



# Extradition Act 2003

## 2003 CHAPTER 41

### PART 1

#### EXTRADITION TO CATEGORY 1 TERRITORIES

##### *Time for extradition*

#### **35 Extradition where no appeal**

- (1) This section applies if—
  - (a) the appropriate judge orders a person's extradition to a category 1 territory under this Part, and
  - (b) no notice of an appeal under section 26 is given before the end of the period permitted under that section.
- (2) But this section does not apply if the order is made under section 46 or 48.
- (3) The person must be extradited to the category 1 territory before the end of the required period.
- (4) The required period is—
  - (a) 10 days starting with the day on which the judge makes the order, or
  - (b) if the judge and the authority which issued the Part 1 warrant agree a later date, 10 days starting with the later date.
- (5) If subsection (3) is not complied with and the person applies to the appropriate judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.
- (6) These must be ignored for the purposes of subsection (1)(b)—
  - (a) any power of a court to extend the period permitted for giving notice of appeal;
  - (b) any power of a court to grant leave to take a step out of time.

---

*Status: This is the original version (as it was originally enacted).*

---

### **36 Extradition following appeal**

- (1) This section applies if—
  - (a) there is an appeal to the High Court under section 26 against an order for a person’s extradition to a category 1 territory, and
  - (b) the effect of the decision of the relevant court on the appeal is that the person is to be extradited there.
- (2) The person must be extradited to the category 1 territory before the end of the required period.
- (3) The required period is—
  - (a) 10 days starting with the day on which the decision of the relevant court on the appeal becomes final or proceedings on the appeal are discontinued, or
  - (b) if the relevant court and the authority which issued the Part 1 warrant agree a later date, 10 days starting with the later date.
- (4) The relevant court is—
  - (a) the High Court, if there is no appeal to the House of Lords against the decision of the High Court on the appeal;
  - (b) the House of Lords, if there is such an appeal.
- (5) The decision of the High Court on the appeal becomes final—
  - (a) when the period permitted for applying to the High Court for leave to appeal to the House of Lords ends, if there is no such application;
  - (b) when the period permitted for applying to the House of Lords for leave to appeal to it ends, if the High Court refuses leave to appeal and there is no application to the House of Lords for leave to appeal;
  - (c) when the House of Lords refuses leave to appeal to it;
  - (d) 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 is granted, if no such appeal is brought before the end of that period.
- (6) These must be ignored for the purposes of subsection (5)—
  - (a) any power of a court to extend the period permitted for applying for leave to appeal;
  - (b) any power of a court to grant leave to take a step out of time.
- (7) The decision of the House of Lords on the appeal becomes final when it is made.
- (8) If subsection (2) is not complied with and the person applies to the appropriate judge to be discharged the judge must order his discharge, unless reasonable cause is shown for the delay.
- (9) The preceding provisions of this section apply to Scotland with these modifications—
  - (a) in subsections (1) and (3) for “relevant court” substitute “High Court”;
  - (b) omit subsections (4) to (7).

### **37 Undertaking in relation to person serving sentence in United Kingdom**

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

- (b) the person is serving a sentence of imprisonment or another form of detention in the United Kingdom.
- (2) But this section does not apply if the order is made under section 46 or 48.
- (3) The judge may make the order for extradition subject to the condition that extradition is not to take place before he receives an undertaking given on behalf of the category 1 territory in terms specified by him.
- (4) The terms which may be specified by the judge in relation to a person accused in a category 1 territory of the commission of an offence include terms—
- (a) that the person be kept in custody until the conclusion of the proceedings against him for the offence and any other offence in respect of which he is permitted to be dealt with in the category 1 territory;
  - (b) that the person be returned to the United Kingdom to serve the remainder of his sentence on the conclusion of those proceedings.
- (5) The terms which may be specified by the judge in relation to a person alleged to be unlawfully at large after conviction of an offence by a court in a category 1 territory include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for—
- (a) the offence, and
  - (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.
- (6) Subsections (7) and (8) apply if the judge makes an order for extradition subject to a condition under subsection (3).
- (7) If the judge does not receive the undertaking before the end of the period of 21 days starting with the day on which he makes the order and the person applies to the appropriate judge to be discharged, the judge must order his discharge.
- (8) If the judge receives the undertaking before the end of that period—
- (a) in a case where section 35 applies, the required period for the purposes of section 35(3) is 10 days starting with the day on which the judge receives the undertaking;
  - (b) in a case where section 36 applies, the required period for the purposes of section 36(2) is 10 days starting with the day on which the decision of the relevant court on the appeal becomes final (within the meaning of that section) or (if later) the day on which the judge receives the undertaking.

### **38 Extradition following deferral for competing claim**

- (1) This section applies if—
- (a) an order is made under this Part for a person to be extradited to a category 1 territory in pursuance of a Part 1 warrant;
  - (b) before the person is extradited to the territory an order is made under section 44(4)(b) or 179(2)(b) for the person's extradition in pursuance of the warrant to be deferred;
  - (c) the appropriate judge makes an order under section 181(2) for the person's extradition in pursuance of the warrant to cease to be deferred.

---

*Status: This is the original version (as it was originally enacted).*

---

- (2) But this section does not apply if the order for the person's extradition is made under section 46 or 48.
- (3) In a case where section 35 applies, the required period for the purposes of section 35(3) is 10 days starting with the day on which the order under section 181(2) is made.
- (4) In a case where section 36 applies, the required period for the purposes of section 36(2) is 10 days starting with the day on which the decision of the relevant court on the appeal becomes final (within the meaning of that section) or (if later) the day on which the order under section 181(2) is made.

### **39 Asylum claim**

- (1) This section applies if—
  - (a) a person in respect of whom a Part 1 warrant is issued makes an asylum claim at any time in the relevant period;
  - (b) an order is made under this Part for the person to be extradited in pursuance of the warrant.
- (2) The relevant period is the period—
  - (a) starting when a certificate is issued under section 2 in respect of the warrant;
  - (b) ending when the person is extradited in pursuance of the warrant.
- (3) The person must not be extradited in pursuance of the warrant before the asylum claim is finally determined; and sections 35, 36, 47 and 49 have effect subject to this.
- (4) Subsection (3) is subject to section 40.
- (5) If the Secretary of State allows the asylum claim, the claim is finally determined when he makes his decision on the claim.
- (6) If the Secretary of State rejects the asylum claim, the claim is finally determined—
  - (a) when the Secretary of State makes his decision on the claim, if there is no right to appeal against the Secretary of State's decision on the claim;
  - (b) when the period permitted for appealing against the Secretary of State's decision on the claim ends, if there is such a right but there is no such appeal;
  - (c) when the appeal against that decision is finally determined or is withdrawn or abandoned, if there is such an appeal.
- (7) An appeal against the Secretary of State's decision on an asylum claim is not finally determined for the purposes of subsection (6) at any time when a further appeal or an application for leave to bring a further appeal—
  - (a) has been instituted and has not been finally determined or withdrawn or abandoned, or
  - (b) may be brought.
- (8) The remittal of an appeal is not a final determination for the purposes of subsection (7).
- (9) The possibility of an appeal out of time with leave must be ignored for the purposes of subsections (6) and (7).

#### **40 Certificate in respect of asylum claimant**

- (1) Section 39(3) does not apply in relation to a person if the Secretary of State has certified that the conditions in subsection (2) or the conditions in subsection (3) are satisfied in relation to him.
- (2) The conditions are that—
  - (a) the category 1 territory to which the person’s extradition has been ordered has accepted that, under standing arrangements, it is the responsible State in relation to the person’s asylum claim;
  - (b) in the opinion of the Secretary of State, the person is not a national or citizen of the territory.
- (3) The conditions are that, in the opinion of the Secretary of State—
  - (a) the person is not a national or citizen of the category 1 territory to which his extradition has been ordered;
  - (b) the person’s life and liberty would not be threatened in that territory by reason of his race, religion, nationality, political opinion or membership of a particular social group;
  - (c) the government of the territory would not send the person to another country otherwise than in accordance with the Refugee Convention.
- (4) In this section—

“the Refugee Convention” has the meaning given by section 167(1) of the Immigration and Asylum Act 1999 (c. 33);

“standing arrangements” means arrangements in force between the United Kingdom and the category 1 territory for determining which State is responsible for considering applications for asylum.