

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

BACKGROUND

Part 2: Courts and Justice

Section 50: Extradition

63. On 8 September 2010 the Government commissioned a review of the UK's extradition arrangements. The review was tasked to consider a number of specific issues, including whether the existing forum bar to extradition (in the Police and Justice Act 2006) should be brought into force; and the breadth of the Secretary of State's discretion in an extradition case. "A Review of the United Kingdom's Extradition Arrangements" ("the Baker review") was presented to the Home Secretary on 30 September 2011.¹
64. In October 2012, the Government published its response to the Baker review.² Not only taking into account the recommendations made by the review panel, but also the concerns of Parliament and the public that enhanced protections were needed with regards to extradition, the Home Secretary announced her intention to legislate for a new forum bar that would "better balance the safeguards for defendants and delays to the extradition process which were predicted by [the Baker review]."³ The Government also took the view that the discretion to consider final human rights representations in Part 2 extradition cases should be transferred from the Secretary of State to the courts. Section 50, and accompanying Schedule 20, gives effect to these policy objectives.
65. In the case of *BH(AP) & Another v the Lord Advocate & Another (Scotland)* [2012] UKSC 24, the UK Supreme Court raised concerns about the operation of certain aspects of the 2003 Act when an appeal of a devolution issue to the UK Supreme Court is made under the Scotland Act 1998. Part 3 of Schedule 20 addresses these concerns and amends the Extradition Act 2003 so that it properly takes account of appeals of devolution issues to the UK Supreme Court from the High Court of Justiciary. The High Court of Justiciary is the final court of appeal in relation to Scottish extradition proceedings except in relation to devolution issues.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/117673/extradition-review.pdf

² <http://www.official-documents.gov.uk/document/cm84/8458/8458.pdf>

³ *Ibid*