STATUTORY RULES OF NORTHERN IRELAND

2005 No. 191

SUPREME COURT, NORTHERN IRELAND
PREVENTION OF TERRORISM

The Rules of the Supreme Court (Northern Ireland) (Amendment No. 3) 2005

Made - - - - 5th April 2005

To be laid before Parliament

Coming into operation in accordance with Rule 1

The Lord Chancellor, having power by virtue of paragraph 3 of the Schedule to the Prevention of Terrorism Act 2005(**1**) to make rules of court under section 55 of the Judicature (Northern Ireland) Act 1978(**2**) and paragraphs 4 and 5 of the Schedule to the Prevention of Terrorism Act 2005 and after consulting the Lord Chief Justice of Northern Ireland in accordance with paragraph 3(3) of the Schedule to 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) 2005 and shall come into operation forthwith.

(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 means the Order so numbered 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 116, the following new entry –

"**116A.** Prevention of Terrorism Act 2005".

Amendment to the principal Rules

3. The principal Rules shall be amended by inserting –

(a) after Order 1, rule 1A(3) the following new paragraph –

(**1**) 2005 c. 2
(**2**) 1978 c. 23
(**3**) S.R. 1980 No. 346 to which the most recent relevant amendments were made by S.R. 2005 No. 163

"(4) Paragraph (3) above shall apply subject to the provisions in Order 116A, rule 2(1)."

(b) after Order 1, rule 11(j) the following new paragraph –

"(k) proceedings under the Prevention of Terrorism Act 2005."; and

(c) after Order 116 the new Order 116A, as set out in Schedule 1 to these Rules.

4. Appendix A shall be amended by inserting after Form No. 37A, the new Form 37B set out in Schedule 2 to these Rules.

Dated 5th April 2005 *Falconer of Thoroton,* C.

SCHEDULE 1 Rule 3

"ORDER 116A

PREVENTION OF TERRORISM ACT 2005

PART I

preliminary

Application and interpretation

1.—(1) This Order applies to –

(a) control order 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 the case of proceedings brought by virtue of section 11(2) of the Act, the rules in this Order shall apply with any modification which the Court considers necessary.

(3) In this Order –

"the Act" means the Prevention of Terrorism Act 2005;

"closed material" means any relevant material that the Secretary of State objects to disclosing to a relevant party;

"control order proceedings" has the same meaning as in section 11(6) of the Act;

"controlled person" has the same meaning as in section 15(1) of the Act;

"legal representative" is to be construed in accordance with paragraph 11 of the Schedule to the Act;

"open material" means any relevant material that the Secretary of State does not object to disclosing to a relevant party;

"relevant law officer" has the same meaning as in paragraph 7(6) of the Schedule to the Act;

"relevant material" has the same meaning as in paragraph 4(5) of the Schedule to the Act;

"relevant party" has the same meaning as in paragraph 11 of the Schedule to the Act;

"special advocate" means a person appointed under paragraph 7 of the Schedule to the Act.

(4) For the purposes of this Order, disclosure is contrary to the public interest if it is made contrary to the interests of national security, the international relations of the United Kingdom, the detection and prevention of crime, or in any other circumstances where disclosure is likely to harm the public interest.

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 must ensure that information is not disclosed contrary to the public interest.

(3) Subject to paragraph (2), the Court must satisfy itself that the material available to it enables it properly to determine proceedings.

PART II

applications to the high court relating to derogating control orders

Application of this Part

3. This Part of this Order applies to applications relating to derogating control orders.

Applications for the making of a derogating control order

4. An application for the making of a derogating control order under section 4(1) of the Act must be made by lodging with the Court –

(a) a statement of reasons to support the application for –

(i) making such an order, and

(ii) imposing each of the obligations to be imposed by that order;

(b) all relevant material;

(c) any written submissions; and

(d) a draft of the order sought.

Directions for a full hearing on notice

5.—(1) When the Court makes a derogating control order under section 4(3) of the Act it must –

(a) immediately fix a date, time and place for a further hearing at which the controlled person, his legal representative and a special advocate (if one has been appointed) can be present; and

(b) unless the Court otherwise directs, that date must be no later than 7 days from the date that the order is made.

(2) At the hearing referred to in paragraph (1)(a), the Court must give directions –

(a) for the holding of a full hearing under section 4(1)(b) of the Act to determine whether to confirm the control order (with or without modifications), or to revoke it; and

(b) specifying the date and time by which the parties and special advocate must lodge and serve any written evidence or written submissions in accordance with rule 33 of this Order.

(3) When giving directions under paragraph (2), the Court must have regard to the need to expedite the full hearing.

Applications on notice

6.—(1) An application under section 4(9) of the Act for the renewal, or under section 7(4) of the Act, for the revocation of a control order or for the modification of obligations imposed by such an order, must be made in accordance with this rule.

(2) An application by the Secretary of State must be made by –

(a) lodging with the Court –

(i) a statement of reasons to support the application,

(ii) all relevant material,

(iii) any written submissions, and

(iv) a draft of the order sought; and

(b) serving on the controlled person or his legal representative any open material.

(3) An application by the controlled person must be made by lodging with the Court and serving on the Secretary of State –

(a) a statement of reasons to support the application;

(b) any written evidence upon which he relies;

(c) any written submissions; and

(d) where appropriate, a draft of the order sought.

(4) If the controlled person wishes to oppose an application made under this rule, he must as soon as practicable lodge with the Court, and serve on the Secretary of State, any written evidence and any written submissions upon which he relies.

(5) If the Secretary of State wishes to oppose an application made under this rule, he must as soon as practicable –

(a) lodge with the Court –

(i) all relevant material, and

(ii) any written submissions; and

(b) serve on the controlled person any open material.

(6) Rules 31 and 32 of this Order shall apply where any closed material is lodged by the Secretary of State.

PART III

leave applications, references and appeals to the high court relating to non-derogating control orders

Application of this Part

7. This Part of this Order applies to –

(a) applications under section 3(1)(a) of the Act for leave to make a non-derogating control order;

(b) references under section 3(3) of the Act of a non-derogating control order made without leave; and

(c) appeals to the High Court under section 10 of the Act relating to non-derogating control orders.

Application for leave to make non-derogating control order

8. An application under section 3(1)(a) of the Act for leave to make a non-derogating control order must be made by the Secretary of State by lodging with the Court –

(a) a statement of reasons to support the application;

(b) all relevant material;

(c) any written submissions; and

(d) the proposed control order.

References under section 3(3) of the Act

9.—(1) This rule shall apply where the Secretary of State makes a reference under section 3(3) of the Act (reference of a non-derogating control order).