

Rules made by the Lord Chancellor, laid before Parliament under paragraph 7 of Schedule 4 to the Terrorism Prevention and Investigation Measures Act 2011, for approval by resolution of each House of Parliament within forty days beginning with the day on which the Rules were made, subject to extensions for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2011 No. 2970 (L. 21)

SENIOR COURTS OF ENGLAND AND WALES

COUNTY COURTS, ENGLAND AND WALES

The Civil Procedure (Amendment No. 3) Rules 2011

Made - - - - 14th December 2011

Laid before Parliament 14th December 2011

Coming into force in accordance with rule 1

The Lord Chancellor makes the following Rules in exercise of the power conferred by paragraph 7 of Schedule 4 to the Terrorism Prevention and Investigation Measures Act 2011(a) (“Schedule 4”) to make rules of court under section 1 of the Civil Procedure Act 1997(b) and paragraphs 2 to 4 and 6 of Schedule 4.

Before making these Rules, the Lord Chancellor has consulted with the Lord Chief Justice of England and Wales in accordance with paragraph 7(2)(a) of Schedule 4.

Citation, commencement and interpretation

1. These Rules may be cited as the Civil Procedure (Amendment No. 3) Rules 2011 and shall come into force on the day after the day on which they are made.

2. In these Rules a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(c).

Amendments to the Civil Procedure Rules 1998

3. In rule 1.2 (application by the court of the overriding objective), for “rules 76.2 and 79.2” substitute “rules 76.2, 79.2 and 80.2”.

4. After Part 79, insert Part 80 (Proceedings under the Terrorism Prevention and Investigation Measures Act 2011), as set out in the Schedule.

(a) 2011 c. 23.
(b) 1997 c. 12.
(c) S.I.1998/3132.

Signed by authority of the Lord Chancellor

14th December 2011

J Djanogly
Parliamentary Under Secretary of State
Ministry of Justice

SCHEDULE

Rule 4

“Part 80

Proceedings under the Terrorism Prevention and Investigation Measures Act 2011

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SECTION 1

Application of this Part

Scope and interpretation

80.1.—(1) This Part contains rules about—

- (a) TPIM 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 17(2) of the Act, the rules in this Part shall apply with any modification the court considers necessary.

(3) In this Part—

- (a) “the Act” means the Terrorism, Prevention and Investigation Measures Act 2011;
- (b) “closed material” means any relevant material that the Secretary of State objects to disclosing to a relevant party on the grounds that it is contrary to the public interest;
- (c) “extension notice” means a notice issued under section 5(2) of the Act, extending a TPIM notice;
- (d) “legal representative” is to be construed in accordance with paragraph 4(4)(b) of Schedule 4 to the Act;
- (e) “measures” means terrorism prevention and investigation measures (which has the same meaning as in section 2 of the Act);
- (f) “open material” means any relevant material that the Secretary of State does not object to disclosing to a relevant party on the grounds that it is contrary to the public interest;
- (g) “relevant material” means the material described in paragraph 3(1)(a) to (c) of Schedule 4 to the Act;
- (h) “relevant party” means any party to the proceedings other than the Secretary of State;
- (i) “revival notice” means a notice issued under section 13(6) of the Act, reviving a TPIM notice;
- (j) “special advocate” means a person appointed under paragraph 10(1) of Schedule 4 to the Act;
- (k) “TPIM notice” has the same meaning as in section 2(1) of the Act;
- (l) “TPIM proceedings” has the same meaning as in section 30(1) of the Act;
- (m) “TPIM subject” means an individual on whom the Secretary of State has imposed, or is proposing to impose, measures by means of a TPIM notice;
- (n) “variation notice” means a notice issued under section 12(1)(c) of the Act, varying the TPIM notice without the individual’s consent.

(4) For the purposes of this Part, 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 or 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

80.2.—(1) Where this Part applies, the overriding objective in Part 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.

SECTION 2

Permission Applications, References and Appeals to the High Court Relating to TPIM Notices

Scope of this section

80.3. This section contains rules about—

- (a) applications under section 6(1)(b) of the Act (application for permission to impose measures);
- (b) references under paragraph 3(1) of Schedule 2 to the Act (reference of the imposition of measures imposed without permission); and
- (c) appeals to the High Court under section 16 of the Act (appeals relating to a TPIM notice).

Application for permission to impose measures

80.4. An application under section 6(1)(b) of the Act for permission to impose measures must be made by the Secretary of State filing with the court—

- (a) a statement of reasons to support the application;
- (b) any relevant material of which the Secretary of State is aware at that stage;
- (c) any written submissions; and
- (d) the proposed TPIM notice.

Reference of measures imposed without permission

80.5. A reference under paragraph 3(1) of Schedule 2 to the Act of the imposition of measures imposed without permission is made by the Secretary of State filing with the court—

- (a) a statement of reasons for imposing measures and for imposing the measures specified in the TPIM notice;
- (b) any relevant material of which the Secretary of State is aware at that stage;
- (c) any written submissions; and
- (d) the TPIM notice.

Directions for hearing on an application for permission or on a reference

80.6.—(1) If the court gives permission on an application under section 6(1)(b) of the Act or confirms a TPIM notice on a reference under paragraph 3(1) of Schedule 2 to the Act, the court must give directions for a directions hearing at which the TPIM subject, the TPIM subject's legal representative, the special advocate (if one has been appointed) and the Secretary of State's legal representative may be present.

(2) In a case where permission is given (following an application under section 6(1)(b) of the Act), the date to be fixed for the directions hearing must, unless the court otherwise directs, be no later than 7 days after the date on which the TPIM notice is served on the TPIM subject.

(3) In a case where the TPIM notice is confirmed (following a reference under paragraph 3(1) of Schedule 2 to the Act), the date to be fixed for the directions hearing must, unless the court otherwise directs, be no later than 7 days after the date on which the court confirms the TPIM notice.

(4) At the directions hearing, the court must give directions—

- (a) for a review hearing under section 9(1) of the Act; and
- (b) specifying a date and time by which the parties and special advocate must file and serve any written evidence or written submissions in accordance with rule 80.26.

(5) When giving directions under paragraph (4), the court must have regard to the need to expedite the review hearing.

(Rules 80.24 and 80.25 will apply where any closed material is filed by the Secretary of State).

Appeals under section 16 of the Act

80.7. Rules 80.8 to 80.11 apply to an appeal under section 16 of the Act (appeals relating to a TPIM notice).

Modification of Part 52 (appeals)

80.8.—(1) Part 52 (appeals) applies to an appeal under section 16 of the Act, subject to—

- (a) rule 80.2;
- (b) the rules in section 4 of this Part; and
- (c) paragraphs (2) and (3).

(2) The following rules do not apply to appeals under section 16 of the Act—

- (a) rule 52.3 (permission);
- (b) rule 52.4 (appellant's notice);
- (c) rule 52.5 (respondent's notice); and
- (d) rule 52.11 (hearing of appeals).

(3) Rule 52.2 (all parties to comply with Practice Direction 52) applies, but the parties shall not be required to comply with paragraphs 5.6, 5.6A, 5.7, 5.9 and 5.10 of that Practice Direction.

Notice of appeal

80.9.—(1) The TPIM subject must give notice of appeal by—

- (a) filing a notice of appeal with the court; and
- (b) serving a copy of that notice and any accompanying documents on the Secretary of State.

(2) The notice of appeal must—

- (a) set out the grounds of the appeal; and
- (b) state the name and address of—
 - (i) the TPIM subject, and
 - (ii) the TPIM subject's legal representative (if any).

(3) A notice of appeal may include an application under rule 80.15 for an order requiring anonymity for the TPIM subject.

(4) The notice of appeal must be filed with a copy of the TPIM notice imposing measures on the TPIM subject and (as relevant)—

- (a) a copy of the extension notice, revival notice or variation notice that is the subject of the appeal;
- (b) a copy of the application to the Secretary of State—
 - (i) for permission in connection with a measure specified in the TPIM notice,
 - (ii) for the revocation of the TPIM notice, or
 - (iii) for the variation of a measure specified in the TPIM notice;
- (c) a copy of the Secretary of State’s decision on such an application.

(Attention is drawn to rule 80.14(1) relating to the address for issuing proceedings in the High Court).

Time limit for appealing

80.10.—(1) Subject to paragraph (2), the TPIM subject must give notice of appeal no later than 28 days after receiving—

- (a) the extension notice, revival notice or variation notice that is the subject of the appeal; or
- (b) notice of the Secretary of State’s decision on an application for permission in connection with a measure specified in the TPIM notice, for the revocation of the TPIM notice or for the variation of a measure specified in the TPIM notice.

(2) In a case where the Secretary of State has failed to determine an application for permission in connection with a measure specified in the TPIM notice, for the revocation of the TPIM notice or for the variation of a measure specified in the TPIM notice, the TPIM subject must file the notice of appeal—

- (a) no earlier than 28 days, and
- (b) no later than 42 days,

after the date on which the Secretary of State received the application.

Secretary of State’s reply

80.11. If the Secretary of State wishes to oppose an appeal, the Secretary of State must, no later than 14 days after being served with the notice of appeal—

- (a) file with the court—
 - (i) any relevant material of which the Secretary of State is aware at that stage; and
 - (ii) any written submissions; and
- (b) serve on the TPIM subject any open material.

SECTION 3

Appeals to the Court of Appeal

Modification of Part 52 (appeals)

80.12.—(1) Part 52 (appeals) applies to an appeal to the Court of Appeal against an order of the High Court in TPIM proceedings, subject to—

- (a) rule 80.2;
- (b) the rules in section 4 of this Part; and
- (c) paragraphs (2) and (3).

- (2) The following rules do not apply to appeals to the Court of Appeal—
- (a) rule 52.4(1) (appellant’s notice); and
 - (b) rule 52.5 (respondent’s notice), but
- the provisions of rules 80.9 and 80.11 shall apply with appropriate modifications.
- (3) Rule 52.2 (all parties to comply with Practice Direction 52) applies, but the parties shall not be required to comply with paragraphs 5.6, 5.6A, 5.7, 6.3A, 15.2, 15.3, 15.4 and 15.6 of that Practice Direction.

SECTION 4
General Provisions

Scope of this section

- 80.13.** This section applies to—
- (a) TPIM proceedings in the High Court; and
 - (b) appeals to the Court of Appeal against an order of the High Court in such proceedings.

Address for filing proceedings

80.14—(1) Any TPIM proceedings must be filed at the Administrative Court Office, Room C315, Royal Courts of Justice, Strand, London, WC2A 2LL.

(2) Any appeals to the Court of Appeal against an order of the High Court in such proceedings must be filed at the Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, London, WC2A 2LL.

Applications for anonymity

80.15.—(1) The TPIM subject or the Secretary of State may apply for an order requiring anonymity for the TPIM subject.

(2) An application under paragraph (1) may be made at any time, irrespective of whether any TPIM proceedings have been commenced.

(3) An application may be made without notice to the other party.

(4) The reference in this rule to an order requiring anonymity for the TPIM subject is to be construed in accordance with paragraph 6(3) of Schedule 4 to the Act.

Notification of hearing

80.16. Unless the court directs otherwise, it will serve notice of the date, time and place fixed for any hearing on—

- (a) every party, whether or not entitled to attend that hearing; and
- (b) if one has been appointed for the purposes of the hearing, the special advocate or those instructing the special advocate.

Hearings

80.17.—(1) The following proceedings must be determined at a hearing—

- (a) a review hearing under section 9(1) of the Act (review hearing);
- (b) an appeal under section 16 of the Act (appeals relating to a TPIM notice);
- (c) an appeal to the Court of Appeal from an order of the High Court made in the proceedings mentioned in sub-paragraph (a) or (b) above; and

(d) a hearing under rule 80.25(2) (consideration of the Secretary of State's objection or application).

(2) Paragraph (1)(a) does not apply where the court discontinues the review hearing in accordance with section 9(3) of the Act.

(3) Paragraph (1)(b) does not apply where—

- (a) the appeal is withdrawn by the TPIM subject;
- (b) the Secretary of State consents to the appeal being allowed; or
- (c) the TPIM subject is outside the United Kingdom or it is impracticable to give the TPIM subject notice of a hearing and, in either case, the TPIM subject is unrepresented.

(4) Paragraph (1)(c) does not apply where—

- (a) the Court of Appeal grants a request by the appellant to dismiss the appeal;
- (b) the Court of Appeal allows the appeal with consent; or
- (c) the Court of Appeal strikes out the appeal.

Hearings in private

80.18.—(1) If the court considers it necessary for any relevant party and any relevant party's legal representative to be excluded from a hearing or part of a hearing in order to secure that information is not disclosed contrary to the public interest, it must—

- (a) direct accordingly; and
- (b) conduct the hearing, or that part of it from which the relevant party and the relevant party's legal representative are excluded, in private.

(2) The court may conduct a hearing or part of a hearing in private for any other good reason.

Appointment of a special advocate

80.19.—(1) Subject to paragraph (2), the Secretary of State must immediately give notice of the proceedings to the Attorney General (who, under paragraph 10(1) of Schedule 4 to the Act, has the power to appoint a special advocate) on—

- (a) making an application under section 6(1)(b) of the Act (application for permission to impose measures);
- (b) making a reference under paragraph 3(1) of Schedule 2 to the Act (reference of the imposition of measures imposed without permission); or
- (c) being served with a copy of any application, claim or notice of appeal in proceedings to which this Part applies.

(2) Paragraph (1) applies unless—

- (a) the Secretary of State does not intend to—
 - (i) oppose the application, claim or appeal; or
 - (ii) withhold closed material from a relevant party; or
- (b) a special advocate has already been appointed to represent the interests of the relevant party in the proceedings and that special advocate is not prevented from communicating with that party by virtue of rule 80.21.

(3) Where any proceedings to which this Part applies are pending but no special advocate has been appointed, a relevant party or the Secretary of State may request the Attorney General appoints a special advocate.

Functions of a special advocate

80.20. The functions of a special advocate are to represent the interests of a relevant party by—

- (a) making submissions to the court at any hearing or part of a hearing from which the relevant party and the relevant party's legal representative are excluded;
- (b) adducing evidence and cross-examining witnesses at any such hearing or part of a hearing; and
- (c) making written submissions to the court.

Special advocate: communicating about proceedings

80.21.—(1) The special advocate may communicate with the relevant party or the relevant party's legal representative at any time before the Secretary of State serves closed material on the special advocate.

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

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

- (a) the court;
- (b) the Secretary of State or any person acting for the Secretary of State;
- (c) the Attorney General or any person acting for the Attorney General; or
- (d) any other person, except the relevant party or the relevant party's legal 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 court authorising him or her to communicate with the relevant party or the relevant party's legal representative or with any other person.

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

- (a) the court must notify the Secretary of State of the request; and
- (b) the Secretary of State must, within a period specified by the court, file with the court and serve on the special advocate notice of any objection which the Secretary of State has to the proposed communication, or to the form in which it is proposed to be made.

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

- (a) the relevant party may only communicate with the special advocate through the relevant party's legal representative in writing; and
- (b) the special advocate must not reply to the communication other than in accordance with directions of the court, except that the special advocate may without such directions send a written acknowledgment of receipt to the relevant party's legal representative.

Modification of the general rules of evidence and disclosure

80.22.—(1) Part 31 (disclosure and inspection of documents), Part 32 (evidence) and Part 33 (miscellaneous rules about evidence) do not apply to any proceedings to which this Part applies.

- (2) Subject to the other rules in this Part, the evidence of a witness may be given either—
 - (a) orally before the court; or
 - (b) in writing, in which case it shall be given in such manner and at such time as the court directs.
- (3) The court may also receive evidence in documentary or any other form.
- (4) The court may receive evidence that would not, but for this rule, be admissible in a court of law.
- (5) Every party shall be entitled to adduce evidence and to cross-examine witnesses during any hearing or part of a hearing from which that party and that party’s legal representative are not excluded.
- (6) A special advocate shall be entitled to adduce evidence and to cross-examine witnesses.
- (7) The court may require a witness to give evidence on oath.

Filing and service of relevant material

- 80.23.**—(1) The Secretary of State is required to make a reasonable search for relevant material and to file and serve that material in accordance with the rules in this Part.
- (2) The duty to search for, file and serve material under paragraph (1) continues until the proceedings in question have been determined.

Closed material

- 80.24.**—(1) The Secretary of State—
- (a) must apply to the court for permission to withhold closed material from a relevant party or the relevant party’s legal representative in accordance with this rule; and
 - (b) may not rely on closed material at a hearing on notice unless a special advocate has been appointed to represent the interests of the relevant party.
- (2) The Secretary of State must file with the court and, at such time as the court directs, serve on the special advocate—
- (a) the closed material;
 - (b) a statement of the Secretary of State’s reasons for withholding that material from the relevant party; and
 - (c) if the Secretary of State considers it possible to provide a summary of that material without disclosing information contrary to the public interest, a summary of that material in a form which can be served on the relevant party.
- (3) The Secretary of State may at any time amend or supplement material filed under this rule, but only with—
- (a) the agreement of the special advocate; or
 - (b) the permission of the court.

Consideration of the Secretary of State’s objection or application

- 80.25.**—(1) This rule applies where the Secretary of State has—
- (a) objected under rule 80.21(5)(b) to a proposed communication by the special advocate; or
 - (b) applied under rule 80.24 for permission to withhold closed material.
- (2) The court must fix a hearing for the Secretary of State and the special advocate to make oral representations, unless—

- (a) the special advocate gives notice to the court that he or she does not challenge the objection or application;
- (b) the court has previously considered—
 - (i) an objection under rule 80.21(5)(b) to the same or substantially the same communication; or
 - (ii) an application under rule 80.24(1) for permission to withhold the same or substantially the same material, and
 is satisfied that it would be just to uphold that objection or to give permission without a hearing; or
- (c) the Secretary of State and the special advocate consent to the court deciding the issue without a hearing.

(3) If the special advocate does not challenge the objection or the application, he or she must give notice of that fact to the court and the Secretary of State no later than the end of 14 days after the date the Secretary of State serves on the special advocate the notice under rule 80.21(5)(b) or the material under rule 80.24(2), or such other period as the court may direct.

(4) Where the court fixes a hearing under this rule, the Secretary of State and the special advocate must before the hearing file with the court a schedule identifying the issues which cannot be agreed between them, which must also—

- (a) give brief reasons for their contentions in relation to each issue; and
- (b) set out any proposals for the court to resolve those issues.

(5) A hearing under this rule shall take place in the absence of the relevant party and the relevant party's legal representative.

(6) Where the court gives permission to the Secretary of State to withhold closed material, the court must—

- (a) consider whether to direct the Secretary of State to serve a summary of that material on the relevant party and the relevant party's legal representative; but
- (b) ensure that no such summary contains information or other material the disclosure of which would be contrary to the public interest.

(7) Where the court has not given permission to the Secretary of State to withhold closed material from, or has directed the Secretary of State to serve a summary of that material on, the relevant party and the relevant party's legal representative—

- (a) the Secretary of State shall not be required to serve that material or summary; but
- (b) if the Secretary of State does not do so, at a hearing on notice the court may—
 - (i) if it considers that the material or anything that is required to be summarised might be of assistance to the relevant party in relation to a matter under consideration by the court, direct that the matter is withdrawn from its consideration or that the Secretary of State makes such concessions or takes such other steps as the court specifies; and
 - (ii) in any other case, direct that the Secretary of State shall not rely in the proceedings on that material or (as the case may be) on what is required to be summarised.

(8) The court must give permission to the Secretary of State to withhold closed material where it considers that the disclosure of that material would be contrary to the public interest.

Order of filing and serving material and written submissions

80.26. Subject to any directions given by the court, the parties must file and serve any material and written submissions, and the special advocate must file and serve any written submissions, in the following order—

- (a) the Secretary of State must file with the court any relevant material of which the Secretary of State is aware;
- (b) the Secretary of State must serve on—
 - (i) the relevant party or the relevant party’s legal representative; and
 - (ii) the special advocate (as soon as one is appointed) or those instructing the special advocate,
 any open material;
- (c) the relevant party must file with the court and serve on the Secretary of State and special advocate (if one is appointed) or those instructing the special advocate any written evidence which the relevant party wishes the court to take into account at the hearing;
- (d) the Secretary of State must file with the court any further relevant material;
- (e) the Secretary of State must serve on—
 - (i) the relevant party or the relevant party’s legal representative; and
 - (ii) the special advocate (as soon as one is appointed) or those instructing the special advocate,
 any open material filed with the court under paragraph (d);
- (f) the Secretary of State must serve on the special advocate (if one has been appointed) any closed material;
- (g) the parties and the special advocate (if one has been appointed) must file and serve any written submissions as directed by the court.

(Rules 80.24 and 80.25 will apply where any closed material is filed by the Secretary of State).

Failure to comply with directions

80.27.—(1) Where a party or the special advocate fails to comply with a direction of the court, the court may serve on that person a notice which states—

- (a) the respect in which that person has failed to comply with the direction;
- (b) a time limit for complying with the direction; and
- (c) that the court may proceed to determine the proceedings before it, on the material available to it, if the party or special advocate fails to comply with the direction within the time specified.

(2) Where a party or special advocate fails to comply with such a notice, the court may proceed in accordance with paragraph (1)(c).

Judgments

80.28.—(1) When the court gives judgment in any proceedings to which this Part applies, it may withhold any or part of its reasons if and to the extent that it is not possible to give those reasons without disclosing information contrary to the public interest.

(2) Where the judgment of the court does not include the full reasons for its decision, the court must serve on the Secretary of State and the special advocate a separate written judgment including those reasons.

Application by the Secretary of State for reconsideration of decision

80.29.—(1) If the court proposes, in any proceedings to which this Part applies, to serve notice on a relevant party of any—

- (a) order or direction made or given in the absence of the Secretary of State; or

(b) any judgment,

then before the court serves any such notice on the relevant party, it must first serve notice on the Secretary of State of its intention to do so.

(2) The Secretary of State may, within 5 days of being served with notice under paragraph (1), apply to the court to reconsider the terms of the order or direction or to review the terms of the proposed judgment if the Secretary of State considers that—

- (a) the Secretary of State's compliance with the order or direction; or
- (b) the notification to the relevant party of any matter contained in the judgment, order or direction;

would cause information to be disclosed contrary to the public interest.

(3) Where the Secretary of State makes an application under paragraph (2), the Secretary of State must at the same time serve on the special advocate, if one has been appointed—

- (a) a copy of the application; and
- (b) a copy of the notice served on the Secretary of State pursuant to paragraph (1).

(4) Rule 80.25 (except for paragraphs (6) and (7)) shall, if a special advocate has been appointed, apply with any necessary modifications to the consideration of an application under paragraph (2) of this rule.

(5) The court must not serve notice on the relevant party as mentioned in paragraph (1) before the time for the Secretary of State to make an application under paragraph (2) has expired.

Supply of court documents

80.30. Unless the court otherwise directs, rule 5.4 (Register of Claims), rule 5.4B (Supply of documents from court records – a party) and rule 5.4C (Supply of court documents – a non-party) do not apply to any proceedings to which this Part applies.”

EXPLANATORY NOTE

(This note is not part of these Rules)

These Rules amend the Civil Procedures Rules 1998 (S.I. 1998/3132) (“the CPR”) by—

- (a) amending rule 1.2 (application by the court of the overriding objective), so that it is subject to rule 80.2 (modification to the overriding objective); and
- (b) inserting a new Part 80 containing rules about proceedings under the Terrorism Prevention and Investigation Measures Act 2011 (including the modification of the application of certain other Parts of the CPR for the purposes of those proceedings).

The Terrorism Prevention and Investigation Measures Act 2011 (“the Act”) provides for the imposition of measures by way of TPIM notice on individuals whom the Secretary of State reasonably believes to be, or to have been, involved in terrorism-related activity.

Section 1 of Part 80 contains rules about the scope, interpretation and application of the Part. Rule 80.2 modifies the overriding objective for the purposes of Part 80 by placing a duty on the court to ensure that information is not disclosed contrary to the public interest and by requiring that the overriding objective be read and given effect in a way which is compatible with that duty. This, and the rest of Part 80, is however subject to paragraph 5(1) of Schedule 4 to the Act which provides that nothing in Part 80 is to be read as requiring the court to act in a manner inconsistent with the TPIM subject’s right to a fair trial under article 6 of the European Convention on Human Rights.

Section 2 contains rules about—

- (c) applications by the Secretary of State for permission to impose measures;
- (d) references of measures imposed by the Secretary of State without permission;
- (e) the requirement for directions to be given for a review hearing following permission being granted or a TPIM notice being confirmed by the court; and
- (f) appeals to the High Court against—
 - (i) the extension or revival of a TPIM notice;
 - (ii) the variation, without the consent of the TPIM subject, of a measure imposed by a TPIM notice; or
 - (iii) a decision by the Secretary of State on an application by the TPIM subject for permission in connection with a measure specified in the TPIM notice, for the revocation of the TPIM notice or for the variation of a measure specified in the TPIM notice.

Rule 80.8 modifies the application of Part 52 of the CPR (appeals) to appeals to the High Court relating to TPIM notices under section 16 of the Act. Rule 80.9 makes provision in relation to the TPIM subject giving notice of appeal. Rules 80.10 and 80.11 prescribe the time limit for giving notice of appeal and for the Secretary of State’s reply.

Section 3 contains a rule modifying the application of Part 52 of the CPR (appeals) to appeals to the Court of Appeal against an order of the High Court in TPIM proceedings.

The rules in Section 4 are general provisions applying to all proceedings to which Part 80 applies. They include provision for—

- applications for an order requiring anonymity for the TPIM subject (rule 80.15);
- hearings (rules 80.16 to 80.18);
- notifying the Attorney General of proceedings, the functions of a special advocate and the special advocate’s communications with others (rules 80.19 to 80.21);
- the modification of the general rules of evidence and disclosure (rule 80.22);
- the filing and service of relevant material by the Secretary of State (rule 80.23);

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