
STATUTORY INSTRUMENTS

2014 No. 1610

The Criminal Procedure Rules 2014

PART 17

EXTRADITION

SECTION 3: APPEAL TO THE HIGH COURT

[Note. Under Part 1 of the Extradition Act 2003—

- (a) a defendant may appeal to the High Court against an order for extradition made by the magistrates' court; and*
- (b) the authority requesting the defendant's extradition may appeal to the High Court against an order for the defendant's discharge,*

(see sections 26 and 28 of the Act(1)).

Under Part 2 of the 2003 Act—

- (a) a defendant may appeal to the High Court against an order by the magistrates' court sending a case to the Secretary of State for a decision whether to extradite the defendant;*
- (b) a defendant may appeal to the High Court against an order for extradition made by the Secretary of State; and*
- (c) the territory requesting the defendant's extradition may appeal to the High Court against an order for the defendant's discharge by the magistrates' court or by the Secretary of State,*

(see sections 103, 105, 108 and 110 of the Act(2)).

In each case the appellant needs the High Court's permission to appeal (in the 2003 Act, described as 'leave to appeal').]

Exercise of the High Court's powers

17.17.—(1) The general rule is that the High Court must exercise its powers at a hearing in public, but—

- (a) that is subject to any power the court has to—
 - (i) impose reporting restrictions,
 - (ii) withhold information from the public, or
 - (iii) order a hearing in private;
- (b) despite the general rule, the court may determine without a hearing—

(1) [2003 c. 41](#); sections 26 and 28 are amended by section 160 of the Anti-social Behaviour, Crime and Policing Act [2014 \(c. 12\)](#), with effect from a date to be appointed.

(2) [2003 c. 41](#); section 108 was amended by paragraphs 10 and 12 of Schedule 20 to the Crime and Courts Act [2013 \(c. 22\)](#). Section 108 is further amended, and sections 103, 105 and 110 are amended, by section 160 of the Anti-social Behaviour, Crime and Policing Act [2014 \(c. 12\)](#), with effect from a date to be appointed.

- (i) an application for permission to appeal to the High Court (but a renewed such application must be determined at a hearing),
 - (ii) an application for permission to appeal from the High Court to the Supreme Court,
 - (iii) an application for permission to reopen a decision under rule 17.27 (Reopening the determination of an appeal), or
 - (iv) an application concerning bail; and
- (c) despite the general rule the court may, without a hearing—
 - (i) give case management directions, or
 - (ii) reject a notice or application and, if applicable, dismiss an application for permission to appeal, where rule 17.31 (Payment of High Court fees) applies and the party who served the notice or application fails to comply with that rule.
- (2) If the High Court so directs, a party may attend a hearing by live link.
- (3) The general rule is that where the High Court exercises its powers at a hearing it may do so only if the defendant attends, in person or by live link, but, despite the general rule, the court may exercise its powers in the defendant's absence if—
 - (a) the defendant waives the right to attend;
 - (b) subject to any appeal to the Supreme Court, the result of the court's order would be the discharge of the defendant; or
 - (c) the defendant is represented and—
 - (i) the defendant is in custody, or
 - (ii) the defendant's presence is impracticable by reason of his or her ill health or disorderly conduct.
- (4) If the High Court gives permission to appeal to the High Court—
 - (a) unless the court otherwise directs, the decision indicates that the court gives the appellant permission to appeal on each ground identified by the appeal notice;
 - (b) unless the court otherwise directs, the decision indicates that the court finds reasonably arguable each ground on which the court gives permission to appeal; and
 - (c) the court must give such directions as are required for the preparation and hearing of the appeal, including a direction as to whether the appeal must be heard by a single judge of the High Court or by a divisional court.
- (5) If the High Court decides without a hearing an application for permission to appeal from the High Court to the Supreme Court, the High Court must announce its decision at a hearing in public.
- (6) The High Court may—
 - (a) shorten a time limit or extend it (even after it has expired), unless that is inconsistent with other legislation;
 - (b) allow or require a party to vary or supplement a notice that that party has served;
 - (c) direct that a notice or application be served on any person;
 - (d) allow a notice or application to be in a different form to one set out in the Practice Direction, or to be presented orally.
- (7) A party who wants an extension of time within which to serve a notice or make an application must—
 - (a) apply for that extension of time when serving that notice or making that application; and
 - (b) give the reasons for the application for an extension of time.

[Note. The time limits for serving an appeal notice are prescribed by the Extradition Act 2003: see rule 17.19.]

Case management in the High Court

17.18.—(1) The High Court and the parties have the same duties and powers as under Part 3 (Case management), subject to paragraph (3).

(2) A master of the High Court, a deputy master, or a court officer nominated for the purpose by the Lord Chief Justice—

(a) must fulfil the duty of active case management under rule 3.2, and in fulfilling that duty may exercise any of the powers of case management under—

(i) rule 3.5 (the court’s general powers of case management),

(ii) rule 3.10(3) (requiring a certificate of readiness), and

(iii) rule 3.11 (requiring a party to identify intentions and anticipated requirements) subject to the directions of a judge of the High Court; and

(b) must nominate a case progression officer under rule 3.4.

(3) Rule 3.6 (Application to vary a direction) does not apply to a decision to give or to refuse—

(a) permission to appeal; or

(b) permission to reopen a decision under rule 17.27 (Reopening the determination of an appeal).

Service of appeal notice

17.19.—(1) A party who wants to appeal to the High Court must serve an appeal notice on—

(a) in every case—

(i) the High Court officer,

(ii) the other party, and

(iii) the Director of Public Prosecutions, unless the Director already has the conduct of the proceedings;

(b) the designated authority which certified the arrest warrant, where Part 1 of the Extradition Act 2003 applies; and

(c) the Secretary of State, where the appeal is against—

(i) an order by the Secretary of State, or

(ii) an order by the magistrates’ court sending a case to the Secretary of State.

(2) A defendant who wants to appeal must serve the appeal notice—

(a) not more than 7 days after the day on which the magistrates’ court makes an order for the defendant’s extradition, starting with that day, where that order is under Part 1 of the Extradition Act 2003;

(b) not more than 14 days after the day on which the Secretary of State informs the defendant of the Secretary of State’s decision, starting with that day, where under Part 2 of the Act—

(i) the magistrates’ court sends the case to the Secretary of State for a decision whether to extradite the defendant, or

(ii) the Secretary of State orders the defendant’s extradition.

(3) An authority or territory seeking the defendant’s extradition which wants to appeal against an order for the defendant’s discharge must serve the appeal notice—

- (a) not more than 7 days after the day on which the magistrates' court makes that order, starting with that day, if the order is under Part 1 of the Extradition Act 2003;
- (b) not more than 14 days after the day on which the magistrates' court makes that order, starting with that day, if the order is under Part 2 of the Act;
- (c) not more than 14 days after the day on which the Secretary of State informs the territory's representative of the Secretary of State's order, starting with that day, where the order is under Part 2 of the Act.

[Note. See sections 26, 28, 103, 105, 108 and 110 of the Extradition Act 2003(3). The time limits for serving an appeal notice are prescribed by those sections. They may be neither shortened nor extended, but—

- (a) *if a defendant applies out of time for permission to appeal to the High Court the court must not for that reason refuse to consider the application if the defendant did everything reasonably possible to ensure that the notice was given as soon as it could be; and*
- (b) *a defendant may apply out of time for permission to appeal to the High Court on human rights grounds against an order for extradition made by the Secretary of State.*

Under section 3 of the Prosecution of Offences Act 1985(4), the Director of Public Prosecutions may conduct extradition proceedings (but need not do so).]

Form of appeal notice

17.20.—(1) An appeal notice constitutes—

- (a) an application to the High Court for permission to appeal to that court; and
 - (b) an appeal to that court, if the court gives permission.
- (2) An appeal notice must be in writing.
- (3) In every case, the appeal notice must—
- (a) specify—
 - (i) the date of the defendant's arrest under Part 1 or Part 2 of the Extradition Act 2003, and
 - (ii) the decision about which the appellant wants to appeal, including the date of that decision;
 - (b) identify each ground of appeal on which the appellant relies;
 - (c) summarise the relevant facts;
 - (d) identify any document or other material that the appellant thinks the court will need to decide the appeal; and
 - (e) include or attach a list of those on whom the appellant has served the appeal notice.

(3) 2003 c. 41; section 108 was amended by paragraphs 10 and 12 of Schedule 20 to the Crime and Courts Act 2013 (c. 22). Section 108 is further amended, and sections 26, 28, 103, 105 and 110 are amended, by section 160 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), with effect from a date to be appointed.

(4) 1985 c. 23; section 3 was amended by section 15 of, and paragraph 13 of Schedule 2 to, the Criminal Justice Act 1987 (c. 38), paragraph 39 of Schedule 7 to the Police Act 1996 (c. 16), section 134 of, and paragraph 48 of Schedule 9 to, the Police Act 1997 (c. 50), section 164 of the Immigration and Asylum Act 1999 (c. 33), paragraph 10 of Schedule 7 to the Police Reform Act 2002 (c. 30), sections 86 and 92 of, and Schedule 3 to, the Anti-social Behaviour Act 2003 (c. 38), section 190 of the Extradition Act 2003 (c. 41), section 7 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19), section 40 of, and paragraph 41 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4), sections 59, 140 and 174 of, and paragraph 47 of Schedule 4 and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c. 15), sections 7, 8 and 52 of, and paragraph 15 of Schedule 3 to, the Violent Crime Reduction Act 2006 (c. 38), section 74 of, and paragraph 149 of Schedule 8 to, the Serious Crime Act 2007 (c. 27), paragraph 171 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13), section 15 of, and paragraph 30 of Schedule 8 to, the Crime and Courts Act 2013 (c. 22) and article 3 of, and paragraphs 1 and 2 of the Schedule to, S.I. 2014/834.

- (4) If a defendant serves an appeal notice after the expiry of the time limit specified in rule 17.19 (Service of appeal notice)—
- (a) the notice must explain what the defendant did to ensure that it was served as soon as it could be; and
 - (b) where the appeal is on human rights grounds against an order for extradition made by the Secretary of State, the notice must explain why—
 - (i) the appeal is necessary to avoid real injustice, and
 - (ii) the circumstances are exceptional and make it appropriate to consider the appeal.
- (5) Unless the High Court otherwise directs, the appellant may amend the appeal notice—
- (a) by serving on those listed in rule 17.19(1) the appeal notice as so amended;
 - (b) not more than 10 business days after service of the appeal notice.
- (6) Where the appeal is against an order by the magistrates' court—
- (a) if the grounds of appeal are that the magistrates' court ought to have decided differently a question of fact or law at the extradition hearing, the appeal notice must—
 - (i) identify that question,
 - (ii) explain what decision the magistrates' court should have made, and why, and
 - (iii) explain why the magistrates' court would have been required not to make the order under appeal, if that question had been decided differently;
 - (b) if the grounds of appeal are that there is an issue which was not raised at the extradition hearing, or that evidence is available which was not available at the extradition hearing, the appeal notice must—
 - (i) identify that issue or evidence,
 - (ii) explain why it was not then raised or available,
 - (iii) explain why that issue or evidence would have resulted in the magistrates' court deciding a question differently at the extradition hearing, and
 - (iv) explain why, if the court had decided that question differently, the court would have been required not to make the order it made.
- (7) Where the appeal is against an order by the Secretary of State—
- (a) if the grounds of appeal are that the Secretary of State ought to have decided differently a question of fact or law, the appeal notice must—
 - (i) identify that question,
 - (ii) explain what decision the Secretary of State should have made, and why, and
 - (iii) explain why the Secretary of State would have been required not to make the order under appeal, if that question had been decided differently;
 - (b) if the grounds of appeal are that there is an issue which was not raised when the case was being considered by the Secretary of State, or that information is available which was not then available, the appeal notice must—
 - (i) identify that issue or information,
 - (ii) explain why it was not then raised or available,
 - (iii) explain why that issue or information would have resulted in the Secretary of State deciding a question differently, and
 - (iv) explain why, if the Secretary of State had decided that question differently, the order under appeal would not have been made.

[Note. The Practice Direction sets out a form of appeal notice for use in connection with this rule.]

Respondent's notice

17.21.—(1) A party on whom an appellant serves an appeal notice under rule 17.19 may serve a respondent's notice, and must do so if—

- (a) that party wants to make representations to the High Court; or
 - (b) the court so directs.
- (2) Such a party must serve any such notice on—
- (a) the High Court officer;
 - (b) the appellant;
 - (c) the Director of Public Prosecutions, unless the Director already has the conduct of the proceedings; and
 - (d) any other person on whom the appellant served the appeal notice.
- (3) Such a party must serve any such notice not more than 5 business days after service on that party of, as appropriate—
- (a) the appeal notice;
 - (b) an appellant's notice renewing an application for permission to appeal;
 - (c) a direction to serve a respondent's notice.
- (4) A respondent's notice must—
- (a) give the date or dates on which the respondent was served with, as appropriate—
 - (i) the appeal notice,
 - (ii) the appellant's notice renewing the application for permission to appeal,
 - (iii) the direction to serve a respondent's notice;
 - (b) identify each ground of opposition on which the respondent relies, and identifying the ground of appeal to which each relates;
 - (c) summarise any relevant facts not already summarised in the appeal notice; and
 - (d) identify any document or other material that the appellant thinks the court will need to decide the appeal.

[Note. Under rule 17.17, the High Court may extend or shorten the time limit under this rule.]

Renewing an application for permission to appeal

17.22.—(1) This rule applies where the High Court—

- (a) refuses permission to appeal to the High Court; or
 - (b) gives permission to appeal to the High Court, but not on every ground identified by the appeal notice.
- (2) Unless the court makes that decision at a hearing, the appellant may renew the application by serving notice on—
- (a) the High Court officer;
 - (b) the respondent; and
 - (c) any other person on whom the appellant served the appeal notice,
- not more than 5 business days after service of notice of the court's decision on the appellant.

(3) Where the court refuses permission to appeal, the renewal notice must explain the grounds for the renewal.

(4) Where the court gives permission to appeal, but not on every ground identified by the appeal notice, the renewal notice must specify the excluded ground or grounds on which the appellant wants to rely and explain the grounds for the renewal.

[Note. Under rule 17.17, the High Court may extend or shorten the time limit under this rule.]

Appeal hearing

17.23.—(1) Unless the High Court otherwise directs, where the appeal to the High Court is under Part 1 of the Extradition Act 2003 the hearing of the appeal must begin no more than 40 days after the defendant's arrest.

(2) Unless the High Court otherwise directs, where the appeal to the High Court is under Part 2 of the 2003 Act the hearing of the appeal must begin no more than 76 days after the later of—

- (a) service of the appeal notice; or
- (b) the day on which the Secretary of State informs the defendant of the Secretary of State's order, in a case in which—
 - (i) the appeal is by the defendant against an order by the magistrates' court sending the case to the Secretary of State, and
 - (ii) the appeal notice is served before the Secretary of State decides whether the defendant should be extradited.

(3) If the effect of the decision of the High Court on the appeal is that the defendant is to be extradited—

- (a) the High Court must consider any ancillary application, including an application about—
 - (i) bail pending extradition,
 - (ii) reporting restrictions,
 - (iii) costs;
- (b) the High Court is the appropriate court to order a postponement of the defendant's extradition where—
 - (i) the defendant has been charged with an offence in the United Kingdom, or
 - (ii) the defendant has been sentenced to imprisonment or detention in the United Kingdom.

(4) If the effect of the decision of the High Court on the appeal is that the defendant is discharged, the High Court must consider any ancillary application, including an application about—

- (a) reporting restrictions;
- (b) costs.

[Note. Under sections 31 and 113 of the Extradition Act 2003(5), if the appeal hearing does not begin within the period prescribed by this rule or ordered by the High Court the appeal must be taken to have been dismissed by decision of the High Court.

Under section 103 of the Extradition Act 2003(6), a defendant's appeal against an order by the magistrates' court sending the case to the Secretary of State must not be heard until after the Secretary of State has decided whether to order the defendant's extradition.

(5) 2003 c. 41.

(6) 2003 c. 41; section 103 is amended by section 160 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), with effect from a date to be appointed.

Part 16 contains rules about reporting restrictions. Part 76 contains rules about costs.

See sections 36A, 36B, 118A and 118B Extradition Act 2003(7). Where there is an appeal against an order for extradition, rules may provide that the appeal court may exercise the power under those sections to postpone the extradition.]

Discontinuing an appeal

17.24.—(1) This rule applies where—

- (a) an appellant has served an appeal notice under rule 17.19;
- (b) the High Court has given permission to appeal to the High Court; and
- (c) the court has not determined the appeal.

(2) If the appellant wants to discontinue the appeal, the appellant must notify—

- (a) the High Court officer;
- (b) the respondent;
- (c) the Director of Public Prosecutions, unless the Director already has the conduct of the proceedings; and
- (d) any other person on whom the appellant served the appeal notice.

(3) The parties to the appeal must serve on the High Court officer—

- (a) a joint notice consenting to the dismissal of the appeal; and
- (b) a joint notice of any agreement between the parties about costs.

(4) Where a defendant who is on bail pending appeal discontinues that appeal—

- (a) the defendant must surrender to custody as directed by the magistrates' court officer; and
- (b) any conditions of bail apply until then.

[Note. See sections 36 and 118 of the Extradition Act 2003(8).

The Practice Direction sets out a form of notice of discontinuance for use in connection with this rule.

Part 76 contains rules about costs.]

Application for permission to appeal to the Supreme Court

17.25.—(1) This rule applies where a party to an appeal to the High Court wants to appeal to the Supreme Court.

(2) Such a party must—

- (a) apply orally to the High Court for permission to appeal immediately after the court's decision; or
- (b) apply in writing and serve the application on the High Court officer and every other party not more than 14 days after that decision.

(3) Such a party must—

- (a) identify the point of law of general public importance that the appellant wants the High Court to certify is involved in the decision;

(7) 2003 c. 41; sections 36A, 36B, 118A and 118B are inserted by section 161 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), with effect from a date to be appointed.

(8) 2003 c. 41; sections 36 and 118 were amended by section 40 of, and paragraph 81 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4).

- (b) serve on the High Court officer a written statement of that point of law; and
- (c) give reasons why—
 - (i) that point of law ought to be considered by the Supreme Court, and
 - (ii) the High Court ought to give permission to appeal.

(4) As well as complying with paragraph (3), a defendant’s application for permission to appeal to the Supreme Court must include or attach any application for the following, with reasons—

- (a) bail pending appeal;
- (b) permission to attend any hearing in the Supreme Court, if the appellant is in custody.

[Note. See sections 32 and 114 of the Extradition Act 2003(9). Those sections prescribe the time limit for serving an application for permission to appeal to the Supreme Court. It may be neither shortened nor extended.]

Determination of detention pending appeal to the Supreme Court against discharge

17.26. On an application for permission to appeal to the Supreme Court against a decision of the High Court which, but for that appeal, would have resulted in the defendant’s discharge, the High Court must—

- (a) decide whether to order the detention of the defendant; and
- (b) determine any application for—
 - (i) bail pending appeal,
 - (ii) permission to attend any hearing in the Supreme Court,
 - (iii) a representation order.

[Note. See sections 33A and 115A of the Extradition Act 2003(10).

For the grant of legal aid for proceedings in the Supreme Court, see sections 14, 16 and 19 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(11).]

Reopening the determination of an appeal

17.27.—(1) This rule applies where a party wants the High Court to reopen a decision of that court which determines an appeal or an application for permission to appeal.

- (2) Such a party must—
 - (a) apply in writing for permission to reopen that decision, as soon as practicable after becoming aware of the grounds for doing so; and
 - (b) serve the application on the High Court officer and every other party.
- (3) The application must—
 - (a) specify the decision which the applicant wants the court to reopen; and
 - (b) give reasons why—
 - (i) it is necessary for the court to reopen that decision in order to avoid real injustice,
 - (ii) the circumstances are exceptional and make it appropriate to reopen the decision, and
 - (iii) there is no alternative effective remedy.

(9) 2003 c. 41; sections 32 and 114 were amended by paragraph 81 of Schedule 9 to the Constitutional Reform Act 2005 (c. 4) and section 42 of, and paragraph 8 of Schedule 13 to, the Police and Justice Act 2006 (c. 48).

(10) 2003 c. 41; sections 33A and 115A were inserted by section 42 of, and paragraphs 8 and 35 of Schedule 13 to, the Police and Justice Act 2006 (c. 48).

(11) 2012 c. 10.

(4) The court must not give permission to reopen a decision unless each other party has had an opportunity to make representations.

Declaration of incompatibility with a Convention right

- 17.28.**—(1) This rule applies where a party—
- (a) wants the High Court to make a declaration of incompatibility with a Convention right under section 4 of the Human Rights Act 1998⁽¹²⁾; or
 - (b) raises an issue that appears to the High Court may lead to the court making such a declaration.
- (2) If the High Court so directs, the High Court officer must serve notice on—
- (a) the relevant person named in the list published under section 17(1) of the Crown Proceedings Act 1947⁽¹³⁾; or
 - (b) the Treasury Solicitor, if it is not clear who is the relevant person.
- (3) That notice must include or attach details of—
- (a) the legislation affected and the Convention right concerned;
 - (b) the parties to the appeal; and
 - (c) any other information or document that the High Court thinks relevant.
- (4) A person who has a right under the 1998 Act to become a party to the appeal must—
- (a) serve notice on—
 - (i) the High Court officer, and
 - (ii) the other parties,
 if that person wants to exercise that right; and
 - (b) in that notice—
 - (i) indicate the conclusion that that person invites the High Court to reach on the question of incompatibility, and
 - (ii) identify each ground for that invitation, concisely outlining the arguments in support.
- (5) The High Court must not make a declaration of incompatibility—
- (a) less than 21 days after the High Court officer serves notice under paragraph (2); and
 - (b) without giving any person who serves a notice under paragraph (4) an opportunity to make representations at a hearing.

Duties of court officers

- 17.29.**—(1) The magistrates' court officer must—
- (a) keep any document or object exhibited in the proceedings in the magistrates' court, or arrange for it to be kept by some other appropriate person, until—
 - (i) 6 weeks after the conclusion of those proceedings, or
 - (ii) the conclusion of any proceedings in the High Court that begin within that 6 weeks;
 - (b) provide the High Court with any document, object or information for which the High Court officer asks, within such period as the High Court officer may require; and

⁽¹²⁾ 1998 c. 42; section 4 was amended by section 40 of, and paragraph 66 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4) and section 67 of, and paragraph 43 of Schedule 6 to, the Mental Capacity Act 2005 (c. 9).

⁽¹³⁾ 1947 c. 44; section 17 was amended by article 3(2) of S.I. 1968/1656.

- (c) arrange for the magistrates' court to hear as soon as practicable any application to that court for bail pending appeal.
- (2) A person who, under arrangements made by the magistrates' court officer, keeps a document or object exhibited in the proceedings in the magistrates' court must—
 - (a) keep that exhibit until—
 - (i) 6 weeks after the conclusion of those proceedings, or
 - (ii) the conclusion of any proceedings in the High Court that begin within that 6 weeks, unless the magistrates' court or the High Court otherwise directs; and
 - (b) provide the High Court with any such document or object for which the High Court officer asks, within such period as the High Court officer may require.
- (3) The High Court officer must—
 - (a) give as much notice as reasonably practicable of each hearing to—
 - (i) the parties,
 - (ii) the defendant's custodian, if any, and
 - (iii) any other person whom the High Court requires to be notified;
 - (b) serve a record of each order or direction of the High Court on—
 - (i) the parties,
 - (ii) any other person whom the High Court requires to be notified;
 - (c) if the High Court's decision determines an appeal or application for permission to appeal, serve a record of that decision on—
 - (i) the defendant's custodian, if any,
 - (ii) the magistrates' court officer, and
 - (iii) the designated authority which certified the arrest warrant, where Part 1 of the Extradition Act 2003 applies;
 - (d) where rule 17.24 applies (Discontinuing an appeal), arrange for the High Court to consider the parties' joint notice under that rule;
 - (e) treat the appeal as if it had been dismissed by the High Court where—
 - (i) the hearing of the appeal does not begin within the period required by rule 17.23 (Appeal hearing) or ordered by the High Court, or
 - (ii) on an appeal by a requesting territory under section 105 of the Extradition Act 2003⁽¹⁴⁾, the High Court directs the magistrates' court to decide a question again and the magistrates' court comes to the same conclusion as it had done before.

[Note. See section 106 of the Extradition Act 2003⁽¹⁵⁾.]

Constitution of the High Court

17.30.—(1) A master of the High Court, a deputy master, or a court officer nominated for the purpose by the Lord Chief Justice, may exercise any power of the High Court to which the rules in this Section apply, except the power to—

- (a) give or refuse permission to appeal;

⁽¹⁴⁾ 2003 c. 41; section 105 is amended by section 160 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), with effect from a date to be appointed.

⁽¹⁵⁾ 2003 c. 41; section 106 was amended by section 42 of, and paragraph 8 of Schedule 13 to, the Police and Justice Act 2006 (c. 48).

- (b) determine an appeal;
- (c) reopen a decision which determines an appeal or an application for permission to appeal;
- (d) grant or withhold bail; or
- (e) impose or vary a condition of bail.

(2) Despite paragraph (1), such a master, deputy master or court officer may exercise one of the powers listed in paragraph (1)(b), (d) or (e) if making a decision to which the parties have agreed in writing.

(3) A renewed application for permission to appeal to the High Court may be determined by—

- (a) a single judge of the High Court other than the judge who first refused permission, or
- (b) a divisional court.

(4) An appeal may be determined by—

- (a) a single judge of the High Court; or
- (b) a divisional court.

[Note. See sections 19 and 66 of the Senior Courts Act 1981(16).]

Payment of High Court fees

17.31.—(1) This rule applies where a party serves on the High Court officer a notice or application in respect of which a court fee is payable under legislation that requires the payment of such a fee.

(2) Such a party must pay the fee, or satisfy the conditions for any remission of the fee, when so serving the notice or application.

(3) If such a party fails to comply with paragraph (2), then unless the High Court otherwise directs—

- (a) the High Court officer must serve on that party a notice requiring payment of the fee due, or satisfaction of the conditions for any remission of that fee, within a period specified in the notice;
- (b) that party must comply with such a requirement; and
- (c) until the expiry of the period specified in the notice, the High Court must not exercise its power—
 - (i) to reject the notice or application in respect of which the fee is payable, or
 - (ii) to dismiss an application for permission to appeal, in consequence of rejecting an appeal notice.

[Note. Section 92 of the Courts Act 2003(17) and the Civil Proceedings Fees Order 2008(18) require the payment of High Court fees in cases to which this Section of this Part applies. Article 5 and Schedule 2 to the 2008 Order provide for the remission of such fees in some cases.]

(16) 1981 c. 54.

(17) 2003 c. 39; section 92 was amended by sections 15 and 59 of, and paragraphs 308 and 345 of Schedule 4 and paragraph 4 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4) and section 17 of, and paragraph 40 of Schedule 9 and paragraphs 83 and 95 of Schedule 10 to, the Crime and Courts Act 2013.

(18) S. I. 2008/1053; amended by S.I. 2013/1410, 2013/2302.