
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 76

PROCEEDINGS UNDER THE PREVENTION OF TERRORISM ACT 2005

[^{F1}SECTION 3

Permission applications, references and appeals to the High Court relating to non-derogating control orders

Textual Amendments

- F1** Pt. 76 inserted (14.3.2005) by [The Civil Procedure \(Amendment No. 2\) Rules 2005 \(S.I. 2005/656\)](#), rule 1, [Sch.](#)

Scope of this section

76.7. This section of this Part contains rules about—

- (a) applications under section 3(1)(a) of the Act (application for permission to make a non-derogating control order);
- (b) references under section 3(3) of the Act (reference of a non-derogating control order made without permission); and
- (c) appeals to the High Court under section 10 of the Act (appeals relating to non-derogating control orders).

Application for permission to make non-derogating control order

76.8. An application under section 3(1)(a) for permission to make a non-derogating control order must be made by the Secretary of State by filing with the court—

- (a) a statement of reasons to support the application;
- (b) all relevant material;
- (c) any written submissions; and
- (d) the proposed control order.

References under section 3(3) of the Act

76.9.—(1) This rule applies where the Secretary of State makes a reference under section 3(3) of the Act (reference of a non-derogating control order).

- (2) The Secretary of State must promptly file with the court—
 - (a) a statement of the reasons for—

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- (i) making the control order,
- (ii) imposing the obligations imposed by that order;
- (b) all relevant material; and
- (c) any written submissions.

Directions for hearing on application for permission or on a reference

76.10.—(1) This rule applies where the court gives directions under section 3(2)(c) or (6)(b) or (c) of the Act.

(2) The court must immediately—

- (a) fix a date, time and place for a further hearing at which the controlled person, his legal representative and a special advocate (if one has been appointed) can be present; and

[^{F2}(b) unless the court otherwise directs—

- (i) in the case of directions given under section 3(2)(c), that date must be no later than 7 days from the date on which the notice of the terms of the control order is delivered to the controlled person in accordance with section 7(8) of the Act; or
- (ii) in the case of directions given under section 3(6)(b) or (c), that date must be 7 days from the date on which the court’s determination on the reference is made.]

(3) At the hearing referred to in paragraph (2), the court must give directions—

- (a) for a hearing under section 3(10); and
- (b) specifying the date and time by which the parties and special advocate must file and serve any written evidence or written submissions in accordance with rule 76.30.

(4) When giving directions under paragraph (3), the court must have regard to the need to expedite that hearing.

(Rules 76.28 and 76.29 will apply where any closed material is filed by the Secretary of State).

Textual Amendments

F2 Rule 76.10(2)(b) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **16(a)**

Appeals under section 10 of the Act

76.11. This rule and rules 76.12 to 76.15 apply to an appeal under section 10 of the Act (appeals relating to a non-derogating control order).

Modification of Part 52 (appeals)

76.12.—(1) Part 52 (appeals) applies to an appeal under section 10 of the Act, subject to—

- (a) rule 76.2;
- (b) the rules in section 5 of this Part; and
- (c) the modifications set out in paragraphs (2) and (3) of this rule.

(2) The following rules do not apply to appeals under section 10 of the Act—

- (a) rule 52.3 (permission);
- (b) rule 52.4 (appellant’s notice);

- (c) rule 52.5 (respondent's notice); and
- (d) rule 52.11 (hearing of appeals).

(3) Rule 52.2 (all parties to comply with the practice direction) applies, but the parties shall not be required to comply with paragraphs 5.6, 5.6A, 5.7, 5.9 and 5.10 of that practice direction.

Notice of appeal

76.13.—(1) The controlled person must give notice of appeal by—

- (a) filing it with the court; and
- (b) serving a copy of the notice and any accompanying documents on the Secretary of State.

(2) The notice of appeal must—

- (a) set out the grounds of the appeal; and
- (b) state the name and address of—
 - (i) the controlled person, and
 - (ii) any legal representative of that person.

(3) A notice of appeal may include an application for an order under rule 76.19 requiring anonymity.

(4) The notice of appeal must be filed with—

- (a) a copy of the order that is the subject of the appeal;
- (b) a copy of the Secretary of State's decision on an application for the revocation of the control order, or for the modification of an obligation imposed by such an order.

(Attention is drawn to rule 76.18 relating to the address for issuing proceedings in the High Court).

Time limit for appealing

76.14.—(1) Subject to paragraph (2), the controlled person must give notice of appeal no later than 28 days after receiving ^{F3} ...—

- (a) the [^{F4}notice setting out the terms of the order, renewal or modification that is the subject of the appeal]; or
- (b) [^{F5}notice of] the decision by the Secretary of State on an application for the revocation of the control order, or for the modification of an obligation imposed by such an order.

(2) In a case where the Secretary of State has failed to determine an application for the revocation of the control order, or for the modification of an obligation imposed by such an order, the controlled person must file the notice of appeal—

- (a) no earlier than 28 days; and
- (b) no later than 42 days;

after the date the application was made.

Textual Amendments

F3 Words in rule 76.14(1) omitted (6.4.2008) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **10(b)(i)**

F4 Words in rule 76.14(1)(a) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **10(b)(ii)**

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F5 Words in rule 76.14(1)(b) inserted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **10(b)(iii)**

Secretary of State's reply

76.15. If the Secretary of State wishes to oppose an appeal made under section 10 of the Act, he must no later than 14 days after he is served with the notice of appeal—

- (a) file with the court—
 - (i) all relevant material, and
 - (ii) any written submissions; and
- (b) serve on the controlled person any open material.]

Status:

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