Draft Rules laid before Parliament under paragraph 5(5) of Schedule 3 to the Terrorism Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No. 0000

PREVENTION AND SUPPRESSION OF TERRORISM

The Proscribed Organisations Appeal Commission (Procedure) Rules 2007

Made - - - - 2007

Coming into force in accordance with rule 1

The Lord Chancellor makes the following Rules in exercise of the powers conferred by paragraph 5 of Schedule 3 to the Terrorism Act 2000(**1**) and having had regard to the considerations specified in paragraph 5(2) of that Schedule.

In accordance with paragraph 5(5) of that Schedule, a draft of these Rules has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

INTRODUCTION

Citation and commencement

1. These Rules may be cited as the Proscribed Organisations Appeal Commission (Procedure) Rules 2007 and come into force on the 14th day after the day on which they are made.

Interpretation

2. In these Rules—

(**1**) 2000 c.11. Paragraph 5 was amended by section 22(1) and (11) of the Terrorism Act 2006 (c.11). By virtue of section 9 of the 2000 Act, where rules within the meaning of section 7 of the Human Rights Act 1998 (c.42) provide for proceedings under section 7(1) of that Act to be brought before the Commission, the powers conferred by paragraph 5 of Schedule 3 to the 2000 Act apply to such proceedings. Section 9 was amended by sections 22(1) and (9) and 37(5) of, and Schedule 3 to, the Terrorism Act 2006 and by section 82(1) of, and paragraph 12(1) of Schedule 4 to, the Regulation of Investigatory Powers Act 2000 (c.23).

"the 1998 Act" means the Human Rights Act 1998(**2**);

"the 2000 Act" means the Terrorism Act 2000;

"appellant" includes the designated person, except—

(i) in the definition of "special advocate" in this rule;

(ii) in rule 7;

(iii) in relation to the second reference to it in rule 9(2);

(iv) in rule 9(3);

(v) in relation to the first reference to it in rule 9(5);

(vi) in rule 33(1);

"chairman" means the chairman of the Commission;

"closed material" means—

(i) material upon which the Secretary of State wishes to rely in any proceedings before the Commission; or

(ii) information which he is required to file pursuant to a direction under rule 13(5);

but which he objects to disclosing to the appellant or his representative;

"Commission" means the Proscribed Organisations Appeal Commission;

"designated person" means the person designated under rule 8;

"organisation" means an organisation—

(i) which is listed in Schedule 2 to the 2000 Act or which operates under the same name as an organisation which is so listed; or

(ii) in respect of which the Secretary of State has made an order under section 3(6) of that Act(**3**) that a name not specified in that Schedule is to be treated as another name for that organisation;

"representative" means a person representing the appellant in accordance with rule 33;

"special advocate" means a person appointed under paragraph 7 of Schedule 3 to the 2000 Act to represent the interests of the appellant.

Scope of these Rules

3.—(1) These Rules apply to—

(a) appeals under section 5 of the 2000 Act(**4**);

(b) proceedings under section 7(1)(a) of the 1998 Act, where rules within the meaning of section 7 of the 1998 Act provide for such proceedings to be brought before the Commission(**5**); and

(c) applications for permission to appeal from decisions of the Commission.

(2) In Part 2 of these Rules a reference to an appeal is a reference to an appeal or proceedings referred to in paragraph (1)(b) and a reference to a notice of appeal is to be construed accordingly.

(**2**) 1998 c.42.
(**3**) Section 3(6) was inserted by section 22(1) and (2) of the Terrorism Act 2006 (c. 11).
(**4**) Section 5 was amended by section 22(1), (5) and (6) of the Terrorism Act 2006.
(**5**) Rules falling within this sub-paragraph are the Proscribed Organisations Appeal Commission (Human Rights Act 1998 Proceedings) Rules 2006 (S.I. 2006/2290).

General duty of Commission

4.—(1) When exercising its functions, the Commission must secure that information is not disclosed contrary to the interests of national security, the international relations of the United Kingdom or the detection and prevention of crime, or in any other circumstances where disclosure is contrary to the public interest.

(2) Where these Rules require information not to be disclosed contrary to the public interest, that requirement must be construed in accordance with paragraph (1).

(3) Subject to paragraphs (1) and (2), the Commission must satisfy itself that the material available to it enables it properly to determine the appeal, proceedings or application in question.

PART 2

APPEALS

Parties

5. The parties to appeals to the Commission shall be the appellant and the Secretary of State.

Time limit for appealing

6.—(1) Subject to paragraph (2), the signatory of a notice of appeal mentioned in rule 7(2) must file the notice with the Commission no later than 42 days after the day on which the appellant is informed of the Secretary of State's refusal—

(a) to deproscribe the organisation, or

(b) to provide for a name to cease to be treated as a name for the organisation.

(2) The Commission may accept a notice of appeal filed after the expiry of the period in paragraph (1) if it is satisfied that, by reason of special circumstances, it would be unjust not to do so.

Notice of appeal

7.—(1) The notice of appeal must—

(a) set out the grounds on which the appellant applied to the Secretary of State under section 4 of the 2000 Act for an order under section 3(3) or (8) of that Act(**6**);

(b) set out the grounds for the appeal to the Commission;

(c) give reasons in support of the grounds mentioned in sub-paragraph (b);

(d) where proceedings are brought under section 7(1)(a) of the 1998 Act, give details of the Convention right which is alleged to have been infringed.

(2) The notice of appeal must be signed—

(a) where the appellant is the organisation, by a person who claims to be a member of the organisation or by its representative;

(b) where the appellant is a person affected by the organisation's proscription or by the treatment of a name as a name for the organisation, by that person or by his representative,

and be dated.

(3) The notice of appeal must state—

(a) the name of the organisation;

(**6**) Section 3(8) was inserted by section 22(1) and (2) of the Terrorism Act 2006 (c.11).

(b) the name and address of the signatory of the notice and the category of person mentioned in paragraph (2) into which he falls;

(c) the name and address of any representative of the appellant, where the representative is not the signatory.

(4) Where the signatory of the notice of appeal is the appellant's representative, he must certify in the notice that he has completed the notice in accordance with the appellant's instructions.

(5) The signatory of the notice of appeal must attach to it a copy of the document which informed the appellant of the decision being appealed against.

(6) As soon as practicable after it receives a notice of appeal, the Commission must serve—

(a) an acknowledgement of filing of the notice of appeal on the signatory of the notice; and

(b) a copy of the notice of appeal on the Secretary of State.

Designated person

8.—(1) As soon as practicable after it receives a notice of appeal on behalf of an organisation, the Commission must—

(a) designate a person to conduct the proceedings on behalf of the organisation; and

(b) serve on that person a copy of the notice of appeal.

(2) The Commission must give written notice to the Secretary of State and to the organisation or its representative of the name and address of the designated person.

Special advocate: appointment and functions

9.—(1) Subject to paragraph (2), the Secretary of State must, on being served with a copy of a notice of appeal, give notice of the proceedings to the relevant law officer.

(2) Paragraph (1) applies unless—

(a) the Secretary of State does not intend—

(i) to oppose the appeal; or

(ii) to object to the disclosure of any material to the appellant or his representative; or

(b) a special advocate has already been appointed to represent the interests of the appellant in the proceedings.

(3) Where notice is given to the relevant law officer under paragraph (1), he may appoint a special advocate to represent the interests of the appellant in the proceedings.

(4) Where proceedings before the Commission are pending but no special advocate has been appointed, the appellant or the Secretary of State may at any time request the relevant law officer to appoint a special advocate.

(5) The function of the special advocate is to represent the interests of the appellant by—

(a) making submissions to the Commission at any hearing from which the appellant and his representative have been excluded;

(b) adducing evidence and, with the permission of the Commission, cross-examining witnesses at any such hearing;

(c) making written submissions to the Commission.

Special advocate: communicating about proceedings

10.—(1) The special advocate may communicate with the appellant or his representative at any time before the Secretary of State serves closed material on him.

(2) After the Secretary of State serves closed material on the special advocate, the special advocate must not communicate with any person about the proceedings, except in accordance with paragraph (3) or (6)(b) or directions of the Commission pursuant to a request under paragraph (4).

(3) The special advocate may, without directions from the Commission, communicate about the proceedings with—

(a) the Commission;

(b) the Secretary of State or any person acting for him;

(c) the relevant law officer or any person acting for him;

(d) any other person, except for the appellant or his representative, with whom it is necessary for administrative purposes for the special advocate to communicate about matters not connected with the substance of the proceedings.

(4) The special advocate may request directions from the Commission authorising him to communicate with the appellant or his representative or with any other person.

(5) Where the special advocate makes a request under paragraph (4)—

(a) the Commission must notify the Secretary of State of the request; and

(b) the Secretary of State must, within such time as the Commission directs, file with the Commission and serve on the special advocate notice of any objection which he has to the proposed communication, or to the form in which it is proposed to be made.

(6) Paragraph (2) does not prohibit the appellant from communicating with the special advocate after the Secretary of State has served closed material on him, but—

(a) the appellant may only communicate with the special advocate through a representative in writing; and

(b) the special advocate must not reply to the communication otherwise than in accordance with directions of the Commission, except that he may without such directions send a written acknowledgment of receipt to the appellant's representative.

Directions hearing

11.—(1) The Commission must, unless it orders otherwise, fix a directions hearing as soon as reasonably practicable after notice of appeal is filed under rule 7, at which the parties and their representatives, and any special advocate, may be present.

(2) At a directions hearing the Commission may give directions as to the order in which, and the time within which, the following documents are to be filed and served—

(a) the statement to be made by the Secretary of State under rule 12(1);

(b) any statement to be filed and served by the appellant under rule 13(1);

(c) any application to be made by the appellant or the special advocate under rule 13(3);

(d) any statement to be filed and served by the Secretary of State under rule 13(2) or (6);

(e) closed material, to be served by the Secretary of State on the special advocate under rule 12(3), 13(6)(a) or 14(2);

(f) any reply by the special advocate under rule 15(4)(a) to an objection or application by the Secretary of State under rule 15(1);

(g) any response by the Secretary of State under rule 15(4)(b) to the special advocate's reply;

(h) any skeleton arguments on behalf of the parties and the special advocate.

(3) The Commission may also give directions as to the date of—

(a) any hearing under rule 15; and