



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

Time for extradition

117 Extradition where no appeal

[^{F1}(1) This section applies if the Secretary of State orders a person's extradition to a category 2 territory under this Part and either—

- (a) no notice of application for leave to appeal under section 103 or 108 is given before the end of the permitted period, or
- (b) notice is given during that period but the High Court refuses leave to appeal to it.]

(2) The person must be extradited to the category 2 territory before the end of the required period, which is 28 days starting with —

- [^{F2}(a) the day on which the Secretary of State makes the extradition order (where subsection (1)(a) applies and no order is made under section 118A or 118B),
- (b) the day on which the decision of the High Court refusing leave to appeal to it becomes final (where subsection (1)(b) applies and no order is made under section 118A or 118B), or
- (c) the earliest day on which the extradition order may be carried out (where an order is made under section 118A or 118B).]

[^{F3}(2A) 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.]

(3) 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.

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

- (4) These must be ignored for the purposes of [^{F4}subsections (1) to (2A)]—
- (a) any power of a court to extend the period permitted for giving [^{F5}notice of application for leave to appeal];
 - (b) any power of a court to grant leave to take a step out of time.
- [^{F6}(5) [^{F7}If leave to appeal to the High Court is granted on an application notice of which was given after the end of the permitted period], this section ceases to apply (but section 118 applies instead).]
- [^{F8}(6) In this section, “permitted period” means 14 days starting with the day on which the Secretary of State informs the person under section 100(1) that he has ordered his extradition.]

Textual Amendments

- F1** S. 117(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(10)(a)** (with art. 1(4))
- F2** S. 117(2)(a)-(c) substituted for s. 117(2)(b)(c) (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(10)(b)** (with art. 1(4))
- F3** S. 117(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(10)(c)** (with art. 1(4))
- F4** Words in s. 117(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(10)(d)(i)** (with art. 1(4))
- F5** Words in s. 117(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(10)(d)(ii)** (with art. 1(4))
- F6** S. 117(5) inserted (29.7.2013 for E.W., 14.10.2013 for N.I.) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 20 para. 13** (with [Sch. 20 para. 1415](#)); [S.I. 2013/1682](#), art. 2(2)(b); [S.I. 2013/2349](#), art. 2(4)
- F7** Words in s. 117(5) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(10)(e)** (with art. 1(4))
- F8** S. 117(6) inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(10)(f)** (with art. 1(4))

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))

118 Extradition following appeal

- (1) This section applies if—
- (a) there is an appeal to the High Court under section 103, 108 or 110 against a decision or order relating to a person’s extradition to a category 2 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 2 territory before the end of the required period, which is 28 days starting with—
- (a) the day on which the decision of the relevant court on the appeal becomes final, or
 - (b) the day on which proceedings on the appeal are discontinued.

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

[^{F9}(2A) But if the day referred to in paragraph (a) or (b) of subsection (3) is earlier than the earliest day on which, by reason of an order under section 118A or 118B, the extradition order may be carried out (“the postponed date”), the required period is 28 days beginning with the postponed date.]

- (3) The relevant court is—
- (a) the High Court, if there is no appeal to the [^{F10}Supreme Court] against the decision of the High Court on the appeal;
 - (b) the [^{F10}Supreme Court], if there is such an appeal.
- (4) 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 [^{F10}Supreme Court] ends, if there is no such application;
 - (b) when the period permitted for applying to the [^{F10}Supreme Court] for leave to appeal to it ends, if the High Court refuses leave to appeal and there is no application to the [^{F10}Supreme Court] for leave to appeal;
 - (c) when the [^{F10}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 [^{F10}Supreme Court] 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 leave to appeal;
 - (b) any power of a court to grant leave to take a step out of time.
- (6) The decision of the [^{F10}Supreme Court] on the appeal becomes final when it is made.
- (7) 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.

[^{F11}(8) The preceding provisions of this section do not apply to Scotland.]

Textual Amendments

- F9** S. 118(2A) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 116](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1916, art. 2(t)
- F10** Words in s. 118 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, {Sch. 9 para. 81(4)(j)}; S.I. 2009/1604, [art. 2\(d\)](#)
- F11** S. 118(8) substituted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 27\(1\)](#) (with [Sch. 20 para. 29](#)); S.I. 2013/1682, art. 2(1)(b) (with [art. 4\(8\)](#))

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))

[^{F12}118A Extradition following appeal: Scotland

- (1) This section applies if—
- (a) there is an appeal to the High Court under section 103, 108 or 110 against a decision or order relating to a person's extradition to a category 2 territory, and

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- (b) the effect of the decision in the relevant proceedings is that the person must be extradited to the category 2 territory.
- (2) The “relevant proceedings” are—
- (a) the proceedings on the appeal under section 103, 108 or 110 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 2 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 103, 108 or 110 (except 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 High Court's decision on the appeal (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 the appeal);
 - (c) when the Supreme Court refuses permission to make a Supreme Court devolution appeal;
 - (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 103, 108 or 110, 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.

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

- (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

F12 S. 118A inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 27\(2\)](#) (with [Sch. 20 para. 29](#)); S.I. 2013/1682, art. 2(1)(b) (with art. 4(8))

[^{F13}118B 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, the High Court may later grant bail.]

Textual Amendments

F13 S. 118B inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 28](#) (with [Sch. 20 para. 29](#)); S.I. 2013/1682, art. 2(1)(b) (with art. 4(9))

[^{F14}118C Judge informed after extradition order that person is charged with offence in United Kingdom

- (1) This section applies if—
 - (a) the Secretary of State has made an order for a person's extradition under this Part, 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*.

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

F14 Ss. 118C, 118D inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 161\(2\), 185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/1916, art. 2(g)

118D Judge informed after extradition order that person is serving sentence in United Kingdom

- (1) This section applies if—
 - (a) the Secretary of State has made an order for a person's extradition under this Part, 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

F14 Ss. 118C, 118D inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 161\(2\), 185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/1916, art. 2(g)

119 Undertaking in relation to person serving sentence in United Kingdom

- (1) This section applies if—
 - (a) the Secretary of State orders a person's extradition to a category 2 territory under this Part;
 - (b) the person is serving a sentence of imprisonment or another form of detention in the United Kingdom [^{F15}, either—
 - (i) in custody, or
 - (ii) on licence].

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

- (2) The Secretary of State 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 2 territory in terms specified by him.
- (3) The terms which may be specified by the Secretary of State in relation to a person [F16 within subsection (1)(b)(i) who is] accused in a category 2 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 2 territory;
 - (b) that the person be returned to the United Kingdom to serve the remainder of his sentence on the conclusion of those proceedings.
- [F17(3A) The terms which may be specified by the Secretary of State in relation to a person within subsection (1)(b)(ii) who is accused in a category 2 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 2 territory for—
- (a) the offence, and
 - (b) any other offence in respect of which he is permitted to be dealt with in the category 2 territory.]
- (4) The terms which may be specified by the Secretary of State in relation to a person alleged to be unlawfully at large after conviction of an offence by a court in a category 2 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 2 territory for—
- (a) the offence, and
 - (b) any other offence in respect of which he is permitted to be dealt with in the category 2 territory.
- (5) Subsections (6) and (7) apply if the Secretary of State makes an order for extradition subject to a condition under subsection (2).
- (6) If the Secretary of State 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 High Court to be discharged, the court must order his discharge.
- (7) If the Secretary of State receives the undertaking before the end of that period—
- (a) in a case where section 117 applies, the required period for the purposes of section 117(2) is 28 days starting with the day on which the Secretary of State receives the undertaking;
 - (b) in a case where section 118 applies, the required period for the purposes of section 118(2) is 28 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 Secretary of State receives the undertaking.

Textual Amendments

F15 S. 119(1)(b)(i)(ii) and word inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 13\(2\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

F16 Words in s. 119(3) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 13\(3\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

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

F17 S. 119(3A) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 13\(4\)](#); [S.I. 2006/3364, art. 2\(d\)\(e\)](#)

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\(2\)](#))

120 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 2 territory in pursuance of a request for his extradition;
 - (b) before the person is extradited to the territory an order is made under section 126(2) or 179(2) for the person’s extradition in pursuance of the request to be deferred;
 - (c) the appropriate judge makes an order under section 181(2) for the person’s extradition in pursuance of the request to cease to be deferred.
- (2) In a case where section 117 applies, the required period for the purposes of section 117(2) is 28 days starting with the day on which the order under section 181(2) is made.
- (3) In a case where section 118 applies, the required period for the purposes of section 118(2) is 28 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.

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\(2\)](#))

121 Asylum claim

^{F18}(1)

^{F18}(2)

- (3) [^{F19}If—
 - (a) an order is made under this Part for a person to be extradited in pursuance of a request, and
 - (b) the person has made an asylum claim (whether before or after the making of the request),
 the person] must not be extradited in pursuance of the request before the asylum claim is finally determined; and sections 117 and 118 have effect subject to this.
- (4) If the Secretary of State allows the asylum claim, the claim is finally determined when he makes his decision on the claim.
- (5) 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;

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

- (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.
- (6) An appeal against the Secretary of State's decision on an asylum claim is not finally determined for the purposes of subsection (5) 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.
- (7) The remittal of an appeal is not a final determination for the purposes of subsection (6).
- (8) The possibility of an appeal out of time with leave must be ignored for the purposes of subsections (5) and (6).

Textual Amendments

- F18** S. 121(1)(2) repealed (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 162\(2\)\(a\), 185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2014/1916, art. 2\(h\)](#); [S.I. 2014/1916, art. 2\(h\)](#)
- F19** Words in s. 121(3) substituted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 162\(2\)\(b\), 185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2014/1916, art. 2\(h\)](#)
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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\(2\)](#))

Changes to legislation:

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