

SCHEDULES

SCHEDULE 2

Section 3

URGENT TEMPORARY EXCLUSION ORDERS: REFERENCE TO THE COURT ETC

Application

- 1 This Schedule applies if the Secretary of State—
 - (a) makes the urgent case decisions in relation to an individual, and
 - (b) imposes a temporary exclusion order on the individual.

Statement of urgency

- 2 The temporary exclusion order must include a statement that the Secretary of State reasonably considers that the urgency of the case requires the order to be imposed without obtaining the permission of the court under section 3.

Reference to court

- 3
 - (1) Immediately after giving notice of the imposition of the temporary exclusion order, the Secretary of State must refer to the court the imposition of the order on the individual.
 - (2) The function of the court on the reference is to consider whether the urgent case decisions were obviously flawed.
 - (3) The court's consideration of the reference must begin within the period of 7 days beginning with the day on which notice of the imposition of the temporary exclusion order is given to the individual.
 - (4) The court may consider the reference—
 - (a) in the absence of the individual,
 - (b) without the individual having been notified of the reference, and
 - (c) without the individual having been given an opportunity (if the individual was aware of the reference) of making any representations to the court.
 - (5) But that does not limit the matters about which rules of court may be made.

Decision by court

- 4
 - (1) In a case where the court determines that any of the relevant decisions of the Secretary of State is obviously flawed, the court must quash the temporary exclusion order.
 - (2) If sub-paragraph (1) does not apply, the court must confirm the temporary exclusion order.
 - (3) If the court determines that the decision of the Secretary of State that the urgency condition is met is obviously flawed, the court must make a declaration of that

Status: This is the original version (as it was originally enacted).

determination (whether it quashes or confirms the temporary exclusion order under the preceding provisions of this paragraph).

Procedures on reference

- 5 (1) In determining a reference under paragraph 3, the court must apply the principles applicable on an application for judicial review.
- (2) The court must ensure that the individual is notified of the court's decision on a reference under paragraph 3.

Interpretation

- 6 (1) References in this Schedule to the urgency condition being met are references to condition E being met by virtue of section 2(7)(b) (urgency of the case requires a temporary exclusion order to be imposed without obtaining the permission of the court).
- (2) In this Schedule “the urgent case decisions” means the relevant decisions and the decision that the urgency condition is met.
- (3) In this Schedule “the relevant decisions” means the decisions that the following conditions are met—
 - (a) condition A;
 - (b) condition B;
 - (c) condition C;
 - (d) condition D.