



Terrorism Prevention and Investigation Measures Act 2011

2011 CHAPTER 23

Court scrutiny of imposition of measures

6 Prior permission of the court

- (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 TPIM 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.
- (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.

7 Urgent cases: reference to the court etc

Schedule 2 (urgent cases: reference to the court etc) has effect.

8 Directions hearing

- (1) This section applies if the court—
- (a) gives permission under section 6 for measures to be imposed on an individual, or
 - (b) confirms under paragraph 4(3) of Schedule 2 (whether or not subject to paragraph 4(2) of that Schedule) a TPIM 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.
- (3) In a case where this section applies because the court gives permission under section 6, directions given under subsection (2) may not be served on the individual unless the TPIM 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 TPIM 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 TPIM notice.

9 Review hearing

- (1) On a review hearing held in compliance with directions under section 8(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 TPIM notice;
 - (b) power to quash measures specified in the TPIM notice;
 - (c) power to give directions to the Secretary of State for, or in relation to,—
 - (i) the revocation of the TPIM notice, or
 - (ii) the variation of measures specified in the TPIM notice.
- (6) If the court does not exercise any of its powers under subsection (5), the court must decide that the TPIM 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 TPIM notice is to continue in force subject to that exercise of that power.
- (8) In this section “relevant conditions” means—
 - (a) condition A;
 - (b) condition B;
 - (c) condition C; and
 - (d) condition D.