



Terrorist Asset-Freezing etc. Act 2010

2010 CHAPTER 38

PART 1

TERRORIST ASSET-FREEZING

CHAPTER 4

SUPPLEMENTARY PROVISIONS

Supervision of exercise of powers

26 Appeal to the court in relation to designations

- (1) This section applies to any decision of the Treasury—
 - (a) to make or vary an interim or final designation of a person,
 - (b) to renew a final designation of a person, or
 - (c) not to vary or revoke an interim or final designation of a person.
- (2) The designated person concerned may appeal against any such decision to the High Court or, in Scotland, the Court of Session.
- (3) On such an appeal, the court may make such order as it considers appropriate.
- (4) The making of an appeal under this section does not suspend the effect of the decision to which the appeal relates.

27 Review of other decisions by the court

- (1) This section applies to any decision of the Treasury in connection with their functions under this Part other than a decision to which section 26 applies (appeal to the court in relation to designations).

Status: This is the original version (as it was originally enacted).

- (2) Any person affected by a decision to which this section applies may apply to the High Court or, in Scotland, the Court of Session, for the decision to be set aside.
- (3) In determining whether the decision should be set aside, the court must apply the principles applicable on an application for judicial review.
- (4) If the court decides that a decision should be set aside it may make any such order, or give any such relief, as may be made or given in proceedings for judicial review.

28 Appeals and reviews: supplementary

- (1) In paragraph 2 of Schedule 1 to the Senior Courts Act 1981 (business allocated to the Queen’s Bench Division), after paragraph (bb) insert—
 - “(bc) all proceedings—
 - (i) on an appeal under section 26, or an application under section 27, of the Terrorist Asset-Freezing etc. Act 2010 (appeals and reviews by the court), or
 - (ii) on a claim arising from any matter to which such an appeal or application relates;”.
- (2) In section 18(1) of the Regulation of Investigatory Powers Act 2000 (exceptions to exclusion of intercept evidence), after paragraph (db) insert—
 - “(dc) any proceedings—
 - (i) on an appeal under section 26, or an application under section 27, of the Terrorist Asset-Freezing etc. Act 2010 (appeals and reviews by the court), or
 - (ii) on a claim arising from any matter to which such an appeal or application relates,
 or any proceedings arising out of such proceedings;”.
- (3) In section 18(2)(zb) of that Act (persons to whom disclosure not to be made) after “paragraph (db)” insert “or (dc)”.
- (4) The provisions of sections 66 to 68 of the Counter-Terrorism Act 2008 (supplementary provisions relating to rules of court and special advocates) apply in relation to proceedings—
 - (a) on an appeal under section 26 or an application under section 27 (appeals and reviews by the court), or
 - (b) on a claim arising from any matter to which such an appeal or application relates,
 as they apply in relation to financial restrictions proceedings within the meaning of section 65 of that Act.

29 Initial exercise of powers to make rules of court

- (1) The first time after the passing of this Act that rules of court are made in exercise of the powers conferred by section 28(4) in relation to proceedings in England and Wales—
 - (a) on an appeal under section 26, or
 - (b) on a claim arising from any matter to which such an appeal relates,
 those rules (together with any related rules of court) may be made by the Lord Chancellor instead of by the person who would otherwise make them.

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- (2) The first time after the passing of this Act that rules of court are made in exercise of the powers conferred by section 28(4) in relation to proceedings in Northern Ireland—
 - (a) on an appeal under section 26, or
 - (b) on a claim arising from any matter to which such an appeal relates,those rules (together with any related rules of court) may be made by the Lord Chancellor instead of by the person who would otherwise make them.
- (3) Before making rules of court under this section, the Lord Chancellor must consult—
 - (a) in relation to rules applicable to proceedings in England and Wales, the Lord Chief Justice of England and Wales;
 - (b) in relation to rules applicable to proceedings in Northern Ireland, the Lord Chief Justice of Northern Ireland.
- (4) The Lord Chancellor is not required to undertake any other consultation before making the rules.
- (5) The requirements of subsection (3)(a) and (b) may be satisfied by consultation that took place wholly or partly before the passing of this Act.
- (6) Rules of court made by the Lord Chancellor under this section—
 - (a) must be laid before Parliament, and
 - (b) if not approved by a resolution of each House before the end of 40 days beginning with the day on which they were made, cease to have effect at the end of that period.
- (7) In reckoning the period of 40 days no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (8) If rules cease to have effect in accordance with subsection (6)(b)—
 - (a) that does not affect anything previously done in reliance on the rules, and
 - (b) subsection (1) or (as the case may be) (2) applies as if the rules had not been made.
- (9) The following provisions do not apply to rules of court made by the Lord Chancellor under this section—
 - (a) section 3(6) of the Civil Procedure Act 1997 (Parliamentary procedure for civil procedure rules);
 - (b) section 56(1), (2) and (4) of the Judicature (Northern Ireland) Act 1978 (statutory rules procedure).
- (10) But section 4(1) of the Statutory Instruments Act 1946 (statutory instruments which are required to be laid before Parliament) applies to any such rules applicable to proceedings in Northern Ireland as it applies to a statutory instrument which is required to be laid before Parliament after being made.
- (11) Until section 85 of the Courts Act 2003 (process for making civil procedure rules) comes into force, in subsection (9)(a) above, for “section 3(6)” substitute “section 3(2)”.
- (12) In this section—

“related rules of court” means rules of court that—

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- (a) are contained in the same instrument as the rules mentioned in subsection (1) or (as the case may be) (2), and
 - (b) relate specifically to the same kind of proceedings as those rules,
- “rules of court” means rules for regulating the practice and procedure to be followed in the High Court or the Court of Appeal.

30 Treasury report on operation of Part 1

- (1) As soon as reasonably practicable after the end of each reporting period, the Treasury must—
 - (a) prepare a report about the exercise during that period of the powers conferred on them by this Part, and
 - (b) lay a copy of the report before Parliament.
- (2) The reporting periods are—
 - (a) the period beginning when this Part comes into force and ending with the next 31 March, and
 - (b) each succeeding period of three months.

31 Independent review of operation of Part 1

- (1) The Treasury must appoint a person to review the operation of this Part.
- (2) The person appointed under subsection (1) must carry out a review of the operation of this Part as soon as reasonably practicable after the end of—
 - (a) the period of nine months beginning when this Part comes into force, and
 - (b) every subsequent twelve month period.
- (3) The person who conducts a review under this section must send the Treasury a report on its outcome as soon as reasonably practicable after completing the review.
- (4) On receiving a report under this section, the Treasury must lay a copy of it before Parliament.
- (5) The Treasury may pay the expenses of a person who conducts a review under this section and also such allowances as the Treasury determine.