

EXTRADITION ACT 2003

EXPLANATORY NOTES

TERRITORIAL APPLICATION: WALES

Part 1

Extradition to Category 1 Territories

Section 61: Costs where discharge ordered

181. This section allows an order for costs to be made in favour of a person who is discharged or taken to be discharged under this Part of the Act.
182. *Subsection (1)* states that this section applies when any of these occur:
- a person's discharge is ordered under Part 1;
 - a person is taken to be discharged under this Part;
 - the High Court dismisses an appeal against an order for a person's discharge (brought under section 28);
 - the High Court or House of Lords refuses the authority which issued a Part 1 warrant leave to appeal a decision of the High Court under section 32;
 - the House of Lords dismisses the appeal of the authority which issued a Part 1 warrant under section 32.
183. In each of the above cases the relevant judge or court has the power to make an order for costs in the discharged person's favour (*subsections (2) to (4)*). *Subsection (5)* provides for such an order to be an order for payment of an amount to be made out of money provided by Parliament. The amount is that which the relevant judge or court think is reasonably sufficient to compensate the person in question for any expenses incurred as a result of extradition proceedings under this Part of the Act (*subsection (6)*).
184. *Subsection (7)* allows the relevant judge or court to come to a different decision where it is considered inappropriate for the person to recover the full amount under subsection (6). In this situation the judge or court is required to assess the amount considered to be just and reasonable and specify that as the appropriate amount in the order. In other circumstances, according to *subsection (8)*, the appropriate amount must be specified in the order, where it is considered appropriate to do so and the discharged person agrees the amount, failing which the amount must be calculated in accordance with regulations made by the Lord Chancellor.