



Extradition Act 2003

2003 CHAPTER 41

PART 2

EXTRADITION TO CATEGORY 2 TERRITORIES

Appeals

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\(2\)](#))

103 Appeal where case sent to Secretary of State

- (1) If the judge sends a case to the Secretary of State under this Part for his decision whether a person is to be extradited, the person may appeal to the High Court against the relevant decision.
- (2) But subsection (1) does not apply if the person consented to his extradition under section 127 before his case was sent to the Secretary of State.
- (3) The relevant decision is the decision that resulted in the case being sent to the Secretary of State.
- (4) 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.]
- (5) If an appeal is brought under this section before the Secretary of State has decided whether the person is to be extradited the appeal must not be heard until after the Secretary of State has made his decision.
- (6) If the Secretary of State orders the person's discharge the appeal must not be proceeded with.

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

- (7) No appeal may be brought under this section if the Secretary of State has ordered the person's discharge.
- (8) If notice of an appeal under section 110 against the decision which resulted in the order for the person's discharge is given in accordance with subsection (5) of that section—
- (a) subsections (6) and (7) do not apply;
 - (b) no appeal may be brought under this section if the High Court has made its decision on the appeal.
- (9) [^{F3}Notice of application for leave to appeal] under this section must be given in accordance with rules of court before the end of the permitted period, which is 14 days starting with the day on which the Secretary of State informs the person under section 100(1) or (4) of the order he has made in respect of the person.
- [^{F4}(10) But where a person gives notice of application for leave to appeal after the end of the permitted period, 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.]

Textual Amendments

- F1** Words in s. 103(4) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 160(3)(a)**, 185(1) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2015/987](#), art. 2(a) (with art. 4)
- F2** S. 103(4)(b) and preceding word inserted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 160(3)(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. 103(9) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 111** (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2015/987](#), art. 2(c)(ii) (with art. 4)
- F4** S. 103(10) inserted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 160(3)(c)**, 185(1) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2015/987](#), art. 2(a) (with art. 4)

Commencement Information

- I2** 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))

104 Court's powers on appeal under section 103

- (1) On an appeal under section 103 the High Court may—
- (a) allow the appeal;
 - (b) direct the judge to decide again a question (or questions) which he decided at the extradition hearing;
 - (c) dismiss the appeal.
- (2) The court may allow the appeal only if the conditions in subsection (3) or the conditions in subsection (4) are satisfied.
- (3) The conditions are that—
- (a) the judge ought to have decided a question before him at the extradition hearing differently;
 - (b) if he had decided the question in the way he ought to have done, he would have been required to order the person's discharge.

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

- (4) 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 a question before him at the extradition hearing differently;
 - (c) if he had decided the question in that way, he would have been required to order the person's discharge.
- (5) If the court allows the appeal it must—
 - (a) order the person's discharge;
 - (b) quash the order for his extradition.
- (6) If the judge comes to a different decision on any question that is the subject of a direction under subsection (1)(b) he must order the person's discharge.
- (7) If the judge comes to the same decision as he did at the extradition hearing on the question that is (or all the questions that are) the subject of a direction under subsection (1)(b) the appeal must be taken to have been dismissed by a decision of the High Court.
- [^{F5}(8) If the court makes a direction under subsection (1)(b) it must remand the person in custody or on bail.
- (9) If the court remands the person in custody it may later grant bail.]^{F5}

Textual Amendments

F5 S. 104(8)(9) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 8\(6\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

Commencement Information

I3 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))

105 Appeal against discharge at extradition hearing

- (1) If at the extradition hearing the judge orders a person's discharge, an appeal to the High Court may be brought on behalf of the category 2 territory against the relevant decision.
- (2) But subsection (1) does not apply if the order for the person's discharge was under section 122.
- (3) The relevant decision is the decision which resulted in the order for the person's discharge.
- (4) An appeal under this [^{F6}section—
 - (a) may] be brought on a question of law or fact[^{F7}, but
 - (b) lies only with the leave of the High Court.]
- (5) [^{F8}Notice of application for leave to appeal] under this section must be given in accordance with rules of court before the end of the permitted period, which is 14 days starting with the day on which the order for the person's discharge is made.

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

Textual Amendments

- F6** Words in s. 105(4) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 160\(4\)\(a\)](#), 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(a) (with art. 4)
- F7** S. 105(4)(b) and preceding word inserted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 160\(4\)\(b\)](#), 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(a) (with art. 4)
- F8** Words in s. 105(5) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 112](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(c)(ii) (with art. 4)

Commencement Information

- I4** 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\(2\)](#))

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—
 - (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.

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

(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.

[^{F9}(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.]^{F9}

Textual Amendments

F9 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

I5 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))

107 Detention pending conclusion of appeal under section 105

(1) This section applies if immediately after the judge orders the person's discharge the judge is informed on behalf of the category 2 territory of an intention to appeal under section 105.

(2) The judge must remand the person in custody or on bail while the appeal is pending.

(3) [^{F10}If the person is remanded in custody, the appropriate judge may] later grant bail.

(4) An appeal under section 105 ceases to be pending at the earliest of these times—

- (a) when the proceedings on the appeal are discontinued;
- [^{F11}(b) when the High Court—
 - (i) allows the appeal,
 - (ii) makes a direction under section 106(1)(b), or
 - (iii) dismisses the appeal,

unless, where the appeal is dismissed, the court is immediately informed on behalf of the category 2 territory of an intention to apply for leave to appeal to the [^{F12}Supreme Court];]

- (c) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the [^{F12}Supreme Court] against the decision of the High Court on the appeal is granted [^{F13}, if no appeal to the [^{F12}Supreme Court] is brought before the end of that period];
- (d) when there is no further step that can be taken on behalf of the category 2 territory in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).

[^{F14}(5) The preceding provisions of this section do not apply to Scotland.]

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

Textual Amendments

- F10** Words in s. 107(3) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 16](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F11** S. 107(4)(b) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 8\(8\)\(a\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F12** Words in s. 107 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 81\(4\)\(g\)](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)
- F13** Words in s. 107(4)(c) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 8\(8\)\(b\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)
- F14** S. 107(5) substituted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 23\(1\)](#) (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), [art. 2\(1\)\(b\)](#) (with [art. 4\(5\)](#))

Commencement Information

- I6** 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\(2\)](#))

[^{F15}107A Detention pending conclusion of appeal under section 105: Scotland

- (1) This section applies if immediately after the judge orders the person's discharge the judge is informed on behalf of the category 2 territory of an intention to appeal under section 105 (“the High Court appeal”).
- (2) The judge must remand the person in custody or on bail while the High Court appeal is pending.
- (3) The High Court appeal ceases to be pending at the earliest of these times—
 - (a) when the proceedings on the appeal are abandoned;
 - [when the decision of the High Court refusing leave to appeal to it becomes
 - ^{F16}(aa) final;]
 - (b) when the High Court—
 - (i) allows the appeal,
 - (ii) makes a direction under section 106(1)(b), or
 - (iii) dismisses the appeal.

[The decision of the High Court refusing leave to appeal to it becomes final when, in

^{F17}(3A) 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).]

- (4) If—
 - (a) the High Court appeal is dismissed, and
 - (b) immediately after dismissing it, the High Court is informed of an intention to bring an appeal to the Supreme Court against a determination of a relevant devolution issue (“the Supreme Court appeal”),
 the High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.
- (5) The Supreme Court appeal ceases to be pending at the earliest of these times—

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- (a) the end of the period of 28 days starting with the day when the High Court appeal is dismissed (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);
 - (b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);
 - (c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);
 - (d) the time when the proceedings on the Supreme Court appeal are abandoned;
 - (e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the category 2 territory (ignoring any power of a court to grant leave to take a step out of time).
- (6) If the person is remanded in custody by the judge or the High Court, the appropriate judge may later grant bail.
- (7) In this section “ relevant devolution issue ” means a devolution issue relating to the person's extradition.
- (8) This section applies only to Scotland.]

Textual Amendments

- F15** S. 107A inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 23\(2\)](#) (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), art. 2(1)(b) (with art. 4(5))
- F16** S. 107A(3)(aa) inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), [3\(9\)\(a\)](#) (with art. 1(4))
- F17** S. 107A(3A) inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), [3\(9\)\(b\)](#) (with art. 1(4))

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 ^{F18}section—
 - (a) may] be brought on a question of law or fact^{F19}, but
 - (b) lies only with the leave of the High Court.]
- (4) ^{F20}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).
- ^{F21}(5) ^{F22}[Notice of application for leave to appeal] under this section may be given after the end of the permitted period if it is an ^{F23}[application for leave to] appeal on human rights grounds.

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

- (6) [^{F24}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.
- (7) Where [^{F25}notice of application for leave to appeal] is given in accordance with subsections (5) and (6), the High Court is to [^{F26}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 [^{F27}for the appeal to be heard].
- [Where a person gives notice of application for leave to appeal after the end of the ^{F28}(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 [^{F29}“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

- F18** 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)
- F19** 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)
- F20** 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)
- F21** 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)
- F22** 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)
- F23** 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)
- F24** 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)
- F25** 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)
- F26** 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)
- F27** 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)

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

- F28** 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](#))
- F29** 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

- I7** 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\(2\)](#))

109 Court's powers on appeal under section 108

- (1) On an appeal under section 108 the High Court may—
- allow the appeal;
 - dismiss the appeal.
- (2) The court may allow the appeal only if the conditions in subsection (3) or the conditions in subsection (4) are satisfied.
- (3) The conditions are that—
- the Secretary of State ought to have decided a question before him differently;
 - if he had decided the question in the way he ought to have done, he would not have ordered the person's extradition.
- (4) The conditions are that—
- an issue is raised that was not raised when the case was being considered by the Secretary of State or information is available that was not available at that time;
 - the issue or information would have resulted in the Secretary of State deciding a question before him differently;
 - if he had decided the question in that way, he would not have ordered the person's extradition.
- (5) If the court allows the appeal it must—
- order the person's discharge;
 - quash the order for his extradition.

Modifications etc. (not altering text)

- C1** S. 109(2)-(4) excluded (E.W.N.I.) (14.10.2013) by [The Extradition Appeals \(England and Wales and Northern Ireland\) Order 2013 \(S.I. 2013/2384\)](#), [arts. 1\(b\), 3\(2\)](#) (with [art. 4](#))
- C2** S. 109(2)-(4) excluded (S.) (13.3.2024) by [The Extradition Appeals \(Scotland\) Order 2024 \(S.I. 2024/172\)](#), [arts. 1\(2\), 3\(2\)](#) (with [art. 4](#))

Commencement Information

- I8** 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, Cross Heading: Appeals. (See end of Document for details)

110 Appeal against discharge by Secretary of State

- (1) If the Secretary of State makes an order for a person's discharge under this Part, an appeal to the High Court may be brought on behalf of the category 2 territory against the relevant decision.
- (2) But subsection (1) does not apply if the order for the person's discharge was under section 123.
- (3) The relevant decision is the decision which resulted in the order for the person's discharge.
- (4) An appeal under this ^{F30}section—
 - (a) may be brought on a question of law or fact^{F31}, but
 - (b) lies only with the leave of the High Court.]
- (5) [^{F32}Notice of application for leave to appeal] under this section must be given in accordance with rules of court before the end of the permitted period, which is 14 days starting with the day on which (under section 100(4)) the Secretary of State informs a person acting on behalf of the category 2 territory of the order.

Textual Amendments

- F30** Words in s. 110(4) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 160\(6\)\(a\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(a) (with art. 4)
- F31** S. 110(4)(b) and preceding word inserted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 160\(6\)\(b\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(a) (with art. 4)
- F32** Words in s. 110(5) substituted (15.4.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 114](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/987, art. 2(c)(iv) (with art. 4)

Commencement Information

- I9** 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\(2\)](#))

111 Court's powers on appeal under section 110

- (1) On an appeal under section 110 the High Court may—
 - (a) allow the appeal;
 - (b) dismiss the appeal.
- (2) The court may allow the appeal only if the conditions in subsection (3) or the conditions in subsection (4) are satisfied.
- (3) The conditions are that—
 - (a) the Secretary of State ought to have decided a question before him differently;
 - (b) if he had decided the question in the way he ought to have done, he would have ordered the person's extradition.
- (4) The conditions are that—

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- (a) an issue is raised that was not raised when the case was being considered by the Secretary of State or information is available that was not available at that time;
 - (b) the issue or information would have resulted in the Secretary of State deciding a question before him differently;
 - (c) if he had decided the question in that way, he would have ordered the person's extradition.
- (5) If the court allows the appeal it must—
- (a) quash the order discharging the person;
 - (b) order the person's extradition.
- [^{F33}(6) If the court allows the appeal it must remand the person in custody or on bail.
- (7) If the court remands the person in custody it may later grant bail.]^{F33}

Textual Amendments

F33 S. 111(6)(7) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 8\(9\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

Commencement Information

I10 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))

[^{F34}112 Detention pending conclusion of appeal under section 110

- (1) This section applies in a case where the Secretary of State orders the person's discharge under this Part.
- (2) Subject to subsection (3)—
 - (a) the order made by the appropriate judge under section 92(4) (“ the remand order ”) remains in force until the end of the period of three days beginning with the day on which the person's discharge is ordered;
 - (b) if within that period the Secretary of State is informed in writing on behalf of the category 2 territory of an intention to appeal under section 110, the remand order remains in force while the appeal is pending.
- (3) If the person is remanded in custody under section 92(4), the appropriate judge may grant bail.
- (4) An appeal under section 110 ceases to be pending at the earliest of these times—
 - (a) when the proceedings on the appeal are discontinued;
 - (b) when the High Court—
 - (i) allows the appeal, or
 - (ii) dismisses the appeal,unless, where the appeal is dismissed, the court is immediately informed on behalf of the category 2 territory of an intention to apply for leave to appeal to the [^{F35}Supreme Court];
 - (c) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the [^{F35}Supreme Court] against the decision of the

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High Court on the appeal is granted, if no appeal to the [^{F35} Supreme Court] is brought before the end of that period;

- (d) when there is no further step that can be taken on behalf of the category 2 territory in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).

[^{F36}(5) The preceding provisions of this section do not apply to Scotland.]

Textual Amendments

- F34** S. 112 substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#) , ss. 42 , 53 , [Sch. 13 para. 8\(10\)](#) ; [S.I. 2006/3364](#) , [art. 2\(d\)\(e\)](#)
- F35** Words in s. 112 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#) , ss. 40 , 148 , [Sch. 9 para. 81\(4\)\(h\)](#) ; [S.I. 2009/1604](#) , [art. 2\(d\)](#)
- F36** S. 112(5) substituted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(2) , [Sch. 20 para. 24\(1\)](#) (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#) , [art. 2\(1\)\(b\)](#) (with [art. 4\(6\)](#))

Commencement Information

- I11** 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\(2\)](#))

[^{F37}112A Detention pending conclusion of appeal under section 110: Scotland

- (1) This section applies in a case where the Scottish Ministers order the person's discharge under this Part.
- (2) Subject to subsection (6)—
- (a) the order made by the appropriate judge under section 92(4) (“the remand order”) remains in force until the end of the period of three days beginning with the day on which the person's discharge is ordered;
 - (b) if within that period the Scottish Ministers are informed in writing on behalf of the category 2 territory of an intention to appeal under section 110 (“the High Court appeal”), the remand order remains in force while the appeal is pending.
- (3) The High Court appeal ceases to be pending at the earliest of these times—
- (a) when the proceedings on the appeal are abandoned;
 - (b) when the High Court—
 - (i) allows the appeal, or
 - (ii) dismisses the appeal.
- (4) If—
- (a) the High Court appeal is dismissed,
 - (b) immediately after dismissing it, the High Court is informed of an intention to bring an appeal to the Supreme Court against a determination of a relevant devolution issue (“the Supreme Court appeal”), and
 - (c) the remand order has remained in force until that time,
- then, subject to subsection (6), the remand order continues to remain in force while the Supreme Court appeal is pending.
- (5) The Supreme Court appeal ceases to be pending at the earliest of these times—

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- (a) the end of the period of 28 days starting with the day when the High Court appeal is dismissed (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);
 - (b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);
 - (c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);
 - (d) the time when the proceedings on the Supreme Court appeal are abandoned;
 - (e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the category 2 territory (ignoring any power of a court to grant leave to take a step out of time).
- (6) If the person is remanded in custody under section 92(4), the appropriate judge may later grant bail.
- (7) In this section “relevant devolution issue” means a devolution issue relating to the person's extradition.
- (8) This section applies only to Scotland.]

Textual Amendments

F37 S. 112A inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 20 para. 24\(2\)](#) (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), art. 2(1)(b) (with art. 4(6))

113 Appeal to High Court: time limit for start of hearing

- (1) Rules of court must prescribe the period (the relevant period) within which the High Court must begin to hear an appeal under section 103, 105, 108 or 110.
- (2) The High Court must begin to hear the appeal before the end of the relevant period.
- (3) The High Court may extend the relevant period if it believes it to be in the interests of justice to do so; and this subsection may apply more than once.
- (4) The power in subsection (3) may be exercised even after the end of the relevant period.
- (5) If subsection (2) is not complied with and the appeal is under section 103 or 108—
 - (a) the appeal must be taken to have been allowed by a decision of the High Court;
 - (b) the person whose extradition has been ordered must be taken to have been discharged by the High Court;
 - (c) the order for the person's extradition must be taken to have been quashed by the High Court.
- (6) If subsection (2) is not complied with and the appeal is under section 105 or 110 the appeal must be taken to have been dismissed by a decision of the High Court.

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

Commencement Information

I12 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))

114 Appeal to [^{F38}Supreme Court]^{F38}

- (1) An appeal lies to the [^{F39}Supreme Court]^{F39} from a decision of the High Court on an appeal under section 103, 105, 108 or 110.
- (2) An appeal under this section lies at the instance of—
 - (a) the person whose extradition is requested;
 - (b) a person acting on behalf of the category 2 territory.
- (3) An appeal under this section lies only with the leave of the High Court or the [^{F40}Supreme Court]^{F40}.
- (4) Leave to appeal under this section must not be granted unless—
 - (a) the High Court has certified that there is a point of law of general public importance involved in the decision, and
 - (b) it appears to the court granting leave that the point is one which ought to be considered by the [^{F41}Supreme Court]^{F41}.
- (5) An application to the High Court for leave to appeal under this section must be made before the end of the permitted period, which is 14 days starting with the day on which the court makes its decision on the appeal to it.
- (6) An application to the [^{F42}Supreme Court]^{F42} for leave to appeal under this section must be made before the end of the permitted period, which is 14 days starting with the day on which the High Court refuses leave to appeal.
- (7) If leave to appeal under this section is granted, the appeal must be brought before the end of the permitted period, which is 28 days starting with the day on which leave is granted.
- (8) If subsection (7) is not complied with—
 - (a) the appeal must be taken to have been brought;
 - (b) the appeal must be taken to have been dismissed by the [^{F43}Supreme Court]^{F43} immediately after the end of the period permitted under that subsection.
- (9) These must be ignored for the purposes of subsection (8)(b)—
 - (a) any power of a court to extend the period permitted for bringing the appeal;
 - (b) any power of a court to grant leave to take a step out of time.
- ^{F44}(10) The High Court may grant bail to a person appealing under this section, or applying for leave to appeal under this section, against the dismissal of his appeal under section 103 or 108.]
- ^{F44}(11) Section 5 of the Appellate Jurisdiction Act 1876 (c. 59) (composition of House of Lords for hearing and determination of appeals) applies in relation to an appeal under this section or an application for leave to appeal under this section as it applies in relation to an appeal under that Act.

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- (12) An order of the House of Lords which provides for an application for leave to appeal under this section to be determined by a committee constituted in accordance with section 5 of the Appellate Jurisdiction Act 1876 may direct that the decision of the committee is taken on behalf of the House.
- (13) The preceding provisions of this section do not apply to Scotland.

Textual Amendments

- F38** Words in s. 114 sidenote substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(3\)](#); [S.I. 2009/1604, art. 2\(d\)](#)
- F39** Words in s. 114(1) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(3\)](#); [S.I. 2009/1604, art. 2\(d\)](#)
- F40** Words in s. 114(3) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(3\)](#); [S.I. 2009/1604, art. 2\(d\)](#)
- F41** Words in s. 114(4)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(3\)](#); [S.I. 2009/1604, art. 2\(d\)](#)
- F42** Words in s. 114(6) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(3\)](#); [S.I. 2009/1604, art. 2\(d\)](#)
- F43** Words in s. 114(8)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(3\)](#); [S.I. 2009/1604, art. 2\(d\)](#)
- F44** S. 114(10) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 42, 53, Sch. 13 para. 8\(11\)](#); [S.I. 2006/3364, art. 2\(d\)\(e\)](#)

Commencement Information

- I13** 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\(2\)](#))

115 Powers of ^{F45}Supreme Court^{F45} on appeal under section 114

- (1) On an appeal under section 114 the ^{F46}Supreme Court^{F46} may—
- allow the appeal;
 - dismiss the appeal.
- (2) Subsection (3) applies if—
- the person whose extradition is requested brings an appeal under section 114, and
 - the ^{F46}Supreme Court^{F46} allows the appeal.
- (3) The ^{F46}Supreme Court^{F46} must—
- order the person's discharge;
 - quash the order for his extradition, if the appeal was against a decision of the High Court to dismiss an appeal under section 103 or 108 or to allow an appeal under section 110.
- (4) Subsection (5) applies if—
- the High Court allows an appeal under section 103 or 108 by the person whose extradition is requested or dismisses an appeal under section 110 by a person acting on behalf of the category 2 territory,
 - a person acting on behalf of the category 2 territory brings an appeal under section 114 against the decision of the High Court, and

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- (c) the [F46Supreme Court]^{F46} allows the appeal.
- (5) The [F46Supreme Court]^{F46} must—
 - (a) quash the order discharging the person made by the High Court under section 104(5) or 109(5) or by the Secretary of State under this Part;
 - (b) order the person to be extradited to the category 2 territory.
- (6) Subsection (7) applies if—
 - (a) the High Court dismisses an appeal under section 105 against a decision made by the judge at the extradition hearing,
 - (b) a person acting on behalf of the category 2 territory brings an appeal under section 114 against the decision of the High Court, and
 - (c) the [F46Supreme Court]^{F46} allows the appeal.
- (7) The [F46Supreme Court]^{F46} must—
 - (a) quash the order of the judge discharging the person whose extradition is requested;
 - (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.
- (8) A question is the relevant question if the judge's decision on it resulted in the order for the person's discharge.
- [F47(9) In a case where subsection (5) or (7) applies, the [F46Supreme Court]^{F46} must remand, in custody or on bail, the person whose extradition is requested.
- (10) If the [F46Supreme Court]^{F46} remands the person in custody the High Court may later grant bail.]^{F47}

Textual Amendments

- F45** Words in s. 115 sidenote substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(4\)\(i\); S.I. 2009/1604, art. 2\(d\)](#)
- F46** Words in s. 115 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 81\(4\)\(i\); S.I. 2009/1604, art. 2\(d\)](#)
- F47** S. 115(9)(10) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 42, 53, Sch. 13 para. 8\(12\); S.I. 2006/3364, art. 2\(d\)\(e\)](#)

Commencement Information

- I14** 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\(2\)](#))

[F48] **115A Detention pending conclusion of certain appeals under section 114**

- (1) This section applies if—
 - (a) on an appeal under section 103 or 108 the High Court orders the person's discharge;
 - (b) immediately after it does so, the court is informed on behalf of the category 2 territory of an intention to appeal under section 114.
- (2) The court must remand the person in custody or on bail while the appeal is pending.

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- (3) If the court remands the person in custody it may later grant bail.
- (4) An appeal under section 114 ceases to be pending at the earliest of these times—
 - (a) when the proceedings on the appeal are discontinued;
 - (b) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the House of Lords against the decision of the High Court on the appeal under section 103 or 108 is granted, if no appeal to the House of Lords is brought before the end of that period;
 - (c) when there is no further step that can be taken on behalf of the category 2 territory in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).
- (5) The preceding provisions of this section do not apply to Scotland.]

Textual Amendments

F48 S. 115A inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 8\(13\)](#); [S.I. 2006/3364](#), [art. 2\(d\)\(e\)](#)

[^{F49}115B Detention pending conclusion of appeals relating to devolution issues

- (1) This section applies if—
 - (a) on an appeal under section 103 or 108 the High Court orders the person's discharge;
 - (b) immediately after ordering the person's discharge, the High Court is informed of an intention to bring an appeal to the Supreme Court against a determination of a relevant devolution issue (“the Supreme Court appeal”).
- (2) The High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.
- (3) If the court remands the person in custody it may later grant bail.
- (4) The Supreme Court appeal ceases to be pending at the earliest of these times—
 - (a) the end of the period of 28 days starting with the day when the High Court orders the person's discharge (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);
 - (b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);
 - (c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);
 - (d) the time when the proceedings on the Supreme Court appeal are abandoned;
 - (e) the time when there is no further step that can be taken in relation to the Supreme Court appeal (ignoring any power of a court to grant leave to take a step out of time).
- (5) In this section “relevant devolution issue” means a devolution issue relating to the person's extradition.

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

(6) This section applies only to Scotland.]

Textual Amendments

F49 S. 115B inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 20 para. 25** (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), art. 2(1)(b) (with art. 4(7))

116 Appeals: general

[^{F50}(1)] A decision under this Part of the judge or the Secretary of State may be questioned in legal proceedings only by means of an appeal under this Part.

[^{F51}(2) Subsection (1) does not prevent an appeal against a determination of a devolution issue.

(3) In this Part “ devolution issue ” has the same meaning as in Schedule 6 to the Scotland Act 1998.]

Textual Amendments

F50 S. 116 renumbered as s. 116(1) (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 20 para. 26** (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), art. 2(1)(b)

F51 S. 116(2)(3) inserted (29.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 20 para. 26** (with [Sch. 20 para. 29](#)); [S.I. 2013/1682](#), art. 2(1)(b)

Commencement Information

I15 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, Cross Heading:
Appeals.