



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 2

#### EXTRADITION TO CATEGORY 2 TERRITORIES

##### *Time for extradition*

#### **117 Extradition where no appeal**

- (1) This section applies if—
  - (a) the Secretary of State orders a person's extradition to a category 2 territory under this Part, and
  - (b) no notice of an appeal under section 103 or 108 is given before the end of the permitted period, which is 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.
- (2) The person must be extradited to the category 2 territory before the end of the required period, which is 28 days starting with the day on which the Secretary of State makes the order.
- (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.
- (4) These must be ignored for the purposes of subsection (1)(b)—
  - (a) any power of a court to extend the period permitted for giving notice of appeal;
  - (b) any power of a court to grant leave to take a step out of time.

#### **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

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- (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.
- (3) The relevant court is—
  - (a) the High Court, if there is no appeal to the House of Lords against the decision of the High Court on the appeal;
  - (b) the House of Lords, 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 House of Lords ends, if there is no such application;
  - (b) when the period permitted for applying to the House of Lords for leave to appeal to it ends, if the High Court refuses leave to appeal and there is no application to the House of Lords for leave to appeal;
  - (c) when the House of Lords 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 House of Lords 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 House of Lords 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.
- (8) The preceding provisions of this section apply to Scotland with these modifications—
  - (a) in subsections (1) and (2) for “relevant court” substitute “High Court”;
  - (b) omit subsections (3) to (6).

## **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.
- (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 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.
- (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.

## **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.

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## **121 Asylum claim**

- (1) This section applies if—
  - (a) a person whose extradition is requested makes an asylum claim at any time in the relevant period;
  - (b) an order is made under this Part for the person to be extradited in pursuance of the request.
- (2) The relevant period is the period—
  - (a) starting when a certificate is issued under section 70 in respect of the request;
  - (b) ending when the person is extradited in pursuance of the request.
- (3) 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;
  - (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).