



Counter-Terrorism Act 2008

2008 CHAPTER 28

PART 6

FINANCIAL RESTRICTIONS PROCEEDINGS

CHAPTER 2

FINANCIAL RESTRICTIONS PROCEEDINGS

Rules of court, disclosure and related matters

66 General provisions about rules of court

- (1) The following provisions apply to rules of court relating to—
 - (a) financial restrictions proceedings, or
 - (b) proceedings on an appeal relating to financial restrictions proceedings.
- (2) A person making rules of court must have regard to—
 - (a) the need to secure that the decisions that are the subject of the proceedings are properly reviewed; and
 - (b) the need to secure that disclosures of information are not made where they would be contrary to the public interest.
- (3) Rules of court may make provision—
 - (a) about the mode of proof and about evidence in the proceedings;
 - (b) enabling or requiring the proceedings to be determined without a hearing; and
 - (c) about legal representation in the proceedings.
- (4) Rules of court may make provision—
 - (a) enabling the proceedings to take place without full particulars of the reasons for the decisions to which the proceedings relate being given to a party to the proceedings (or to any legal representative of that party);

Status: Point in time view as at 22/11/2018.

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- (b) enabling the court to conduct proceedings in the absence of any person, including a party to the proceedings (or any legal representative of that party);
 - (c) about the functions of a person appointed as a special advocate;
 - (d) enabling the court to give a party to the proceedings a summary of evidence taken in the party's absence.
- (5) In this section—
- (a) references to a party to the proceedings do not include the Treasury;
 - (b) references to a party's legal representative do not include a person appointed as a special advocate.
- (6) Nothing in this section shall be read as restricting the power to make rules of court or the matters to be taken into account when doing so.

Modifications etc. (not altering text)

- C1** Ss. 66-68 applied (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), **ss. 28(4)**, 55(1) (with s. 44)
- C2** Ss. 66-68 applied (with modifications) (22.11.2018) by [Sanctions and Anti-Money Laundering Act 2018 \(c. 13\)](#), **s. 40(1)(2)**, 64(2) (with ss. 52(3), 53, 58); S.I. 2018/1213, reg. 2(b)

67 Rules of court about disclosure

- (1) The following provisions apply to rules of court relating to—
- (a) financial restrictions proceedings, or
 - (b) proceedings on an appeal relating to financial restrictions proceedings.
- (2) Rules of court must secure that the Treasury are required to disclose—
- (a) material on which they rely,
 - (b) material which adversely affects their case, and
 - (c) material which supports the case of a party to the proceedings.

This is subject to the following provisions of this section.

- (3) Rules of court must secure—
- (a) that the Treasury have the opportunity to make an application to the court for permission not to disclose material otherwise than to—
 - (i) the court, and
 - (ii) any person appointed as a special advocate;
 - (b) that such an application is always considered in the absence of every party to the proceedings (and every party's legal representative);
 - (c) that the court is required to give permission for material not to be disclosed if it considers that the disclosure of the material would be contrary to the public interest;
 - (d) that, if permission is given by the court not to disclose material, it must consider requiring the Treasury to provide a summary of the material to every party to the proceedings (and every party's legal representative);
 - (e) that the court is required to ensure that such a summary does not contain material the disclosure of which would be contrary to the public interest.
- (4) Rules of court must secure that in cases where the Treasury—

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- (a) do not receive the court's permission to withhold material, but elect not to disclose it, or
 - (b) are required to provide a party to the proceedings with a summary of material that is withheld, but elect not to provide the summary,
- provision to the following effect applies.
- (5) The court must be authorised—
- (a) if it considers that the material or anything that is required to be summarised might adversely affect the Treasury's case or support the case of a party to the proceedings, to direct that the Treasury shall not rely on such points in their case, or shall make such concessions or take such other steps, as the court may specify, or
 - (b) in any other case, to ensure that the Treasury do not rely on the material or (as the case may be) on that which is required to be summarised.
- (6) Nothing in this section, or in rules of court made under it, is to be read as requiring the court to act in a manner inconsistent with Article 6 of the Human Rights Convention.
- (7) In this section—
- (a) references to a party to the proceedings do not include the Treasury;
 - (b) references to a party's legal representative do not include a person appointed as a special advocate; and
 - (c) “the Human Rights Convention” means the Convention within the meaning of the Human Rights Act 1998 (c. 42) (see section 21(1) of that Act).

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- C2** Ss. 66-68 applied (with modifications) (22.11.2018) by [Sanctions and Anti-Money Laundering Act 2018 \(c. 13\)](#), **s. 40(1)(2), 64(2)** (with ss. 52(3), 53, 58); S.I. 2018/1213, reg. 2(b)

68 Appointment of special advocate

- (1) The relevant law officer may appoint a person to represent the interests of a party to—
- (a) financial restrictions proceedings, or
 - (b) proceedings on an appeal, or further appeal, relating to financial restrictions proceedings,
- in any of those proceedings from which the party (and any legal representative of the party) is excluded.
- This is referred to in this Chapter as appointment as “a special advocate”.
- (2) A person appointed as a special advocate is not responsible to the party to the proceedings whose interests the person is appointed to represent.
- (3) The relevant law officer is—
- (a) in relation to financial restrictions proceedings in England and Wales, or on an appeal or further appeal relating to such proceedings, the Attorney General;

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- (b) in relation to financial restrictions proceedings in Scotland, or on an appeal or further appeal relating to such proceedings, the Advocate General for Scotland;
 - (c) in relation to financial restrictions proceedings in Northern Ireland, or on an appeal or further appeal relating to such proceedings, the Advocate General for Northern Ireland.
- (4) A person may be appointed as a special advocate only if—
- (a) in the case of an appointment by the Attorney General, the person has a general legal qualification for the purposes of section 71 of the Courts and Legal Services Act 1990 (c. 41);
 - (b) in the case of an appointment by the Advocate General for Scotland, the person is an advocate or a solicitor who has rights of audience in the Court of Session or the High Court of Justiciary by virtue of section 25A of the Solicitors (Scotland) Act 1980 (c. 46);
 - (c) in the case of an appointment by the Advocate General for Northern Ireland, the person is a member of the Bar of Northern Ireland.
- (5) Until the coming into force of section 27 of the Justice (Northern Ireland) Act 2002 (c. 26), references in this section to the Advocate General for Northern Ireland are to be read as references to the Attorney General for Northern Ireland.

The coming into force of that section does not affect any appointment of a person as a special advocate made by the Attorney General for Northern Ireland before that time.

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^{F1}69 Intercept evidence

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Textual Amendments

- F1** [S. 69](#) repealed (30.8.2018) by [Investigatory Powers Act 2016 \(c. 25\)](#), s. 272(1), **Sch. 10 Pt. 8** (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2018/940, reg. 2(1)(h)(ii) (with reg. 2(2))

70 Qualification of duty to give reasons

In paragraph 11 of Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 (c. 24) (Treasury's duty to give reason why person is specified in freezing order), make the existing provision sub-paragraph (1) and after it insert—

“(2) Sub-paragraph (1) does not apply if, or to the extent that, particulars of the reason would not be required to be disclosed to the applicant in proceedings to set aside the freezing order.”

Status:

Point in time view as at 22/11/2018.

Changes to legislation:

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