STATUTORY INSTRUMENTS

2015 No. 992

EXTRADITION

The Extradition Act 2003 (Amendment to Designations and Appeals) Order 2015

Made - - - - 25th March 2015

Coming into force in accordance with article 1

The Secretary of State makes this Order in exercise of the powers conferred by sections 69(1), 71(4), 73(5), 74(11)(b), 84(7), 86(7) and 223(3)(b) and (8) of the Extradition Act 2003(**1**) and section 181(2) and 182(6) of the Anti-social Behaviour, Crime and Policing Act 2014(**2**).

In accordance with section 223(5) of the Extradition Act 2003 and section 182(2) of the Anti-social Behaviour, Crime and Policing Act 2014, a draft of this Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement, interpretation and transitional provision

1.—(1) This Order may be cited as the Extradition Act 2003 (Amendment to Designations and Appeals) Order 2015 and comes into force at the end of the period of 21 days beginning on the day on which it is made.

(2) In this Order, "the 2003 Act" means the Extradition Act 2003.

(3) Article 2 of this Order does not apply in a case where—

(a) the Secretary of State issued a certificate under section 70 of the 2003 Act(**3**), or

(b) a justice of the peace or sheriff issued a warrant under section 73 of that Act(**4**),

before the coming into force of this Order.

(4) Article 3 of this Order shall not apply in a case where notice of appeal was given under section 26, 28, 103, 105, 108 or 110 of the 2003 Act(**5**) before the coming into force of this Order.

(**1**) 2003 c.41.
(**2**) 2014 c.12.
(**3**) Section 70 was amended by the Police and Justice Act 2006 (c.48), Schedule 13. There is another amendment to section 70 which is not relevant to this Order.
(**4**) There are amendments to section 73 which are not relevant to this Order.
(**5**) Sections 26, 28, 103, 105, 108 and 110 were amended by the Anti-social Behaviour, Crime and Policing Act 2014, section 160 and Schedule 11. Section 108 was also amended by the Crime and Courts Act 2013 (c.22), Schedule 20.

Amendment of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003

2.—(1) The Extradition Act 2003 (Designation of Part 2 Territories) Order 2003(**6**) is amended as follows.

(2) In article 2(2)—

(a) after "Andorra," insert "Anguilla,";

(b) after "Armenia," insert "Aruba,";

(c) after "Belize," insert "Bermuda,";

(d) after "Bolivia," insert "Bonaire,";

(e) after "Brazil," insert "British Antarctic Territory," and "British Indian Ocean Territory,";

(f) after "Canada," insert "Cayman Islands,";

(g) after "Cuba," insert "Curaçao,";

(h) after "El Salvador," insert "Falkland Islands," and "Faroe Islands,";

(i) after "Ghana," insert "Greenland,";

(j) after "Kiribati," insert "Kosovo,";

(k) after "Montenegro,"(**7**) insert "Montserrat,";

(l) after "Peru," insert "Philippines," and "Pitcairn, Henderson, Ducie and Oeno Islands,";

(m) after "Russian Federation," insert "Saba,";

(n) after "Saint Christopher and Nevis," insert "Saint Helena, Ascension and Tristan da Cunha,";

(o) after "Singapore," insert "Sint Eustatius," and "Sint Maarten,";

(p) after "South Africa," insert "South Georgia and the South Sandwich Islands," and "The Sovereign Base Areas of Akrotiri and Dhekalia (that is to say the areas mentioned in section 2(1) of the Cyprus Act 1960(**8**)),";

(q) after "Turkey," insert "Turks and Caicos Islands,"; and

(r) after "Vanuatu," insert "Virgin Islands,".

(3) In article 3(2)—

(a) after "Armenia," insert "Aruba,";

(b) after "Azerbaijan," insert "Bonaire,";

(c) after "Canada," insert "Curaçao," and "Faroe Islands,";

(d) after "Georgia," insert "Greenland,";

(e) after "Moldova," insert "Monaco," and "Montenegro,";

(f) after "Russian Federation," insert "Saba," and "San Marino,";

(g) omit "and Montenegro"; and

(h) after "Serbia," insert "Sint Eustatius," and "Sint Maarten,".

(4) In article 4(2)—

(a) after "Peru (95 days)" insert "Saint Helena, Ascension and Tristan da Cunha (65 days)"; and

(b) omit "Monaco (65 days)" and "San Marino (65 days)".

(**6**) S.I. 2003/3334, amended by S.I. 2004/1898, 2005/365, 2036, 2006/3451, 2007/2238, 2008/1589, 2010/861 and 2013/1583 and section 43(1) of the Police and Justice Act 2006.
(**7**) "Montenegro" was inserted by S.I. 2006/3451.
(**8**) 1960 c.52.

Consequential amendment of the 2003 Act in relation to appeals

3.—(1) The 2003 Act is amended as follows.

(2) In section 30A (detention pending conclusion of appeal under section 28: Scotland)(**9**)—

(a) in subsection (3), after paragraph (a) insert—

"(aa) when the decision of the High Court refusing leave to appeal to it becomes final;"; and

(b) after subsection (3), insert—

"(3A) The decision of the High Court refusing leave to appeal to it becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal (ignoring any power of a court to grant leave to take a step out of time).".

(3) In section 35 (extradition where no appeal)—

(a) for subsection (1), substitute—

"(1) This section applies if the appropriate judge orders a person's extradition to a category 1 territory under this Part and either—

(a) no notice of application for leave to appeal under section 26 is given before the end of the period permitted under that section, or

(b) notice is given during that period but the High Court refuses leave to appeal to it.";

(b) in subsection (4)(**10**), for paragraph (a) substitute—

"(a) 10 days starting with—

(i) the first day after the period permitted under section 26 for giving notice of application for leave to appeal against the judge's order (where subsection (1)(a) applies), or

(ii) the day on which the decision of the High Court refusing leave to appeal to it becomes final (where subsection (1)(b) applies), or";

(c) after subsection (4), insert—

"(4ZA) The decision of the High Court refusing leave to appeal to it becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal.";

(d) in subsection (4A)(**11**)—

(i) for "paragraph (a) of subsection (4)" substitute "subsection (4)(a)(i) or (ii)"; and

(ii) for "that paragraph has effect as if it referred instead to the postponed date" substitute "subsection (4)(a) has effect as if it referred to the period of 10 days starting with the postponed date";

(e) in subsection (6)—

(i) for "subsection (1)(b)" substitute "subsections (1) to (4A)"; and

(ii) for "notice of appeal" substitute "notice of application for leave to appeal"; and

(f) after subsection (6) insert—

(**9**) Section 30A was inserted by the Crime and Courts Act 2013, Schedule 20.

(**10**) Subsection (4) was amended by the Police and Justice Act 2006, Schedule 13.

(**11**) Subsection (4A) was inserted by the Anti-social Behaviour, Crime and Policing Act 2014, Schedule 11.

"(7) If leave to appeal to the High Court is granted on an application notice of which was given after the end of the period permitted under section 26, this section ceases to apply (but section 36 applies instead)."

(4) In section 37 (undertaking in relation to person serving sentence in United Kingdom), in subsection (8)(**12**), for "section 35(4)(a)" substitute "section 35(4)(a)(i) or (ii)".

(5) In section 38 (extradition following deferral for competing claim), in subsection (3)(**13**), for "section 35(4)(a)" substitute "section 35(4)(a)(i) or (ii)".

(6) In section 42 (withdrawal of warrant while appeal to High Court pending)—

(a) in the heading, after "while" insert "application or";

(b) in subsection (2)—

(i) in paragraph (a), for "notice of an appeal to the court" substitute "notice of application for leave to appeal to the High Court"; and

(ii) in paragraph (b), for "when proceedings on the appeal are discontinued or the court makes its decision on the appeal" substitute "with the relevant day";

(c) after subsection (2), insert—

"(2A) "The relevant day" is—

(a) if the High Court refuses leave to appeal to it, the day on which the decision to refuse leave becomes final;

(b) if leave to appeal is given but proceedings on the appeal are discontinued, the day of discontinuance;

(c) if leave to appeal is given and proceedings on the appeal are not discontinued, the day on which the court makes its decision on the appeal.

For the purposes of paragraph (a), the decision to refuse leave becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal (ignoring any power of a court to grant leave to take a step out of time)."; and

(d) in subsection (3)—

(i) in paragraph (a), for "if the appeal is" substitute "in the case of an application or appeal"; and

(ii) for paragraph (b) substitute—

"(b) in the case of an application or appeal under section 28, dismiss the application or appeal.".

(7) In section 60 (costs where extradition ordered)—

(a) in subsection (1)(**14**), after paragraph (a) insert—

"(aa) the High Court dismisses an application for leave to appeal to it under section 26;"; and

(b) in subsection (3), for "(1)(b)" substitute "(1)(aa), (b)".

(8) In section 61 (costs where discharge ordered)—

(a) in subsection (1)(**15**), after paragraph (b) insert—

(**12**) Subsection (8) was amended by the Police and Justice Act 2006, Schedule 13.
(**13**) Subsection (3) was amended by the Police and Justice Act 2006, Schedule 13.
(**14**) There are amendments to subsection (1) which are not relevant to this Order.
(**15**) There are amendments to subsection (1) which are not relevant to this Order.