



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

Appeals

106 Court's powers on appeal under section 105

- (1) On an appeal under section 105 the High Court may—
 - (a) allow the appeal;
 - (b) direct the judge to decide the relevant question again;
 - (c) dismiss the appeal.
- (2) A question is the relevant question if the judge's decision on it resulted in the order for the person's discharge.
- (3) The court may allow the appeal only if the conditions in subsection (4) or the conditions in subsection (5) are satisfied.
- (4) The conditions are that—
 - (a) the judge ought to have decided the relevant question differently;
 - (b) if he had decided the question in the way he ought to have done, he would not have been required to order the person's discharge.
- (5) The conditions are that—
 - (a) an issue is raised that was not raised at the extradition hearing or evidence is available that was not available at the extradition hearing;
 - (b) the issue or evidence would have resulted in the judge deciding the relevant question differently;
 - (c) if he had decided the question in that way, he would not have been required to order the person's discharge.
- (6) If the court allows the appeal it must—

*Changes to legislation: There are currently no known outstanding effects
 for the Extradition Act 2003, Section 106. (See end of Document for details)*

- (a) quash the order discharging the person;
 - (b) remit the case to the judge;
 - (c) direct him to proceed as he would have been required to do if he had decided the relevant question differently at the extradition hearing.
- (7) If the court makes a direction under subsection (1)(b) and the judge decides the relevant question differently he must proceed as he would have been required to do if he had decided that question differently at the extradition hearing.
- (8) If the court makes a direction under subsection (1)(b) and the judge does not decide the relevant question differently the appeal must be taken to have been dismissed by a decision of the High Court.
- [^{F1}(9) If the court—
- (a) allows the appeal, or
 - (b) makes a direction under subsection (1)(b),
- it must remand the person in custody or on bail.
- (10) If the court remands the person in custody it may later grant bail.]^{F1}

Textual Amendments

- F1** S. 106(9)(10) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 8\(7\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

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))

Changes to legislation:

There are currently no known outstanding effects for the Extradition Act 2003, Section 106.