the law of the category 1 territory with imprisonment or another form of detention for a term of 3 years or a greater punishment.
- (6) For the purposes of subsections (3)(b) and (4)(b)—
- (a) if the conduct relates to a tax or duty, it does not matter whether the law of the relevant part of the United Kingdom imposes the same kind of tax or duty or contains rules of the same kind as those of the law of the category 1 territory;
  - (b) if the conduct relates to customs or exchange, it does not matter whether the law of the relevant part of the United Kingdom contains rules of the same kind as those of the law of the category 1 territory.]

#### Textual Amendments

**F125** Ss. 64, 65 substituted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), ss. [164\(1\)](#), [185\(1\)](#) (with ss. [21](#), [33](#), [42](#), [58](#), [75](#), [93](#)); S.I. 2014/1916, art. 2(j) (with art. 6)

#### [<sup>F126</sup>65 Extradition offences: person sentenced for offence

- (1) This section sets out whether a person's conduct constitutes an “extradition offence” for the purposes of this Part in a case where the person—
- (a) has been convicted in a category 1 territory of an offence constituted by the conduct, and
  - (b) has been sentenced for the offence.
- (2) The conduct constitutes an extradition offence in relation to the category 1 territory if the conditions in subsection (3), (4) or (5) are satisfied.
- (3) The conditions in this subsection are that—
- (a) the conduct occurs in the category 1 territory;
  - (b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom if it occurred in that part of the United Kingdom;

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 1 territory in respect of the conduct.
- (4) The conditions in this subsection are that—
  - (a) the conduct occurs outside the category 1 territory;
  - (b) in corresponding circumstances equivalent conduct would constitute an extra-territorial offence under the law of the relevant part of the United Kingdom;
  - (c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 1 territory in respect of the conduct.
- (5) The conditions in this subsection are that—
  - (a) the conduct occurs in the category 1 territory;
  - (b) no part of the conduct occurs in the United Kingdom;
  - (c) a certificate issued by an appropriate authority of the category 1 territory shows that the conduct falls within the European framework list;
  - (d) the certificate shows that a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 1 territory in respect of the conduct.
- (6) For the purposes of subsections (3)(b) and (4)(b)—
  - (a) if the conduct relates to a tax or duty, it does not matter whether the law of the relevant part of the United Kingdom imposes the same kind of tax or duty or contains rules of the same kind as those of the law of the category 1 territory;
  - (b) if the conduct relates to customs or exchange, it does not matter whether the law of the relevant part of the United Kingdom contains rules of the same kind as those of the law of the category 1 territory.]

#### **Textual Amendments**

**F126** Ss. 64, 65 substituted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 164\(1\), 185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2014/1916](#), [art. 2\(j\)](#) (with [art. 6](#))

#### **Commencement Information**

**I79** 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\(2\)](#))

## **66 Extradition offences: supplementary**

(1) Subsections [<sup>F127</sup>(1A)] to (4) apply for the purposes of sections 64 and 65.

[<sup>F128</sup>(1A) References to “conduct” (except in the expression “ equivalent conduct ”) are to the conduct specified in the Part 1 warrant. ]

(2) An appropriate authority of a category 1 territory is a judicial authority of the territory which the appropriate judge believes has the function of issuing arrest warrants in that territory.

(3) The law of a territory is the general criminal law of the territory.

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*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

- (4) The relevant part of the United Kingdom is the part of the United Kingdom in which the relevant proceedings are taking place.
- (5) The relevant proceedings are the proceedings in which it is necessary to decide whether conduct constitutes an extradition offence.

#### Textual Amendments

**F127** Word in s. 66(1) substituted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 110](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1916, art. 2(t)

**F128** S. 66(1A) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 164\(2\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1916, art. 2(j) (with art. 6)

#### Commencement Information

**I80** 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))

## 67 The appropriate judge

- (1) The appropriate judge is—
  - (a) in England and Wales, a District Judge (Magistrates' Courts) designated for the purposes of this Part [<sup>F129</sup>by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor]<sup>F129</sup>;
  - (b) in Scotland, the sheriff of Lothian and Borders;
  - (c) in Northern Ireland, such county court judge or resident magistrate as is designated for the purposes of this Part [<sup>F130</sup>by the Lord Chief Justice of Northern Ireland after consulting the [<sup>F131</sup>Department of Justice in Northern Ireland]]<sup>F131F130</sup>.
- (2) A designation under subsection (1) may be made for all cases or for such cases (or cases of such description) as the designation stipulates.
- (3) More than one designation may be made under subsection (1).
- [<sup>F132</sup>(3A) The use of the expression “the judge” in a section containing a previous reference to “the appropriate judge” or “the judge” does not in itself require both references to be read as referring to the same individual.]
- [<sup>F132</sup>(4) This section applies for the purposes of this Part.
- [<sup>F133</sup>(5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (1)(a).
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (1)(c)—
  - (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]<sup>F133</sup>

*Status: Point in time view as at 15/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Part 1. (See end of Document for details)*

#### Textual Amendments

- F129** Words in s. 67(1)(a) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 353\(2\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#) Sch. 1 paras. 10, 11(cc)
- F130** Words in s. 67(1)(c) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 353\(3\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#) Sch. 1 paras. 10, 11(cc)
- F131** Words in s. 67(1)(c) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(5), [Sch. 18 para. 70\(3\)](#) (with arts. 28-31); [S.I. 2010/977](#), [art. 1\(2\)](#)
- F132** S. 67(3A) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 15\(1\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F133** S. 67(5)(6) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 353\(4\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#) Sch. 1 paras. 10, 11(cc)

#### Commencement Information

- I81** 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))

## 68 The extradition hearing

- (1) The extradition hearing is the hearing at which the appropriate judge is to decide whether a person in respect of whom a Part 1 warrant was issued is to be extradited to the category 1 territory in which it was issued.
- (2) This section applies for the purposes of this Part.

#### Commencement Information

- I82** 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))

## [<sup>F134</sup>68A Unlawfully at large

- (1) A person is alleged to be unlawfully at large after conviction of an offence if—
  - (a) he is alleged to have been convicted of it, and
  - (b) his extradition is sought for the purpose of his being sentenced for the offence or of his serving a sentence of imprisonment or another form of detention imposed in respect of the offence.
- (2) This section applies for the purposes of this Part, other than sections 14 and 63.]

#### Textual Amendments

- F134** S. 68A inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 15\(1\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

#### Commencement Information

- I83** 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))

**Status:**

Point in time view as at 15/04/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the Extradition Act 2003, Part 1.