



Prevention of Terrorism Act 2005

2005 CHAPTER 2

Appeals and other proceedings

10 Appeals relating to non-derogating control orders

- (1) Where—
 - (a) a non-derogating control order has been renewed, or
 - (b) an obligation imposed by such an order has been modified without the consent of the controlled person,the controlled person may appeal to the court against the renewal or modification.
- (2) In the case of an appeal against a renewal with modifications, the appeal may include an appeal against some or all of the modifications.
- (3) Where an application is made by the controlled person to the Secretary of State for—
 - (a) the revocation of a non-derogating control order, or
 - (b) the modification of an obligation imposed by such an order,that person may appeal to the court against any decision by the Secretary of State on the application.
- (4) The function of the court on an appeal against the renewal of a non-derogating control order, or on an appeal against a decision not to revoke such an order, is to determine whether either or both of the following decisions of the Secretary of State was flawed—
 - (a) his decision that it is necessary, for purposes connected with protecting members of the public from a risk of terrorism, for an order imposing obligations on the controlled person to continue in force;
 - (b) his decision that the obligations to be imposed by the renewed order, or (as the case may be) the obligations imposed by the order to which the application for revocation relates, are necessary for purposes connected with preventing or restricting involvement by that person in terrorism-related activity.
- (5) The function of the court on an appeal against a modification of an obligation imposed by a non-derogating control order (whether on a renewal or otherwise), or on an

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appeal against a decision not to modify such an obligation, is to determine whether the following decision of the Secretary of State was flawed—

- (a) in the case of an appeal against a modification, his decision that the modification is necessary for purposes connected with preventing or restricting involvement by the controlled person in terrorism-related activity; and
 - (b) in the case of an appeal against a decision on an application for the modification of an obligation, his decision that the obligation continues to be necessary for that purpose.
- (6) In determining the matters mentioned in subsections (4) and (5) the court must apply the principles applicable on an application for judicial review.
- (7) If the court determines on an appeal under this section that a decision of the Secretary of State was flawed, its only powers are—
- (a) power to quash the renewal of the order;
 - (b) power to quash one or more obligations imposed by the order; and
 - (c) power to give directions to the Secretary of State for the revocation of the order or for the modification of the obligations it imposes.
- (8) In every other case, the court must dismiss the appeal.