

Notes for guidance on completing the Respondent's notice [EXN162]

Please see attached notes for guidance to help you complete the Respondent's notice [Form EXN162]. This form **must** be completed by any party who has been served an appeal notice **and** wants to make representations in the proceedings **or** if the Court has directed that the party must file this notice.

You have 5 business days to serve this form after service on you of one of the following:

- (i) an appeal notice;
- (ii) an Appellant's notice renewing an application for permission to appeal;
- (iii) a direction by the Court to serve a Respondent's notice.

If an extension of time is needed for service of the respondent's notice, the detailed reasons for the delay must be attached to the notice, preferably under a separate heading explaining what the respondent did to ensure that it was served in time.

Any amendments to this form after it has been served will require the Court's permission. You are required to inform the Court when making any application to amend this form if the time estimate of the hearing will be affected by the proposed amendment and if so agree any revised time estimate within 5 business days after serving the application.

This form and any supporting documents must be filed in the Administrative Court Office, Royal Courts of Justice, Strand, London, WC2A 2LL.

This form can be used to make representations in respect of any proceedings where an application for permission to appeal is made by an Appellant under any of the following sections of the Extradition Act 2003 ('EA 2003'):

- **Section 26(4):** In a Part 1 case where a person's extradition is sought pursuant to a European Arrest Warrant ('EAW') an appeal notice must be lodged with the High Court within 7 days starting with the day extradition is ordered by the lower court;
- **Section 28(5):** In an appeal against the Appellant's discharge at the lower court, an appeal notice must be lodged with the High Court within 7 days starting with the day the order for the Appellant's discharge was made;
- **Section 103(9):** In a Part 2 case where requests are made for a person's extradition from a country outside of the European Union then an appeal notice must be lodged within 14 days starting with the day on which the Secretary of State informs the Requested Person of the order made pursuant to s.100(1) or (4) of the EA 2003. An appeal under this section is in respect of the lower court's decision to send the case to the Secretary of State, although an appeal in such a case cannot be heard until the Secretary of State has made a decision;

- **Section 105(5):** In a Part 2 case where there has been an order for the discharge of a Requested Person then an appeal notice must be lodged within 14 days starting with the day the order for the discharge was made;
- **Section 108(4):** In a Part 2 case where the Secretary of State orders a Requested Person's extradition then an appeal notice must be lodged within 14 days starting with the day on which the Secretary of State informs the Requested Person of the order made pursuant to s.100 (1) of the EA 2003;
- **Section 110(5):** In a Part 2 case where the Secretary of State makes an order for the Requested Person's discharge pursuant to s.100(4) of the EA 2003 then an appeal notice can be lodged within 14 days starting with the day the representatives of the country seeking extradition are informed.

Please use additional sheets of paper if you require additional space for your answers, marking clearly which section in the form the information relates to.

Section 1

Details of the Respondent

Provide the Respondent's full name(s), postal address(es), e-mail addresses and phone number(s) so that the Court can send any documents relating to the appeal to the correct address. If you are a firm of solicitors please give the name of the solicitor dealing with the matter and the reference number.

If the Respondent is in custody, please provide the name of the prison, prison number, and date of birth.

Section 2

Legal Representation

If you are representing yourself then please tick "No". If you are legally represented [or in the process of obtaining legal representation] please provide your solicitor's name, preferably a specified solicitor who is in charge of your case, their full postal address including a DX number, e-mail address and phone number(s). If you already know who instructed Counsel is then please provide their details.

Section 3

Have you lodged this Respondent's notice in time?

This form must be lodged within 5 business days of service on you of an appeal notice; a renewed application for permission to appeal; or a direction from the Court. If this notice is lodged out of time then it will be for the Judge to decide if you are

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permitted to make any representations in the proceedings. You must supply reasons why you could not lodge this Respondent's notice on time and why you should be permitted to make representations in the proceedings.

Other information required

In a separate document attached to the Respondent's notice [Form EXN162] you **MUST** include the following:

Service of documents on you

You must give the dates on which you were served with either of the following:

- (i) The appeal notice
- (ii) The appellant's notice renewing the application for permission to appeal;
- (iii) The direction to serve a Respondent's notice

It is important to provide an accurate date as to when you were served with any of the above as the date of service on you triggers the time limit you have in which to respond and make representations.

Any other document to assist the Court in determining permission to appeal and / or the appeal

You may include any correspondence or documents received from the judicial authority in respect of this case in addition to any witness statements or reports from experts that have been relied on; the judgment from the appropriate judge at the lower court when ordering extradition / sending a case to the Secretary of State; decisions of the Secretary of State ordering extradition; any formal admissions agreed between the parties at the lower court.

If any new evidence is to be relied on that was not available at the extradition hearing at the lower court then you must submit a witness statement explaining why that evidence was not available earlier and how the new evidence would have resulted in the lower court and / or Secretary of State deciding an issue differently.

If you wish to rely on any document or thing then it must be attached with your Respondent's notice. If you are not in a position to supply a copy of any information or documents upon which you seek to rely then provide a full and detailed explanation as to why these are not currently available and when you expect to be in a position to serve them on all the parties to the case.

If there are similar issues raised in other cases and you think it is useful for an appeal to be linked or heard together then please provide brief details of any similarities and what stage in proceedings the other cases are at.

Identify each ground

Provide as detailed grounds of opposition as possible. Set your grounds out clearly and number these so that they deal with in turn all the grounds raised by the Appellant (in addition to any grounds / authorities you rely on which the Appellant has not mentioned).

Please also summarise any relevant facts which are not already summarised in the appeal notice.

Identify any relevant authorities

Please provide a full citation of any legal authorities you seek to rely on and include a copy of any judgments in your authorities bundle.

Is the Respondent in prison or on bail?

If the Respondent is in custody then please provide the following details:

- Name of prison
- Prison number
- Respondent's date of birth
- The date when the Respondent was remanded into custody

Where a Respondent is unrepresented and in custody please seek directions for the Respondent to be produced for the hearing of the appeal (usually via video link). Please also specify if an interpreter is required.

Any application for bail pending appeal must be made in a separate application notice (Form EX PF 244).

Section 5

Service

You must serve a copy of this notice on the Appellant(s). If an extension of time is needed for service, detailed reasons for the delay must be attached to the notice explaining what you did to ensure this was served on time.