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STATUTORY INSTRUMENTS

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**1998 No. 3132**

**The Civil Procedure Rules 1998**

[<sup>F1</sup>PART 82 **E+W**

CLOSED MATERIAL PROCEDURE

*SECTION II*

*General provisions*

[<sup>F1</sup>**Consideration of closed material application or of objection to special advocate's communication** **E+W**

**82.14.**—(1) This rule applies where the relevant person or, as the case may be, the Secretary of State has—

- (a) applied under rule 82.13 (sensitive material) for permission to withhold sensitive material; or
- (b) objected under rule 82.11(5)(b) (special advocate: communicating about proceedings) to a proposed communication by the special advocate [<sup>F2</sup>or to the form in which it is proposed to be made].

(2) The court must fix a hearing for the relevant party, the Secretary of State and the special advocate to make oral representations, unless—

- (a) the special advocate gives notice that he or she does not challenge the application or objection;
- (b) the court has previously, in determining the application under section 6(2) of the Act for a declaration, found that the first condition in section 6 of the Act is met in relation to the same or substantially the same material and is satisfied that it would be just to give permission without a hearing;
- (c) the court has previously considered—
  - (i) an application under rule 82.13(1) for permission to withhold the same or substantially the same material; or
  - (ii) an objection under rule 82.11(5)(b) to the same or substantially the same proposed communication; and

is satisfied that it would be just to give permission or uphold the objection without a hearing; or

- (d) the relevant person, the Secretary of State and the special advocate consent to the court deciding the application or objection without a hearing.

(3) If the special advocate does not challenge the application or the objection, he or she must give notice of that fact to the court, the relevant person and the Secretary of State no later than the end of—

- (a) 14 days after the date on which the relevant person or the Secretary of State serves on the special advocate the notice under rule 82.11(5)(b) or the material under rule 82.13(2), or
  - (b) such other period as the court may direct.
- (4) Where the court fixes a hearing under this rule, the relevant person, the Secretary of State and the special advocate must before the hearing file with the court a schedule identifying the issues which cannot be agreed between them, which must also—
- (a) give brief reasons for their contentions in relation to each issue; and
  - (b) set out any proposals for the court to resolve those issues.
- (5) A hearing under this rule shall take place in the absence of the specially represented party and the specially represented party's legal representative.
- (6) Where the court has, in determining an application under section 6(2) of the Act for a declaration, found that the first condition in section 6 of the Act is met in relation to any material, it may give permission to withhold that material without a hearing in relation to that material, whether or not a hearing is required in relation to any other material.
- (7) Where the court gives permission to the relevant person to withhold sensitive material, the court—
- (a) must consider whether to direct the relevant person to serve a summary of that material on the specially represented party and the specially represented party's legal representative; but
  - (b) must ensure that any such summary does not contain material the disclosure of which would be damaging to the interests of national security.
- (8) If the court is satisfied that—
- (a) the relevant person does not intend to rely on sensitive material, and
  - (b) that material does not adversely affect the relevant person's case or support the case of another party to the proceedings,
- the court may direct that the relevant person must not rely in the proceedings on that material, without the court first requiring the relevant person to serve a summary of that material on the specially represented party and the specially represented party's legal representative.
- (9) Where the court has not given permission to the relevant person to withhold sensitive material from, or has directed the relevant person to serve a summary of that material on, the specially represented party and the specially represented party's legal representative—
- (a) the relevant person shall not be required to serve that material or summary; but
  - (b) if the relevant person does not do so, at a hearing on notice the court may—
    - (i) if it considers that the material or anything that is required to be summarised might adversely affect the relevant person's case or support the case of another party to the proceedings, direct that the relevant person is not to rely on such points in the relevant person's case, or that the relevant person makes such concessions or takes such other steps as the court may direct; and
    - (ii) in any other case, direct that the relevant person must not rely in the proceedings on that material or (as the case may be) on what is required to be summarised.
- (10) The court must give permission to the relevant person to withhold sensitive material where it considers that disclosure of that material would be damaging to the interests of national security.]

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**Textual Amendments**

- F1** Pt. 82 inserted (27.6.2013) by [The Civil Procedure \(Amendment No. 5\) Rules 2013 \(S.I. 2013/1571\)](#), rule 1, **Sch.**
- F2** Words in rule 82.14(1)(b) inserted (17.4.2015) by [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), rules 2, **8**

**Changes to legislation:**

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Section 82.14.