

2013 No. 2384

EXTRADITION, ENGLAND AND WALES

EXTRADITION, NORTHERN IRELAND

**The Extradition Appeals (England and Wales and Northern
Ireland) Order 2013**

<i>Made</i> - - - -	<i>19th September 2013</i>
<i>Laid before Parliament</i>	<i>23rd September 2013</i>
<i>Coming into force</i> - -	<i>14th October 2013</i>

The Secretary of State in exercise of the powers conferred by sections 58(12)(c) and 59(1) and (2) of the Crime and Courts Act 2013(a), makes the following Order:

Citation, commencement and extent

1. This Order—

- (a) may be cited as the Extradition Appeals (England and Wales and Northern Ireland) Order 2013;
- (b) comes into force on 14th October 2013; and
- (c) extends to England and Wales and Northern Ireland.

Interpretation

2. In this Order, “section 108 human rights appeal” means—

- (a) an appeal brought—
 - (i) in accordance with section 108(4) of the Extradition Act 2003(b) if, or to the extent that, it is an appeal against an order by the Secretary of State for a person’s extradition on the grounds that the extradition would not be compatible with the Convention Rights within the meaning of the Human Rights Act 1998(c); and
 - (ii) in circumstances where the Secretary of State was precluded from considering that question by section 70(11) of the Extradition Act 2003(d); or

(a) 2013 c. 22.

(b) 2003 c. 41.

(c) 1998 c. 42.

(d) Subsection (11) of section 70 of the Extradition Act 2003 (c. 41) was inserted by paragraph 11 of Schedule 20 to the Crime and Courts Act 2013 (c. 22) with effect from 29th July 2013 for England and Wales and 14th October 2013 for Northern Ireland.

- (b) an appeal brought in accordance with section 108(5) and (6) of the Extradition Act 2003(a).

Modification of the Extradition Act 2003

3.—(1) The Extradition Act 2003 is modified as follows.

(2) Subsections (2) to (4) of section 109 of the Extradition Act 2003 do not apply to a section 108 human rights appeal.

Transitional provision

4. In a case where notice of a section 108 human rights appeal has been given before the coming into force of this Order but that appeal has not yet been allowed or dismissed by the High Court, the modification made by this Order applies to that appeal.

Home Office
19th September 2013

Taylor of Holbeach
Parliamentary Under Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes consequential provision to modify the application of subsections (2) to (4) of section 109 of the Extradition Act 2003 (c. 41) (“the 2003 Act”). Those subsections provide that on an appeal under section 108 of the 2003 Act against a decision of the Secretary of State to order a person’s extradition, the High Court is to consider the questions which were, or should have been, before the Secretary of State.

Section 70(11) of the 2003 Act (as inserted by Part 2 of Schedule 20 to the Crime and Courts Act 2013) provides that the Secretary of State is not to consider whether the extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998 (c. 42).

This Order clarifies that the High Court is able to allow or dismiss an appeal brought on human rights grounds where human rights questions were not considered by the Secretary of State because of the effect of section 70(11).

This Order applies in England and Wales and Northern Ireland.

An impact assessment has not been produced for this Order as no impact on businesses, charities, voluntary bodies or the public sector is foreseen.

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(a) Subsection (5) and (6) of section 108 of the Extradition Act 2003 were inserted by paragraph 12 of Schedule 20 to the Crime and Courts Act 2013 with effect from 29th July 2013 for England and Wales and 14th October 2013 for Northern Ireland.

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