



Extradition Act 2003

2003 CHAPTER 41

PART 1

EXTRADITION TO CATEGORY 1 TERRITORIES

Costs

61 Costs where discharge ordered

- (1) This section applies if any of the following occurs in relation to a person in respect of whom a Part 1 warrant is issued—
- (a) an order for the person's discharge is made under this Part;
 - (b) the person is taken to be discharged under this Part;
 - [^{F1}(ba) the High Court dismisses an application for leave to appeal to it under section 28;]
 - (c) the High Court dismisses an appeal under section 28;
 - (d) the High Court or the [^{F2}Supreme Court] dismisses an application for leave to appeal to the [^{F2}Supreme Court] under section 32, if the application is made by the authority which issued the warrant;
 - (e) the [^{F2}Supreme Court] dismisses an appeal under section 32, if the appeal is brought by the authority which issued the warrant.
- (2) In a case falling within subsection (1)(a), an order under subsection (5) in favour of the person may be made by—
- (a) the appropriate judge, if the order for the person's discharge is made by him;
 - (b) the High Court, if the order for the person's discharge is made by it;
 - (c) the [^{F2}Supreme Court], if the order for the person's discharge is made by it.
- (3) In a case falling within subsection (1)(b), the appropriate judge may make an order under subsection (5) in favour of the person.

Changes to legislation: There are currently no known outstanding effects for the Extradition Act 2003, Section 61. (See end of Document for details)

- (4) In a case falling within subsection [^{F3}(1)(ba), (c)], (d) or (e), the court by which the application or appeal is dismissed may make an order under subsection (5) in favour of the person.
- (5) An order under this subsection in favour of a person is an order for a payment of the appropriate amount to be made to the person out of money provided by Parliament.
- [^{F4}(5A) In England and Wales, an order under subsection (5) is to be made, and the appropriate amount is to be determined, in accordance with sections 62A and 62B.
- (5B) In Scotland and Northern Ireland, an order under subsection (5) is to be made, and the appropriate amount is to be determined, in accordance with subsections (6) to (9).]
- (6) The appropriate amount is such amount as the judge or court making the order under subsection (5) considers reasonably sufficient to compensate the person in whose favour the order is made for any expenses properly incurred by him in the proceedings under this Part.
- (7) But if the judge or court making an order under subsection (5) is of the opinion that there are circumstances which make it inappropriate that the person in whose favour the order is made should recover the full amount mentioned in subsection (6), the judge or court must—
- (a) assess what amount would in his or its opinion be just and reasonable;
 - (b) specify that amount in the order as the appropriate amount.
- (8) Unless subsection (7) applies, the appropriate amount—
- (a) must be specified in the order, if the court considers it appropriate for it to be so specified and the person in whose favour the order is made agrees the amount;
 - (b) must be determined in accordance with regulations made by the Lord Chancellor for the purposes of this section, in any other case.
- [^{F5}(9) In relation to proceedings in Northern Ireland (including proceedings in the Supreme Court on an appeal, or on an application for leave to appeal, from proceedings in Northern Ireland)—
- (a) subsection (5) has effect as if for “out of money provided by Parliament” there were substituted by the Department of Justice in Northern Ireland;
 - (b) the power to make regulations under subsection (8)(b) is exercisable by the Department of Justice in Northern Ireland (and not by the Lord Chancellor).]

Textual Amendments

- F1** S. 61(1)(ba) inserted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(8)(a)** (with art. 1(4))
- F2** Words in s. 61 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, **Sch. 9 para. 81(4)(f)**; [S.I. 2009/1604](#), **art. 2(d)**
- F3** Words in s. 61(4) substituted (15.4.2015) by [The Extradition Act 2003 \(Amendment to Designations and Appeals\) Order 2015 \(S.I. 2015/992\)](#), arts. 1(1), **3(8)(b)** (with art. 1(4))
- F4** S. 61(5A)(5B) inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 7 para. 13(2)** (with Sch. 7 Pt. 4); [S.I. 2012/2412](#), art. 2(g)
- F5** S. 61(9) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(5), **Sch. 18 para. 70(2)** (with arts. 28-31); [S.I. 2010/977](#), **art. 1(2)**

*Changes to legislation: There are currently no known outstanding effects
for the Extradition Act 2003, Section 61. (See end of Document for details)*

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))

Changes to legislation:

There are currently no known outstanding effects for the Extradition Act 2003, Section 61.