



International Criminal Court Act 2001

2001 CHAPTER 17

PART 2

ARREST AND DELIVERY OF PERSONS

Proceedings where court refuses delivery order

8 Procedure where court refuses order

- (1) If a competent court refuses to make a delivery order, it shall—
 - (a) make an order remanding the person arrested, and
 - (b) notify the Secretary of State and, in the case of proceedings in Scotland, the Scottish Ministers of its decision and of the grounds for it.
- (2) If the court is informed without delay that an appeal is to be brought under section 9 or 10, the order remanding the person arrested shall continue to have effect.
- (3) If the court is not so informed, it shall discharge the person arrested.

9 Appeal against refusal of delivery order: England and Wales

- (1) If a competent court in England and Wales refuses to make a delivery order, the Secretary of State may appeal against the decision to the High Court.

No permission is required for such an appeal, which shall be by way of re-hearing.
- (2) If the High Court allows the appeal it may—
 - (a) make a delivery order, or
 - (b) remit the case to the competent court to make a delivery order in accordance with the decision of the High Court.
- (3) If the High Court dismisses the appeal, the Secretary of State may, with the permission of the High Court or the House of Lords, appeal to the House of Lords.

In relation to a decision of the High Court on an appeal under this section, section 1 of the Administration of Justice Act 1960 (c. 65) (appeals to the House of Lords) applies with the omission of so much of subsection (2) of that section as restricts the grant of leave to appeal.

- (4) The House of Lords may exercise any of the powers conferred on the High Court by subsection (2) above.
- (5) Where a delivery order is made by the High Court or the House of Lords, the provisions of section 11(1)(a) and (c), (2) and (3) (procedure where court makes delivery order) apply in relation to that court as they apply to a competent court in England and Wales which makes a delivery order.
- (6) An order for the remand of the arrested person which continues in force under section 8(2) shall cease to have effect if the High Court dismisses the appeal and the Secretary of State does not without delay—
 - (a) apply for permission to appeal to the House of Lords, or
 - (b) inform the High Court that he intends to apply for such permission.

Subject to that, any such order shall have effect so long as the case is pending.

For this purpose a case is pending (unless proceedings are discontinued) until (disregarding any power of a court to allow a step to be taken out of time) there is no step that the Secretary of State can take.

10 Appeal against refusal of delivery order: Scotland

- (1) If a competent court in Scotland refuses to make a delivery order, the procurator fiscal may appeal against the decision to the High Court of Justiciary by note of appeal.
- (2) If the High Court of Justiciary allows the appeal it may—
 - (a) make a delivery order, or
 - (b) remit the case to the competent court to make a delivery order in accordance with the decision of the High Court of Justiciary.
- (3) Where a delivery order is made by the High Court of Justiciary, the provisions of section 11(1)(a) and (c), (2) and (3) (procedure where court makes delivery order) apply in relation to that court as they apply to a competent court in Scotland which makes a delivery order.
- (4) An order for the remand of the arrested person which continues in force under section 8(2) shall cease to have effect if the High Court of Justiciary dismisses the appeal.

Subject to that, any such order shall have effect so long as the case is pending.

For this purpose a case is pending (unless proceedings are discontinued) until (disregarding any power of a court to allow a step to be taken out of time) there is no step that the procurator fiscal can take.

- (5) In relation to an appeal under this section the High Court of Justiciary may make an order providing for the detention of the person to whom it relates or may grant bail.

- (6) Section 177(2) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (disposal of the application for bail) applies for the purposes of such an appeal as it applies for the purposes of an appeal such as is mentioned in section 176 of that Act.