



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

Costs

Commencement Information

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

133 Costs where extradition ordered

(1) This section applies if any of the following occurs in relation to a person whose extradition is requested under this Part—

- (a) an order for the person's extradition is made under this Part;
- ^[F1](aa) the High Court dismisses an application for leave to appeal to it under section 103 or 108;
- (b) the High Court dismisses an appeal under section 103 or 108;
- (c) the High Court or the ^[F2]Supreme Court^[F2] dismisses an application for leave to appeal to the ^[F2]Supreme Court^[F2] under section 114, if the application is made by the person;
- (d) the ^[F2]Supreme Court^[F2] dismisses an appeal under section 114, 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.

^[F3](2A) In a case falling within subsection (1)(aa), the High Court may make such order as it considers just and reasonable with regard to the costs to be paid by the person.]

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

- (3) In a case falling within subsection (1)(b) by virtue of section 104(7), the judge who decides the question that is (or all the questions that are) the subject of a direction under section 104(1)(b) may make such order as he considers just and reasonable with regard to the costs to be paid by the person.
- (4) In any other case falling within subsection (1)(b), the High Court may make such order as it considers just and reasonable with regard to the costs to be paid by the person.
- (5) In a case falling within subsection (1)(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.
- (6) 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

- F1** S. 133(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(12)(a)** (with art. 1(4))
- F2** Words in s. 133 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, **Sch. 9 para. 81(4)(l)**; [S.I. 2009/1604](#), **art. 2(d)**
- F3** S. 133(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(12)(b)** (with art. 1(4))

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))

134 Costs where discharge ordered

- (1) This section applies if any of the following occurs in relation to a person whose extradition to a category 2 territory is requested under this Part—
 - (a) an order for the person’s discharge is made under this Part;
 - (b) the person is taken to be discharged under this Part;
 - [^{F4}(ba) the High Court dismisses an application for leave to appeal to it under section 105 or 110;]
 - (c) the High Court dismisses an appeal under section 105 or 110;
 - (d) the High Court or the [^{F5}Supreme Court] dismisses an application for leave to appeal to the [^{F5}Supreme Court] under section 114, if the application is made on behalf of the category 2 territory;
 - (e) the [^{F5}Supreme Court] dismisses an appeal under section 114, if the appeal is brought on behalf of the category 2 territory.
- (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 or by the Secretary of State;
 - (b) the High Court, if the order for the person’s discharge is made by it;
 - (c) the [^{F5}Supreme Court], if the order for the person’s discharge is made by it.

Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Cross Heading: Costs. (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 [^{F6}(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.
- [^{F7}(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 135A and 135B.
- (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.
- [^{F8}(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

- F4** S. 134(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(13)(a)** (with art. 1(4))
- F5** Words in s. 134 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, **Sch. 9 para. 81(4)(m)**; [S.I. 2009/1604](#), **art. 2(d)**
- F6** Words in s. 134(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(13)(b)** (with art. 1(4))
- F7** S. 134(5A)(5B) inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 7 para. 16(2)** (with Sch. 7 Pt. 4); [S.I. 2012/2412](#), art. 2(g)

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

F8 S. 134(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

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))

135 Costs where discharge ordered: supplementary

^{F9}(1)

^{F9}(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 134 as that section applies in relation to sections 2 to 5 of that Act.

Textual Amendments

F9 S. 135(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. 17** (with Sch. 7 Pt. 4); [S.I. 2012/2412](#), art. 2(g); [S.I. 2012/2412](#), art. 2(g)

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))

[^{F10}135A Appropriate amount: England and Wales

- (1) For the purposes of an order under section 134(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 134(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 135B, 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 134(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.

Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Cross Heading: Costs. (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 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 134 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

F10 Ss. 135A, 135B inserted (E.W.) (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 7 para. 18](#) (with [Sch. 7 Pt. 4](#)); [S.I. 2012/2412](#), art. 2(g)

135B Legal costs: England and Wales

- (1) An order under section 134(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 134(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 134(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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“ 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

F10 Ss. 135A, 135B inserted (E.W.) (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 7 para. 18](#) (with [Sch. 7 Pt. 4](#)); [S.I. 2012/2412](#), art. 2(g)

Changes to legislation:

There are currently no known outstanding effects for the Extradition Act 2003, Cross Heading:
Costs.