

SCHEDULE

PROVISIONS OF EXTRADITION ACT 1989 AS EXTENDED TO THE BRITISH ANTARCTIC TERRITORY

PART III

PROCEDURE

General

Statement of case by court.

10.—(1) If the court of committal refuses to make an order in relation to a person under section 9 above in respect of the offence or, as the case may be, any of the offences to which the authority to proceed relates, the Government seeking his return (whether it be the Government of the United Kingdom or of a designated Commonwealth country or the Governor of a colony or the Government of the Republic of Ireland) may question the proceeding on the ground that it is wrong in law by applying to the court to state a case for the opinion of the Supreme Court on the question of law involved.

(2) If the Government seeking return immediately informs the court of committal that it intends to make such an application, the court shall make an order providing for the detention of the person to whom the authority to proceed relates, or directing that he shall not be released except on bail.

(3) Rules of Court may specify—

- (a) a period within which such an application must be made unless the court grants a longer period; and
- (b) a period within which the court of committal must comply with such an application.

(4) Where the court of committal fails to comply with an application under subsection (1) above within the period specified by Rules of Court (or, if no period has been so specified, within a reasonable period), the Supreme Court may, on the application of the Government that applied for the case to be stated, make an order requiring the court to state a case.

(5) The Supreme Court shall have the power—

- (a) to remit the case to the court of committal to decide it according to the opinion of the Supreme Court on the question of law; or
- (b) to dismiss the appeal.

(6) Where the Supreme Court dismisses an appeal relating to an offence, it shall by order declare that that offence is not an offence in respect of which the Commissioner has power to make an order for return in respect of the person whose return was requested.

(7) An order made by the court of committal under subsection (2) above shall cease to have effect if—

- (a) the Supreme Court dismisses the appeal in respect of the offence or all the offences to which it relates; and
- (b) the Government seeking return does not immediately—
 - (i) apply for leave to appeal to the Court of Appeal; or
 - (ii) inform the Supreme Court that it intends to apply for leave.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(9) An appeal against a decision of the Supreme Court given under this section may be made to the Court of Appeal by the person whose return is sought or by the Government seeking return but may be so made only—

- (a) by leave of the Supreme Court; or
- (b) when the Supreme Court has refused leave under paragraph (a), by special leave of the Court of Appeal.

(10) Without prejudice to section 4(2) of the British Antarctic Territory Court of Appeal Order in Council 1965(1), the Court of Appeal may, on an appeal from a decision of the Supreme Court given under this section, exercise any powers of the Supreme Court under subsection (5) above, and subsection (6) above shall apply to it as it applies to the Supreme Court.

(11) Subject to subsection (7) above, an order under subsection (2) above shall have effect so long as the case is pending.

(12) For the purposes of this section a case is pending (unless proceedings are discontinued) until (disregarding any power of a court to grant leave to take any step out of time and the power of Her Majesty to grant special leave to appeal to Her Majesty in Council) there is no step that the Government seeking return can take.

(1) S.I.1965/590.