



Anti-social Behaviour, Crime and Policing Act 2014

2014 CHAPTER 12

PART 12

EXTRADITION

Amendments of the Extradition Act 2003

157 Proportionality

- (1) In section 11 of the Extradition Act 2003 (bars to extradition), in subsection (5), for “21” there is substituted “ 21A ”.
- (2) After section 21 of that Act there is inserted—

“21A Person not convicted: human rights and proportionality

- (1) If the judge is required to proceed under this section (by virtue of section 11), the judge must decide both of the following questions in respect of the extradition of the person (“D”)—
 - (a) whether the extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998;
 - (b) whether the extradition would be disproportionate.
- (2) In deciding whether the extradition would be disproportionate, the judge must take into account the specified matters relating to proportionality (so far as the judge thinks it appropriate to do so); but the judge must not take any other matters into account.
- (3) These are the specified matters relating to proportionality—
 - (a) the seriousness of the conduct alleged to constitute the extradition offence;

Changes to legislation: *Anti-social Behaviour, Crime and Policing Act 2014, Section 157 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) the likely penalty that would be imposed if D was found guilty of the extradition offence;
 - (c) the possibility of the relevant foreign authorities taking measures that would be less coercive than the extradition of D.
- (4) The judge must order D's discharge if the judge makes one or both of these decisions—
- (a) that the extradition would not be compatible with the Convention rights;
 - (b) that the extradition would be disproportionate.
- (5) The judge must order D to be extradited to the category 1 territory in which the warrant was issued if the judge makes both of these decisions—
- (a) that the extradition would be compatible with the Convention rights;
 - (b) that the extradition would not be disproportionate.
- (6) If the judge makes an order under subsection (5) he must remand the person in custody or on bail to wait for extradition to the category 1 territory.
- (7) If the person is remanded in custody, the appropriate judge may later grant bail.
- (8) In this section “relevant foreign authorities” means the authorities in the territory to which D would be extradited if the extradition went ahead.”
- (3) In section 2 of that Act (Part 1 warrant and certificate), after subsection (7) there is inserted—
- “(7A) But in the case of a Part 1 warrant containing the statement referred to in subsection (3), the designated authority must not issue a certificate under this section if it is clear to the designated authority that a judge proceeding under section 21A would be required to order the person's discharge on the basis that extradition would be disproportionate.
- In deciding that question, the designated authority must apply any general guidance issued for the purposes of this subsection.
- (7B) Any guidance under subsection (7A) may be revised, withdrawn or replaced.
- (7C) The function of issuing guidance under subsection (7A), or of revising, withdrawing or replacing any such guidance, is exercisable by the Lord Chief Justice of England and Wales with the concurrence of—
- (a) the Lord Justice General of Scotland, and
 - (b) the Lord Chief Justice of Northern Ireland.”

^{F1}(4)

- (5) In a case where the Part 1 warrant (within the meaning of the Extradition Act 2003) has been issued before the time when the amendments made by this section come into force, those amendments apply to the extradition concerned only if, at that time, the judge has not yet decided all of the questions in section 11(1) of that Act.

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Textual Amendments

- F1** S. 157(4) omitted (31.12.2020) by virtue of [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **54**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I1** S. 157 in force at 21.7.2014 by [S.I. 2014/1916](#), **art. 2(d)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(2)(ba) inserted by [2022 c. 32 Sch. 11 para. 35\(2\)\(a\)](#)