STATUTORY RULES OF NORTHERN IRELAND

2008 No. 479

SUPREME COURT, NORTHERN IRELAND

COUNTER-TERRORISM

The Rules of the Supreme Court (Northern Ireland) (Amendment No.3) 2008

Made - - - -	*2nd December 2008*
Laid before Parliament	*3rd December 2008*
Coming into operation	*4th December 2008*

Approved by both Houses of Parliament

The Lord Chancellor, having power by virtue of section 72 of the Counter-Terrorism Act 2008 (**1**) to make rules of court under section 55 of the Judicature (Northern Ireland) Act 1978(**2**) and sections 66 and 67 of the Counter-Terrorism Act 2008, and after consulting the Lord Chief Justice of Northern Ireland in accordance with section 72(2) of that Act, makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 3) 2008 and shall come into operation on 4th December 2008.

(2) In these Rules, "the principal Rules" means the Rules of the Supreme Court (Northern Ireland 1980(**3**) and an Order referred to by number or an Appendix referred to by letter means the Order so numbered or the Appendix so lettered in the principal Rules.

Arrangement of Orders

2. The Arrangement of Orders at the beginning of the principal Rules shall be amended by inserting after the entry relating to Order 116A, the following new entry—

"**116B.** Counter-Terrorism Act 2008.".

Amendment to the principal Rules

3. The principal Rules shall be amended as follows—

(a) in Order 1, rule 1A(4) after "Order 116A, rule 2(1)" insert "and Order 116B, rule 2(1)";

(**1**) 2008 c.28.
(**2**) 1978 c.23 to which the most recent relevant amendments were made by Schedule 5 to the Constitutional Reform Act 2005 (c.4).
(**3**) S.R. 1980 No.346 the relevant amendments to which are S.R. 1981 No.224; S.R. 1984 No. 110; S.R. 1991 No.231; S.R. 1991 No.232; S.R. 1992 No.399; S.R. 2005 No.314 and S.R. 2008 No. 22.

(b) after Order 1, rule 11(k) insert the following—

"(l) proceedings under the Counter-Terrorism Act 2008 – financial restrictions proceedings."; and

(c) after Order 116A, insert new Order 116B, as set out in the Schedule to these Rules.

Bridget Prentice
Parliamentary Under-Secretary of State
Ministry of Justice

Dated 2nd December 2008

SCHEDULE Rule 3

"ORDER 116B

COUNTER-TERRORISM ACT 2008

PART I

PRELIMINARY

Application and interpretation

1.—(1) This Order applies to—

(a) financial restrictions proceedings in the High Court; and

(b) appeals to the Court of Appeal against an order of the High Court in such proceedings.

(2) In this Order—

(a) "the Act" means the Counter-Terrorism Act 2008(**4**);

(b) "financial restrictions decision" means a decision to which section 63(1) of the Act applies;

(c) "financial restrictions proceedings" has the same meaning as in section 65 of the Act;

(d) "closed material" means—

(i) material, evidence or submissions to the Court upon which the Treasury wishes to rely in proceedings;

(ii) material which adversely affects the Treasury's case or supports another party's case; or

(iii) information which the Treasury is required to lodge pursuant to an order under rule 10(7),

but which the Treasury objects to disclosing to another party and that party's legal representative;

(e) "legal representative" in relation to a party to proceedings other than the Treasury does not include a special advocate;

(f) "material" means anything in which information of any description is recorded;

(g) "party" includes the Treasury unless otherwise stated or unless the context otherwise requires;

(h) "special advocate" means a person appointed under section 68 of the Act; and

(i) "specially represented party" means a party, other than the Treasury, whose interest a special advocate represents.

Modification to the overriding objective

2.—(1) Where this Order applies, the overriding objective in Order 1, and so far as relevant any other rule, must be read and given effect in a way which is compatible with the duty set out in paragraph (2).

(2) The Court will ensure that information is not disclosed contrary to the public interest.

(**4**) 2008 c.28.

(3) Without prejudice to paragraph (2), the Court will satisfy itself that the material available to it enables it to properly determine the proceedings.

PART II

APPLICATION TO SET ASIDE A FINANCIAL RESTRICTIONS DECISION

Application of this Part

3. This Part applies to an application to set aside a financial restrictions decision.

Application to set aside

4.—(1) An application to set aside a financial restrictions decision must be made by originating summons in Form 6 in Appendix A modified in accordance with rule 5(2).

(2) The originating summons must be supported by an affidavit setting out—

(a) the details of the financial restrictions decision;

(b) details of how the plaintiff is affected by the financial restrictions decision; and

(c) the grounds on which the plaintiff seeks to set aside the decision.

(3) The plaintiff must lodge with the originating summons—

(a) a copy of —

(i) the written notice of the relevant financial restrictions decision made by the Treasury; or

(ii) where relevant, any direction, order or licence made under Schedule 7 to the Act or any freezing order made under Part 2 of the Anti-Terrorism, Crime and Security Act 2001(**5**); and

(b) any evidence, including witness statements, on which the plaintiff relies at that stage.

Title and form of proceedings

5.—(1) An originating summons under this Part of this Order shall be entitled in the matter of a decision by the Treasury under section 63 of the Counter-Terrorism Act 2008 and all subsequent documents in the matter shall be so entitled.

(2) In Form 6, the following paragraph shall be omitted—

"If the defendant does not enter an appearance, such judgment may be given or order made against or in relation to him as the Court may think just and expedient.".

Fixing of directions hearing date

6.—(1) When the Court issues the originating summons it will fix a date for a directions hearing.

(2) Unless the Court directs otherwise, the directions hearing will be not less than 14 days but not more than 28 days after the date of issue of the originating summons.

Service of the originating summons and accompanying documents

7. The Court will—

(**5**) 2001 c.24

(a) serve on the Treasury and any special advocate (if one has been appointed)—

(i) the originating summons; and

(ii) the documents specified in rule 4(3); and

(b) send to all parties and any special advocate a notice of the directions hearing date (where such date is not endorsed on the originating summons).

Memorandum of appearance

8. Where a special advocate has been appointed, the Treasury must serve on that special advocate a copy of the memorandum of appearance lodged under Order12, rule 9.

Directions Hearing

9. At the directions hearing, the Court may give such directions as to the further conduct of the proceedings as it thinks necessary to secure the just, expeditious and economical disposal of the case, in particular—

(a) for the holding of a further hearing to determine the application;

(b) fixing a date, time and place for the further hearing at which the parties, their legal representatives (if any) and any special advocate can be present; and

(c) as to the order in which, and the time within which, the following are to be lodged and served—

(i) any response to the application to be lodged and served by the Treasury under rule 10 (1), (2) and (4);

(ii) any application to be made under rule 10(5);

(iii) any information to be lodged and served by the Treasury pursuant to an order under rule 10(7);

(iv) any evidence to be lodged and served by the plaintiff under rule 11(1);

(v) any evidence to be lodged and served by the Treasury under rule 11(2);

(vi) any application by the Treasury under rule 10(3), (8) or 11(3); and

(vii) any further evidence, including witness statements, written submissions or skeleton arguments, to be lodged and served by the parties and any special advocate.

Response by the Treasury

10.—(1) Where the Treasury intends to oppose the application to set aside the financial restrictions decision, they must lodge with the Court —

(a) the grounds for contesting the application; and

(b) any relevant evidence of which they are aware at that stage.

(2) Unless the Treasury objects to the grounds and evidence in paragraph (1) being disclosed to the plaintiff and the plaintiff's legal representative, the Treasury must serve a copy of the grounds and evidence on the plaintiff at the same time as lodging the grounds.

(3) Where the Treasury objects to the grounds and evidence in paragraph (1) being disclosed to the plaintiff and the plaintiff's legal representative, the Treasury must make an application in accordance with rule 30.

(4) Where a special advocate has been appointed, the Treasury must serve on that special advocate a copy of the grounds and evidence lodged under paragraph (1).