

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes consequential provision to modify the application of subsections (2) to (4) of section 109 of the Extradition Act 2003 (c. 41) (“the 2003 Act”). Those subsections provide that on an appeal under section 108 of the 2003 Act against a decision of the Secretary of State to order a person’s extradition, the High Court is to consider the questions which were, or should have been, before the Secretary of State.

Section 70(11) of the 2003 Act (as inserted by Part 2 of Schedule 20 to the Crime and Courts Act 2013) provides that the Secretary of State is not to consider whether the extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998 (c. 42).

This Order clarifies that the High Court is able to allow or dismiss an appeal brought on human rights grounds where human rights questions were not considered by the Secretary of State because of the effect of section 70(11).

This Order applies in England and Wales and Northern Ireland.

An impact assessment has not been produced for this Order as no impact on businesses, charities, voluntary bodies or the public sector is foreseen.