
STATUTORY INSTRUMENTS

2018 No. 187

**The United Nations (International Residual
Mechanism for Criminal Tribunals) Order 2018**

PART 2

ARREST AND DELIVERY OF PERSONS TO THE MECHANISM

Statement of case by competent court

7.—(1) If a competent court refuses to make a delivery order in relation to a person under article 6, the Secretary of State may question the decision on the ground that it is wrong in law by applying to the court to state a case for the opinion of the High Court on the question of law involved.

(2) The following provisions have effect with respect to an application made under paragraph (1)

- (a) the application must be made within the period of 21 days following the day on which the order was refused unless the court allows a longer period;
- (b) the application must be made in writing and identify the question or questions of law on which the opinion of the High Court is sought;
- (c) within 21 days after receipt of the application the clerk of the court must send a draft stated case to the applicant and to the person to whom the warrant relates (“P”) or P’s solicitor and must allow each party 21 days from the date of the sending of the draft stated case within which to make representations to it;
- (d) within 21 days after the latest day on which such representations may be made the court must, after considering any such representations and making such adjustments, if any, to the draft case as it thinks fit, state and sign the case and the clerk must send the case to the applicant and send a copy of the case to P or P’s solicitor.

(3) If the court fails to state and sign a case within the period required by paragraph (2), the High Court may, on the application of the Secretary of State, make an order requiring it to do so.

(4) The High Court has power—

- (a) to remit the case to the competent court to decide it in accordance with the opinion of the High Court on the question of law, or
- (b) to dismiss the application.

(5) If the High Court dismisses the application, the Secretary of State may, with the leave of the High Court or the Supreme Court, appeal to the Supreme Court; and section 1 of the Administration of Justice Act 1960(1) (appeal to the Supreme Court) applies in relation to the appeal with the omission of so much of subsection (2) as restricts the grant of leave to appeal.

(1) 1960 c. 65, as amended by the Criminal Appeal Act 1968 (c. 19), section 54 and Schedule 7, the Access to Justice Act 1999 (c. 22), section 63(1), the Courts Act 2003 (c. 39), sections 88(3) and 110(1), and the Constitutional Reform Act 2005 (c. 4), sections 40(4) and Schedule 9, Part 1, para. 13, 146(1) and 148(1). There have been other amendments not relevant to this Order.

- (6) An order for the remand of an arrested person which continues to have effect under article 6(7)(a) ceases to have effect if—
- (a) an application under paragraph (1) is not made by the Secretary of State within the period specified in paragraph (2)(a);
 - (b) the High Court dismisses the application and the Secretary of State does not immediately either apply for leave to appeal to the Supreme Court or inform the High Court that he or she intends to apply for leave; or
 - (c) the Supreme Court refuses leave to appeal or dismisses the appeal.