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**Changes to legislation:** Legal Aid, Sentencing and Punishment of Offenders Act 2012, Cross Heading: Extradition to Category 2 Territories is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### SCHEDULE 7

#### COSTS IN CRIMINAL CASES

#### PART 3

#### EXTRADITION ACT 2003

##### *Extradition to Category 2 Territories*

- 16 (1) Section 134 (costs where discharge ordered) is amended as follows.
- (2) After subsection (5) insert—
- “(5A) In England and Wales, an order under subsection (5) is to be made, and the appropriate amount is to be determined, in accordance with sections 135A and 135B.
- (5B) In Scotland and Northern Ireland, an order under subsection (5) is to be made, and the appropriate amount is to be determined, in accordance with subsections (6) to (9).”
- 17 In section 135 (supplementary provision about costs where discharge ordered) omit subsections (1) and (2).
- 18 After section 135 insert—

##### **“135A Appropriate amount: England and Wales**

- (1) For the purposes of an order under section 134(5), the appropriate amount is such amount as the judge or court making the order considers reasonably sufficient to compensate the person in whose favour the order is made for any expenses properly incurred by the person in the proceedings under this Part.
- (2) But if the judge or court considers that there are circumstances that make it inappropriate for the person to recover the full amount mentioned in subsection (1), the order under section 134(5) must be for the payment out of money provided by Parliament of such lesser amount as the judge or court considers just and reasonable.
- (3) Subsections (1) and (2) have effect subject to—
- section 135B, and
  - regulations under section 20(1A)(d) of the Prosecution of Offences Act 1985 (as applied by this section).

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- (4) When making an order under section 134(5), the judge or court must fix the amount to be paid out of money provided by Parliament in the order if the judge or court considers it appropriate to do so and—
  - (a) the person in whose favour the order is made agrees the amount, or
  - (b) subsection (2) applies.
- (5) Where the judge or court does not fix the amount to be paid out of money provided by Parliament in the order—
  - (a) the judge or court must describe in the order any reduction required under subsection (2), and
  - (b) the amount must be fixed by means of a determination made by or on behalf of the court in accordance with procedures specified in regulations made by the Lord Chancellor.
- (6) Subsections (1A) to (1C) and (3) of section 20 of the Prosecution of Offences Act 1985 (regulations as to amounts ordered to be paid out of central funds) apply in relation to amounts payable out of money provided by Parliament in pursuance of an order under section 134 as they apply in relation to amounts payable out of central funds in pursuance of costs orders made under section 16 of that Act.
- (7) This section extends to England and Wales only.

### **135B Legal costs: England and Wales**

- (1) An order under section 134(5) may not require the payment out of money provided by Parliament of an amount that includes an amount in respect of legal costs incurred by the person in whose favour the order is made, subject to the following provisions of this section.
- (2) Subsection (1) does not apply in relation to legal costs incurred in—
  - (a) proceedings in a magistrates' court, or
  - (b) proceedings in the Supreme Court.
- (3) The Lord Chancellor may by regulations make provision about exceptions from the prohibition in subsection (1), including—
  - (a) provision amending this section by adding, modifying or removing an exception, and
  - (b) provision for an exception to arise where a determination has been made by a person specified in the regulations.
- (4) Regulations under subsection (3) may not remove or limit the exception provided by subsection (2)(b).
- (5) Where a judge or court makes an order under section 134(5) requiring the payment out of money provided by Parliament of an amount that includes an amount in respect of legal costs, the order must include a statement to that effect.
- (6) Where, in an order under section 134(5), a judge or court fixes an amount to be paid out of money provided by Parliament that includes an amount in respect of legal costs incurred in proceedings in a court other than the

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Supreme Court, the latter amount must not exceed an amount specified by regulations made by the Lord Chancellor.

(7) In this section—

“legal costs” means fees, charges, disbursements and other amounts payable in respect of advocacy services or litigation services including, in particular, expert witness costs;

“advocacy services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right of audience in relation to any proceedings, or contemplated proceedings, to provide;

“expert witness costs” means amounts payable in respect of the services of an expert witness, including amounts payable in connection with attendance by the witness at court or elsewhere;

“litigation services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right to conduct litigation in relation to proceedings, or contemplated proceedings, to provide.

(8) This section extends to England and Wales only.”

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2016/286, art. 4(1) by [S.I. 2017/225 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 9(3)(4) inserted by [2022 c. 36 s. 25\(2\)](#)
- s. 9A inserted by [2023 c. 32 s. 89\(3\)](#)
- s. 9B inserted by [2023 c. 32 s. 90](#)
- s. 10(3A)-(3E) inserted by [2022 c. 36 s. 67](#)
- Sch. 1 Pt. 1 para. 31ZA and cross-heading inserted by [2022 c. 36 s. 25\(1\)](#)
- Sch. 1 Pt. 1 para. 31B and cross-heading inserted by [2022 c. 36 s. 57\(2\)](#)
- Sch. 1 Pt. 1 para. 19(1A)(1B) and heading inserted by [2022 c. 36 s. 66\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 19(2A) inserted by [2022 c. 36 s. 66\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 19(8A) and heading inserted by [2022 c. 36 s. 66\(2\)\(c\)](#)
- Sch. 1 Pt. 1 para. 25(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 26(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 27(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 27A(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 25(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 26(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 27(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 27A(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 30(1A) and heading inserted by [2022 c. 36 s. 66\(4\)\(a\)](#)
- Sch. 1 Pt. 1 para. 30(2A) inserted by [2022 c. 36 s. 66\(4\)\(b\)](#)
- Sch. 1 Pt. 1 para. 30(3A) and heading inserted by [2022 c. 36 s. 66\(4\)\(c\)](#)
- Sch. 1 Pt. 1 para. 31A(2A) and heading inserted by [2022 c. 36 s. 66\(5\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31A(3A)(3B) and heading inserted by [2022 c. 36 s. 66\(5\)\(b\)](#)
- Sch. 1 Pt. 1 para. 19(6A) inserted by [2023 c. 37 s. 56\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31C inserted by [2023 c. 37 s. 56\(3\)](#)
- Sch. 1 Pt. 1 para. 27A(1) inserted by [S.I. 2017/617 reg. 3\(4\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 11(1A) inserted by [S.I. 2023/150 art. 4\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 11(3A) inserted by [S.I. 2023/150 art. 4\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 2(1)(b) omitted by [2018 anaw 2 Sch. 1 para. 21\(2\)\(a\)\(ii\)](#)
- Sch. 1 Pt. 1 para. 45(2) omitted by [2023 c. 32 s. 91\(2\)](#)
- Sch. 1 Pt. 1 para. 45(3) substituted by [2023 c. 32 s. 91\(3\)](#)
- Sch. 1 Pt. 1 para. 26(1) substituted by [S.I. 2017/617 reg. 3\(2\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))

- Sch. 1 Pt. 1 para. 27(1) substituted by [S.I. 2017/617 reg. 3\(3\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 19(10) words inserted by [2023 c. 37 s. 56\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words inserted by [S.I. 2023/147 art. 2\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words inserted by [S.I. 2023/147 art. 2\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words omitted by [2016 c. 19 Sch. 11 para. 2\(1\)](#)
- Sch. 1 Pt. 1 para. 45(4) words omitted by [2023 c. 32 s. 91\(4\)](#)
- Sch. 1 Pt. 1 para. 26 heading words substituted by [S.I. 2017/617 reg. 3\(2\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 27 heading words substituted by [S.I. 2017/617 reg. 3\(3\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 16A inserted by [2023 c. 37 s. 56\(4\)](#)
- Sch. 1 Pt. 3 para. 11(b) and word inserted by [S.I. 2017/617 reg. 3\(6\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 8(b) omitted by [S.I. 2017/617 reg. 3\(5\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 11(a) and word omitted by [S.I. 2017/617 reg. 3\(6\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 4 para. 8 inserted by [2022 c. 36 s. 66\(6\)](#)