

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 8. (See end of Document for details)

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.

Commencement Information

- I1** Sch. 8 para. 1 not in force at Royal Assent, see 100(1)
I2 Sch. 8 para. 1 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

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.

Commencement Information

- I3** Sch. 8 para. 2 not in force at Royal Assent, see 100(1)
I4 Sch. 8 para. 2 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

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.

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Commencement Information

- I5** Sch. 8 para. 3 not in force at Royal Assent, see 100(1)
I6 Sch. 8 para. 3 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

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 \(2\)](#)).
- (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](#)).

Commencement Information

- I7** Sch. 8 para. 4 not in force at Royal Assent, see 100(1)
I8 Sch. 8 para. 4 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

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](#).

Commencement Information

- I9** Sch. 8 para. 5 not in force at Royal Assent, see 100(1)
I10 Sch. 8 para. 5 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

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;

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- (c) condition C;
- (d) condition D;
- (e) the urgency condition.

Commencement Information

- I11** Sch. 8 para. 6 not in force at Royal Assent, see 100(1)
- I12** Sch. 8 para. 6 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)

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