



Extradition Act 2003

2003 CHAPTER 41

PART 1

EXTRADITION TO CATEGORY 1 TERRITORIES

Appeals

26 Appeal against extradition order

- (1) If the appropriate judge 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 order is made under section 46 or 48.
- (3) An appeal under this section may be brought on a question of law or fact.
- (4) Notice of an appeal under this section must be given in accordance with rules of court before the end of the permitted period, which is 7 days starting with the day on which the order is made.

27 Court's powers on appeal under section 26

- (1) On an appeal under section 26 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 appropriate 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.

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- (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 appropriate 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.

28 Appeal against discharge at extradition hearing

- (1) If the judge orders a person's discharge at the extradition hearing the authority which issued the Part 1 warrant may appeal to the High Court against the relevant decision.
- (2) But subsection (1) does not apply if the order for the person's discharge was under section 41.
- (3) The relevant decision is the decision which resulted in the order for the person's discharge.
- (4) An appeal under this section may be brought on a question of law or fact.
- (5) Notice of an appeal under this section must be given in accordance with rules of court before the end of the permitted period, which is 7 days starting with the day on which the order for the person's discharge is made.

29 Court's powers on appeal under section 28

- (1) On an appeal under section 28 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 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.
- (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 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.
- (5) 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.
- (6) A question is the relevant question if the judge's decision on it resulted in the order for the person's discharge.

30 Detention pending conclusion of appeal under section 28

- (1) This section applies if immediately after the judge orders the person's discharge the judge is informed by the authority which issued the Part 1 warrant that it intends to appeal under section 28.
- (2) The judge must remand the person in custody or on bail while the appeal is pending.
- (3) If the judge remands the person in custody he may later grant bail.
- (4) An appeal under section 28 ceases to be pending at the earliest of these times—
- (a) when the proceedings on the appeal are discontinued;
 - (b) when the High Court dismisses the appeal, if the authority does not immediately inform the court that it intends to apply for leave to appeal to the House of Lords;
 - (c) 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 is granted;
 - (d) when there is no further step that can be taken by the authority which issued the Part 1 warrant 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 apply to Scotland with these modifications—
- (a) in subsection (4)(b) omit the words from "if" to the end;
 - (b) omit subsection (4)(c).

31 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 26 or 28.
- (2) Rules of court must provide for the relevant period to start with the date on which the person in respect of whom a Part 1 warrant is issued—
- (a) was arrested under section 5, if he was arrested under that section;
 - (b) was arrested under the Part 1 warrant, if he was not arrested under section 5.
- (3) The High Court must begin to hear the appeal before the end of the relevant period.
- (4) 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.
- (5) The power in subsection (4) may be exercised even after the end of the relevant period.
- (6) If subsection (3) is not complied with and the appeal is under section 26—
- (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;

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(c) the order for the person's extradition must be taken to have been quashed by the High Court.

(7) If subsection (3) is not complied with and the appeal is under section 28 the appeal must be taken to have been dismissed by a decision of the High Court.

32 Appeal to House of Lords

(1) An appeal lies to the House of Lords from a decision of the High Court on an appeal under section 26 or 28.

(2) An appeal under this section lies at the instance of—
(a) the person in respect of whom the Part 1 warrant was issued;
(b) the authority which issued the Part 1 warrant.

(3) An appeal under this section lies only with the leave of the High Court or the House of Lords.

(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 House of Lords.

(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 House of Lords 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 House of Lords 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.

(10) The High Court may grant bail to a person appealing under this section or applying for leave to appeal under this section.

(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.

(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.

33 Powers of House of Lords on appeal under section 32

- (1) On an appeal under section 32 the House of Lords may—
 - (a) allow the appeal;
 - (b) dismiss the appeal.
- (2) Subsection (3) applies if—
 - (a) the person in respect of whom the Part 1 warrant was issued brings an appeal under section 32, and
 - (b) the House of Lords allows the appeal.
- (3) The House of Lords must—
 - (a) order the person's discharge;
 - (b) quash the order for his extradition, if the appeal was against a decision of the High Court to dismiss an appeal under section 26.
- (4) Subsection (5) applies if—
 - (a) the High Court allows an appeal under section 26 by the person in respect of whom the Part 1 warrant was issued,
 - (b) the authority which issued the warrant brings an appeal under section 32 against the decision of the High Court, and
 - (c) the House of Lords allows the appeal.
- (5) The House of Lords must—
 - (a) quash the order of the High Court under section 27(5) discharging the person;
 - (b) order the person to be extradited to the category 1 territory in which the warrant was issued.
- (6) Subsections (7) and (8) apply if—
 - (a) the High Court dismisses an appeal under section 28 against a decision made by the judge at the extradition hearing,
 - (b) the authority which issued the Part 1 warrant brings an appeal under section 32 against the decision of the High Court, and
 - (c) the House of Lords allows the appeal.
- (7) If the judge would have been required to order the person in respect of whom the warrant was issued to be extradited had he decided the relevant question differently, the House of Lords must—
 - (a) quash the order of the judge discharging the person;
 - (b) order the person to be extradited to the category 1 territory in which the warrant was issued.
- (8) In any other case, the House of Lords must—
 - (a) quash the order of the judge discharging the person in respect of whom the warrant was issued;
 - (b) remit the case to the judge;

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- (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.
- (9) A question is the relevant question if the judge's decision on it resulted in the order for the person's discharge.

34 Appeals: general

A decision of the judge under this Part may be questioned in legal proceedings only by means of an appeal under this Part.