
STATUTORY INSTRUMENTS

2015 No. 992

**The Extradition Act 2003 (Amendment
to Designations and Appeals) Order 2015**

Consequential amendment of the 2003 Act in relation to appeals

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

(2) In section 30A (detention pending conclusion of appeal under section 28: Scotland)(1)—

(a) in subsection (3), after paragraph (a) insert—

“(aa) when the decision of the High Court refusing leave to appeal to it becomes final;”;

(b) after subsection (3), insert—

“(3A) The decision of the High Court refusing leave to appeal to it becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal (ignoring any power of a court to grant leave to take a step out of time).”.

(3) In section 35 (extradition where no appeal)—

(a) for subsection (1), substitute—

“(1) This section applies if the appropriate judge orders a person’s extradition to a category 1 territory under this Part and either—

(a) no notice of application for leave to appeal under section 26 is given before the end of the period permitted under that section, or

(b) notice is given during that period but the High Court refuses leave to appeal to it.”;

(b) in subsection (4)(2), for paragraph (a) substitute—

“(a) 10 days starting with—

(i) the first day after the period permitted under section 26 for giving notice of application for leave to appeal against the judge’s order (where subsection (1)(a) applies), or

(ii) the day on which the decision of the High Court refusing leave to appeal to it becomes final (where subsection (1)(b) applies), or”;

(c) after subsection (4), insert—

“(4ZA) The decision of the High Court refusing leave to appeal to it becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal.”;

(d) in subsection (4A)(3)—

(i) for “paragraph (a) of subsection (4)” substitute “subsection (4)(a)(i) or (ii)”; and

(1) Section 30A was inserted by the Crime and Courts Act 2013, Schedule 20.

(2) Subsection (4) was amended by the Police and Justice Act 2006, Schedule 13.

(3) Subsection (4A) was inserted by the Anti-social Behaviour, Crime and Policing Act 2014, Schedule 11.

- (ii) for “that paragraph has effect as if it referred instead to the postponed date” substitute “subsection (4)(a) has effect as if it referred to the period of 10 days starting with the postponed date”;
- (e) in subsection (6)—
 - (i) for “subsection (1)(b)” substitute “subsections (1) to (4A)”;
 - (ii) for “notice of appeal” substitute “notice of application for leave to appeal”;
- (f) after subsection (6) insert—

“(7) If leave to appeal to the High Court is granted on an application notice of which was given after the end of the period permitted under section 26, this section ceases to apply (but section 36 applies instead).”
- (4) In section 37 (undertaking in relation to person serving sentence in United Kingdom), in subsection (8)(4), for “section 35(4)(a)” substitute “section 35(4)(a)(i) or (ii)”.
- (5) In section 38 (extradition following deferral for competing claim), in subsection (3)(5), for “section 35(4)(a)” substitute “section 35(4)(a)(i) or (ii)”.
- (6) In section 42 (withdrawal of warrant while appeal to High Court pending)—
 - (a) in the heading, after “while” insert “application or”;
 - (b) in subsection (2)—
 - (i) in paragraph (a), for “notice of an appeal to the court” substitute “notice of application for leave to appeal to the High Court”; and
 - (ii) in paragraph (b), for “when proceedings on the appeal are discontinued or the court makes its decision on the appeal” substitute “with the relevant day”;
 - (c) after subsection (2), insert—

“(2A) “The relevant day” is—

 - (a) if the High Court refuses leave to appeal to it, the day on which the decision to refuse leave becomes final;
 - (b) if leave to appeal is given but proceedings on the appeal are discontinued, the day of discontinuance;
 - (c) if leave to appeal is given and proceedings on the appeal are not discontinued, the day on which the court makes its decision on the appeal.

For the purposes of paragraph (a), the decision to refuse leave becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal (ignoring any power of a court to grant leave to take a step out of time).”;
 - (d) in subsection (3)—
 - (i) in paragraph (a), for “if the appeal is” substitute “in the case of an application or appeal”; and
 - (ii) for paragraph (b) substitute—

“(b) in the case of an application or appeal under section 28, dismiss the application or appeal.”
- (7) In section 60 (costs where extradition ordered)—
 - (a) in subsection (1)(6), after paragraph (a) insert—

(4) Subsection (8) was amended by the Police and Justice Act 2006, Schedule 13.

(5) Subsection (3) was amended by the Police and Justice Act 2006, Schedule 13.

(6) There are amendments to subsection (1) which are not relevant to this Order.

- “(aa) the High Court dismisses an application for leave to appeal to it under section 26;” and
- (b) in subsection (3), for “(1)(b)” substitute “(1)(aa), (b)”.
- (8) In section 61 (costs where discharge ordered)—
- (a) in subsection (1)(7), after paragraph (b) insert—
- “(ba) the High Court dismisses an application for leave to appeal to it under section 28;” and
- (b) in subsection (4), for “(1)(c)” substitute “(1)(ba), (c)”.
- (9) In section 107A (detention pending conclusion of appeal under section 105: Scotland)(8)—
- (a) in subsection (3), after paragraph (a) insert —
- “(aa) when the decision of the High Court refusing leave to appeal to it becomes final;” and
- (b) after subsection (3), insert—
- “(3A) The decision of the High Court refusing leave to appeal to it becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal (ignoring any power of a court to grant leave to take a step out of time).”.
- (10) In section 117 (extradition where no appeal)—
- (a) for subsection (1), substitute—
- “(1) This section applies if the Secretary of State orders a person’s extradition to a category 2 territory under this Part and either—
- (a) no notice of application for leave to appeal under section 103 or 108 is given before the end of the permitted period, or
- (b) notice is given during that period but the High Court refuses leave to appeal to it.”;
- (b) in subsection (2)(9), for paragraphs (b) and (c) substitute—
- “(a) the day on which the Secretary of State makes the extradition order (where subsection (1)(a) applies and no order is made under section 118A or 118B),
- (b) the day on which the decision of the High Court refusing leave to appeal to it becomes final (where subsection (1)(b) applies and no order is made under section 118A or 118B), or
- (c) the earliest day on which the extradition order may be carried out (where an order is made under section 118A or 118B).”;
- (c) after subsection (2), insert—
- “(2A) The decision of the High Court refusing leave to appeal to it becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal.”;
- (d) in subsection (4)—
- (i) for “subsection (1)(b)” substitute “subsections (1) to (2A)”, and
- (ii) for “notice of appeal” substitute “notice of application for leave to appeal”;

(7) There are amendments to subsection (1) which are not relevant to this Order.

(8) Section 107A was inserted by the Crime and Courts Act 2013, Schedule 20.

(9) Subsection (2) was amended by the Anti-social Behaviour, Crime and Policing Act 2014, Schedule 11.

- (e) in subsection (5)(10), for “If a person brings an appeal under section 108 by virtue of subsection (5) of that section” substitute “If leave to appeal to the High Court is granted on an application notice of which was given after the end of the permitted period”; and
- (f) after subsection (5), insert—
- “(6) In this section, “permitted period” means 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.”
- (11) In section 124 (withdrawal of request while appeal to High Court pending)—
- (a) in the heading, after “while” insert “application or”;
- (b) in subsection (2)—
- (i) in paragraph (a), for “notice of an appeal to the court” substitute “notice of application for leave to appeal to the High Court”; and
- (ii) in paragraph (b), for “when proceedings on the appeal are discontinued or the court makes its decision on the appeal” substitute “with the relevant day”;
- (c) after subsection (2), insert—
- “(2A) “The relevant day” is—
- (a) if the High Court refuses leave to appeal to it, the day on which the decision to refuse leave becomes final;
- (b) if leave to appeal is given but proceedings on the appeal are discontinued, the day of discontinuance;
- (c) if leave to appeal is given and proceedings on the appeal are not discontinued, the day on which the court makes its decision on the appeal.
- For the purposes of paragraph (a), the decision to refuse leave becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal (ignoring any power of a court to grant leave to take a step out of time).”;
- (d) in subsection (3), after “If the” insert “application or”; and
- (e) for subsection (4) substitute—
- “(4) If the application or appeal is under section 105 or 110, the court must dismiss the application or appeal.”.
- (12) In section 133 (costs where extradition ordered)—
- (a) in subsection (1)(11), after paragraph (a) insert—
- “(aa) the High Court dismisses an application for leave to appeal to it under section 103 or 108;”; and
- (b) after subsection (2), insert—
- “(2A) In a case falling within subsection (1)(aa), the High Court may make such order as it considers just and reasonable with regard to the costs to be paid by the person.”.
- (13) In section 134 (costs where discharge ordered)—
- (a) in subsection (1)(12), after paragraph (b) insert—
- “(ba) the High Court dismisses an application for leave to appeal to it under section 105 or 110;”; and

(10) Subsection (5) was inserted by the Crime and Courts Act 2013, Schedule 20.

(11) There are amendments to subsection (1) which are not relevant to this Order.

(12) There are amendments to subsection (1) which are not relevant to this Order.

- (b) in subsection (4), for “(1)(c)” substitute “(1)(ba), (c)”.
- (14) In section 208 (national security)(**13**), after subsection (12), insert—
 - “(13) In this section, “appeal” includes an application for leave to appeal.”.
- (15) In section 213 (disposal of Part 1 warrant and extradition request)—
 - (a) in subsection (3)—
 - (i) in paragraph (a), for “notice of an appeal” substitute “notice of application for leave to appeal”; and
 - (ii) after paragraph (a), insert—
 - “(aa) when the decision of the High Court refusing leave to appeal to it becomes final;”;
 - (b) after subsection (3), insert—
 - “(3A) The decision of the High Court refusing leave to appeal to it becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal.”; and
 - (c) in subsection (5), for “and” substitute “to”.