

SCHEDULES

SCHEDULE 20

EXTRADITION

PART 3

DEVOLUTION ISSUES IN SCOTLAND

Extradition to category 1 territories

21 (1) In section 36 (extradition following appeal), for subsection (9) substitute—

“(9) The preceding provisions of this section do not apply to Scotland.”

(2) After that section insert—

“36A Extradition following appeal: Scotland

(1) This section applies if—

- (a) there is an appeal to the High Court under section 26 against an order for a person’s extradition to a category 1 territory, and
- (b) the effect of the decision in the relevant proceedings is that the person must be extradited to the category 1 territory.

(2) The “relevant proceedings” are—

- (a) the proceedings on the appeal under section 26 if—
 - (i) no Supreme Court devolution appeal is made, or
 - (ii) a Supreme Court devolution appeal is made and the Supreme Court remits the case to the High Court, or
- (b) the proceedings on a Supreme Court devolution appeal if such an appeal is made and the Supreme Court does not remit the case to the High Court.

(3) The person must be extradited to the category 1 territory before the end of the required period, which is 28 days starting with—

- (a) the day on which the decision in the relevant proceedings becomes final, or
- (b) the day on which the relevant proceedings are abandoned.

(4) In a case where the relevant proceedings are proceedings on the appeal under section 26 (except where the case has been remitted to the High Court on a Supreme Court devolution appeal), the decision in those proceedings becomes final—

- (a) at the end of the period of 28 days starting with the day of the decision (unless, within that period, an application is made to the

Status: This is the original version (as it was originally enacted).

- High Court for permission to make a Supreme Court devolution appeal);
- (b) at the end of the period of 28 days starting with the day when the High Court refuses permission to make a Supreme Court devolution appeal (unless, within that period, an application is made to the Supreme Court for permission to make that appeal);
 - (c) when the Supreme Court refuses permission to make a Supreme Court devolution appeal;
 - (d) at the end of the permitted period, which is 28 days starting with the day on which permission to make a Supreme Court devolution appeal is granted, if no such appeal is brought before the end of that period.
- (5) These must be ignored for the purposes of subsection (4)—
- (a) any power of a court to extend the period permitted for applying for permission to appeal;
 - (b) any power of a court to grant permission to take a step out of time.
- (6) In a case where—
- (a) the relevant proceedings are proceedings on the appeal under section 26, and
 - (b) the case has been remitted to the High Court on a Supreme Court devolution appeal,
- the decision in those proceedings becomes final when it is made.
- (7) In a case where—
- (a) the relevant proceedings are proceedings on a Supreme Court devolution appeal, and
 - (b) the decision is not to remit the case to the High Court,
- the decision in those proceedings becomes final when it is made.
- (8) If subsection (3) is not complied with and the person applies to the appropriate judge to be discharged, the judge must order the person's discharge, unless reasonable cause is shown for the delay.
- (9) In this section “Supreme Court devolution appeal” means an appeal to the Supreme Court against a determination of a devolution issue relating to a person's extradition.
- (10) This section applies only to Scotland.”