



National Security Act 2023

2023 CHAPTER 32

PART 2 **U.K.**

PREVENTION AND INVESTIGATION MEASURES

VALID FROM 20/12/2023

Court scrutiny of imposition of measures

42 **Prior permission of the court** **U.K.**

- (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.

Status: Point in time view as at 11/07/2023. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: National Security Act 2023, Cross Heading: Court scrutiny of imposition of measures is up to date with all changes known to be in force on or before 16 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) In determining the application, the court must apply the principles applicable on an application for judicial review.
- (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\(1\)](#)

43 Urgent cases: reference to the court etc **U.K.**

[Schedule 8](#) makes provision about references to the court in urgent cases.

Commencement Information

I2 S. 43 not in force at Royal Assent, see [s. 100\(1\)](#)

44 Directions hearing **U.K.**

- (1) [This section](#) applies if the court—
 - (a) gives permission under [section 42](#) for measures to be imposed on an individual, or
 - (b) confirms under [paragraph 4\(3\)](#) of [Schedule 8](#) (whether or not subject to [paragraph 4\(2\)](#) of that Schedule) a [Part 2](#) notice which imposes measures on an individual.
- (2) The court must, at the hearing where it gives the permission or confirms the notice, give directions for a further hearing (a “directions hearing”)—
 - (a) which, unless the court otherwise directs (whether in those directions or subsequently), is to be held within the period of 7 days beginning with the relevant day, and
 - (b) which the individual is to have the opportunity to attend.

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- (3) In a case where [this section](#) applies because the court gives permission under [section 42](#), directions given under [subsection \(2\)](#) may not be served on the individual unless the [Part 2](#) notice has been served on that individual.
- (4) At the directions hearing, the court must give directions for a further hearing (a “review hearing”) in relation to the imposition of measures on the individual.
- (5) Directions under [subsection \(4\)](#) must provide for the review hearing to be held as soon as reasonably practicable.
- (6) In [this section](#) “relevant day” means—
 - (a) in a case falling within [subsection \(1\)\(a\)](#), the day on which the [Part 2](#) notice imposing the measures is served on the individual;
 - (b) in a case falling within [subsection \(1\)\(b\)](#), the day on which the court confirms the [Part 2](#) notice.

Commencement Information

I3 S. 44 not in force at Royal Assent, see [s. 100\(1\)](#)

45 Review hearing **U.K.**

- (1) On a review hearing held in compliance with directions under [section 44\(4\)](#), the function of the court is to review the decisions of the Secretary of State that the relevant conditions were met and continue to be met.
- (2) In doing so, the court must apply the principles applicable on an application for judicial review.
- (3) The court—
 - (a) must discontinue the review hearing if the individual requests the court to do so, and
 - (b) may discontinue the review hearing in any other circumstances.
- (4) The court may not discontinue the review hearing in accordance with [subsection \(3\)\(b\)](#) without giving the Secretary of State and the individual the opportunity to make representations.
- (5) The court has the following powers (and only those powers) on a review hearing—
 - (a) power to quash the [Part 2](#) notice;
 - (b) power to quash measures specified in the [Part 2](#) notice;
 - (c) power to give directions to the Secretary of State for, or in relation to—
 - (i) the revocation of the [Part 2](#) notice, or
 - (ii) the variation of measures specified in the [Part 2](#) notice.
- (6) If the court does not exercise any of its powers under [subsection \(5\)](#), the court must decide that the [Part 2](#) notice is to continue in force.
- (7) If the court exercises a power under [subsection \(5\)\(b\)](#) or [\(c\)\(ii\)](#), the court must decide that the [Part 2](#) notice is to continue in force subject to that exercise of that power.
- (8) In [this section](#) “relevant conditions” means—
 - (a) condition A,

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- (b) condition B,
- (c) condition C, and
- (d) condition D.

Commencement Information

14 S. 45 not in force at Royal Assent, see [s. 100\(1\)](#)

Status:

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