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STATUTORY INSTRUMENTS

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**2014 No. 1610**

**The Criminal Procedure Rules 2014**

**PART 17**

**EXTRADITION**

*SECTION 3: APPEAL TO THE HIGH COURT*

**Form of appeal notice**

- 17.20.**—(1) An appeal notice constitutes—
- (a) an application to the High Court for permission to appeal to that court; and
  - (b) an appeal to that court, if the court gives permission.
- (2) An appeal notice must be in writing.
- (3) In every case, the appeal notice must—
- (a) specify—
    - (i) the date of the defendant’s arrest under Part 1 or Part 2 of the Extradition Act 2003, and
    - (ii) the decision about which the appellant wants to appeal, including the date of that decision;
  - (b) identify each ground of appeal on which the appellant relies;
  - (c) summarise the relevant facts;
  - (d) identify any document or other material that the appellant thinks the court will need to decide the appeal; and
  - (e) include or attach a list of those on whom the appellant has served the appeal notice.
- (4) If a defendant serves an appeal notice after the expiry of the time limit specified in rule 17.19 (Service of appeal notice)—
- (a) the notice must explain what the defendant did to ensure that it was served as soon as it could be; and
  - (b) where the appeal is on human rights grounds against an order for extradition made by the Secretary of State, the notice must explain why—
    - (i) the appeal is necessary to avoid real injustice, and
    - (ii) the circumstances are exceptional and make it appropriate to consider the appeal.
- (5) Unless the High Court otherwise directs, the appellant may amend the appeal notice—
- (a) by serving on those listed in rule 17.19(1) the appeal notice as so amended;
  - (b) not more than 10 business days after service of the appeal notice.
- (6) Where the appeal is against an order by the magistrates’ court—

- (a) if the grounds of appeal are that the magistrates' court ought to have decided differently a question of fact or law at the extradition hearing, the appeal notice must—
    - (i) identify that question,
    - (ii) explain what decision the magistrates' court should have made, and why, and
    - (iii) explain why the magistrates' court would have been required not to make the order under appeal, if that question had been decided differently;
  - (b) if the grounds of appeal are that there is an issue which was not raised at the extradition hearing, or that evidence is available which was not available at the extradition hearing, the appeal notice must—
    - (i) identify that issue or evidence,
    - (ii) explain why it was not then raised or available,
    - (iii) explain why that issue or evidence would have resulted in the magistrates' court deciding a question differently at the extradition hearing, and
    - (iv) explain why, if the court had decided that question differently, the court would have been required not to make the order it made.
- (7) Where the appeal is against an order by the Secretary of State—
- (a) if the grounds of appeal are that the Secretary of State ought to have decided differently a question of fact or law, the appeal notice must—
    - (i) identify that question,
    - (ii) explain what decision the Secretary of State should have made, and why, and
    - (iii) explain why the Secretary of State would have been required not to make the order under appeal, if that question had been decided differently;
  - (b) if the grounds of appeal are that there is an issue which was not raised when the case was being considered by the Secretary of State, or that information is available which was not then available, the appeal notice must—
    - (i) identify that issue or information,
    - (ii) explain why it was not then raised or available,
    - (iii) explain why that issue or information would have resulted in the Secretary of State deciding a question differently, and
    - (iv) explain why, if the Secretary of State had decided that question differently, the order under appeal would not have been made.

*[Note. The Practice Direction sets out a form of appeal notice for use in connection with this rule.]*