

## SCHEDULES

### SCHEDULE 8

Section 43

#### 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 Part 2 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 42.

##### *Reference to court*

- 3
- (1) Immediately after serving the Part 2 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 Part 2 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 Part 2 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 Part 2 notice (subject to any quashing of measures under sub-paragraph (2)).

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*Status: This is the original version (as it was originally enacted).*

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- (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 [Part 2](#) 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 40\(5\)\(b\)](#) (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.