



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

Appeals

108 Appeal against extradition order

- (1) If the Secretary of State orders a person's extradition under this Part, the person may appeal to the High Court against the order.
- (2) But subsection (1) does not apply if the person has consented to his extradition under section 127.
- (3) An appeal under this ^[F1]section—
 - (a) may be brought on a question of law or fact^[F2], but
 - (b) lies only with the leave of the High Court.]
- (4) ^[F3]Notice of application for leave to appeal under this section must be given—
 - (a) in accordance with rules of court, and
 - (a) subject to subsections (5) and (7A), before the end of the permitted period, which] is 14 days starting with the day on which the Secretary of State informs the person of the order under section 100(1).
- ^[F4](5) ^[F5]Notice of application for leave to appeal] under this section may be given after the end of the permitted period if it is an^[F6] application for leave to] appeal on human rights grounds.
- (6) ^[F7]Notice of application for leave to appeal on human rights grounds given after the end of the permitted period must be given] before the person is extradited to the category 2 territory in accordance with section 117.

*Changes to legislation: There are currently no known outstanding effects
for the Extradition Act 2003, Section 108. (See end of Document for details)*

- (7) Where [^{F8}notice of application for leave to appeal] is given in accordance with subsections (5) and (6), the High Court is to [^{F9}grant leave] only if it appears to the High Court that—
- (a) the appeal is necessary to avoid real injustice, and
 - (b) the circumstances are exceptional and make it appropriate [^{F10}for the appeal to be heard].
- [Where a person gives notice of application for leave to appeal after the end of the ^{F11}(7A) permitted period (whether or not the application is for leave to appeal on human rights grounds), the High Court must not for that reason refuse to entertain the application if the person did everything reasonably possible to ensure that the notice was given as soon as it could be given.]
- (8) In this section [^{F12}“to appeal on human rights grounds” means to appeal] against the order for the person's extradition on the grounds (and only on the grounds) that the extradition would not be compatible with the Convention rights within the meaning of the Human Rights Act 1998.]

Textual Amendments

- F1** Words in s. 108(3) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 160\(5\)\(a\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(a) (with art. 4)
- F2** S. 108(3)(b) and preceding word inserted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 160\(5\)\(b\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(a) (with art. 4)
- F3** Words in s. 108(4) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 113\(2\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(c)(iii) (with art. 4)
- F4** S. 108(5)-(8) 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. 12](#) (with Sch. 20 para. 1415); S.I. 2013/1682, art. 2(2)(b); S.I. 2013/2349, art. 2(4)
- F5** Words in s. 108(5) substituted (15.4.2015 for E.W.N.I.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 113\(3\)\(a\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 3(b) (with art. 4)
- F6** Words in s. 108(5) inserted (15.4.2015 for E.W.N.I.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 113\(3\)\(b\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 3(b) (with art. 4)
- F7** Words in s. 108(6) substituted (15.4.2015 for E.W.N.I.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 113\(4\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 3(b) (with art. 4)
- F8** Words in s. 108(7) substituted (15.4.2015 for E.W.N.I.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 113\(5\)\(a\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 3(b) (with art. 4)
- F9** Words in s. 108(7) substituted (15.4.2015 for E.W.N.I.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 113\(5\)\(b\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 3(b) (with art. 4)
- F10** Words in s. 108(7) substituted (15.4.2015 for E.W.N.I.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 113\(5\)\(c\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 3(b) (with art. 4)
- F11** S. 108(7A) inserted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 160\(5\)\(c\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(a) (with art. 4)

Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Section 108. (See end of Document for details)

F12 Words in s. 108(8) substituted (15.4.2015 for E.W.N.I.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 113\(6\)](#) (with ss. 21, 33, 42, 58, 75, 93); [S.I. 2015/987](#), art. 3(b) (with art. 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))

Changes to legislation:

There are currently no known outstanding effects for the Extradition Act 2003, Section 108.