



National Security Act 2023

2023 CHAPTER 32

PART 2

PREVENTION AND INVESTIGATION MEASURES

Court scrutiny of imposition of measures

42 Prior permission of the court

- (1) [This section](#) applies if the Secretary of State—
 - (a) makes the relevant decisions in relation to an individual, and
 - (b) makes an application to the court for permission to impose measures on the individual.
- (2) The application must set out a draft of the proposed [Part 2](#) notice.
- (3) The function of the court on the application is—
 - (a) to determine whether the relevant decisions of the Secretary of State are obviously flawed, and
 - (b) to determine whether to give permission to impose measures on the individual and (where applicable) whether to exercise the power of direction under [subsection \(9\)](#).
- (4) The court may consider the application—
 - (a) in the absence of the individual,
 - (b) without the individual having been notified of the application, and
 - (c) without the individual having been given an opportunity (if the individual was aware of the application) of making any representations to the court.
- (5) But that does not limit the matters about which rules of court may be made.
- (6) In determining the application, the court must apply the principles applicable on an application for judicial review.

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Section 42. (See end of Document for details)

- (7) In a case where the court determines that a decision of the Secretary of State that condition A, condition B or condition C is met is obviously flawed, the court may not give permission under [this section](#).
- (8) In any other case, the court may give permission under [this section](#).
- (9) If the court determines that the Secretary of State's decision that condition D is met is obviously flawed, the court may (in addition to giving permission under [subsection \(8\)](#)) give directions to the Secretary of State in relation to the measures to be imposed on the individual.
- (10) In [this section](#) “relevant decisions” means the decisions that the following conditions are met—
- (a) condition A,
 - (b) condition B,
 - (c) condition C, and
 - (d) condition D.

Commencement Information

- I1** S. 42 not in force at Royal Assent, see [s. 100\(1\)](#)
I2 S. 42 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)

Changes to legislation:

There are currently no known outstanding effects for the National Security Act 2023, Section 42.