

SCHEDULES

SCHEDULE 2

Section 7

URGENT CASES: REFERENCE TO THE COURT ETC

Application

- 1 This Schedule applies if the Secretary of State—
- (a) makes the relevant decisions in relation to an individual, and
 - (b) imposes measures on the individual.

Statement of urgency

- 2 The TPIM notice must include a statement that the Secretary of State reasonably considers that the urgency of the case requires measures to be imposed without obtaining the permission of the court under section 6.

Reference to court

- 3
- (1) Immediately after serving the TPIM notice, the Secretary of State must refer to the court the imposition of the measures on the individual.
 - (2) The function of the court on the reference is to consider whether the relevant decisions of the Secretary of State were obviously flawed.
 - (3) The court's consideration of the reference must begin within the period of 7 days beginning with the day on which the TPIM notice is served on the individual.
 - (4) The court may consider the reference—
 - (a) in the absence of the individual;
 - (b) without the individual having been notified of the reference; and
 - (c) without the individual having been given an opportunity (if the individual was aware of the reference) of making any representations to the court.
 - (5) But that does not limit the matters about which rules of court may be made.

Decision by court

- 4
- (1) 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 must quash the TPIM notice.
 - (2) In a case where the court determines that a decision of the Secretary of State that condition D is met is obviously flawed, the court must quash those of the measures which it determines that decision relates to.
 - (3) If sub-paragraph (1) does not apply, the court must confirm the TPIM notice (subject to any quashing of measures under sub-paragraph (2)).

Status: This is the original version (as it was originally enacted).

- (4) If the court determines that the Secretary of State’s decision that the urgency condition is met is obviously flawed, the court must make a declaration of that determination (whether it quashes or confirms the TPIM notice under the preceding provisions of this paragraph).

Procedures on reference

- 5 (1) In determining a reference under paragraph 3, the court must apply the principles applicable on an application for judicial review.
- (2) The court must ensure that the individual is notified of the court’s decision on a reference under paragraph 3.

Interpretation

- 6 (1) References in this Schedule to the urgency condition being met are references to condition E being met by virtue of section 3(5)(b) (urgency of the case requires measures to be imposed without obtaining the permission of the court).
- (2) In this Schedule “relevant decisions” means the decisions that the following conditions are met—
- (a) condition A;
 - (b) condition B;
 - (c) condition C;
 - (d) condition D;
 - (e) the urgency condition.