



# Extradition Act 1989

## 1989 CHAPTER 33

### PART III

#### PROCEDURE

##### *General*

#### **10 Statement of case by court**

- (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 foreign state, Commonwealth country or colony seeking the surrender of that person to it 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 High Court or, in Scotland, the High Court of Justiciary on the question of law involved.
- (2) If the state, country or colony 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, the High Court or, in Scotland, the High Court of Justiciary may, on the application of the state, country or colony that applied for the case to be stated, make an order requiring the court to state a case.
- (5) The High Court or High Court of Justiciary shall have power—

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*Status: This is the original version (as it was originally enacted).*

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- (a) to remit the case to the court of committal to decide it according to the opinion of the High Court or High Court of Justiciary on the question of law; or
  - (b) to dismiss the appeal.
- (6) Where the 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 Secretary of State has power to make an order for return in respect of the person whose return was requested.
- (7) An order made by a metropolitan magistrate under subsection (2) above shall cease to have effect if—
  - (a) the court dismisses the appeal in respect of the offence or all the offences to which it relates; and
  - (b) the foreign state, Commonwealth country or colony does not immediately—
    - (i) apply for leave to appeal to the House of Lords; or
    - (ii) inform the court that it intends to apply for leave.
- (8) An order made by the sheriff of Lothian and Borders under subsection (2) above shall cease to have effect if the court dismisses the appeal in respect of the offence or all the offences to which it relates.
- (9) In relation to a decision of a court on an appeal under this section, section 1 of the Administration of Justice Act 1960 (right of appeal to House of Lords) shall have effect as if so much of subsection (2) as restricts the grant of leave to appeal were omitted.
- (10) The House of Lords may exercise any powers of the High Court under subsection (5) above and subsection (6) above shall apply to them as it applies to that Court.
- (11) Subject to subsections (7) and (8) 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) there is no step that the state, country or colony can take.
- (13) In the application of this section to Scotland subsections (9) and (10) above shall be omitted and in relation to an appeal under this section in Scotland the court may make an order providing for the detention of the person to whom it relates or it may grant bail; and section 446(2) of the Criminal Procedure (Scotland) Act 1975 shall apply for the purpose of such an appeal as it applies for the purpose of an appeal such as is mentioned in section 444 of that Act.