
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 76

PROCEEDINGS UNDER THE PREVENTION OF TERRORISM ACT 2005

SECTION 5

General provisions

[^{F1}Consideration of Secretary of State's objection

76.29.—(1) This rule applies where the Secretary of State has—

- (a) objected under rule 76.25(5)(b) to a proposed communication by the special advocate [^{F2}or to the form in which it is proposed to be made]; or
- (b) applied under rule 76.28 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 does not challenge the objection or application;
- (b) the court has previously considered—
 - (i) an objection under rule 76.25(5)(b) [^{F3}to the same or substantially the same communication], or
 - (ii) an application under rule 76.28(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 must give notice of that fact to the court and the Secretary of State within 14 days, or such other period as the court may direct, after the Secretary of State serves on him a notice under rule 76.25(5)(b) or material under rule 76.28(2).

(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—

- (a) list the items or issues in dispute;
- (b) give brief reasons for their contentions on each; and
- (c) set out any proposals for the court to resolve the issues in contention.

(5) A hearing under this rule shall take place in the absence of the relevant party and his 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 or his 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, a relevant party or his legal representative—

- (a) the Secretary of State shall not be required to serve that material or summary; but
- (b) if he 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 be withdrawn from its consideration, 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.]

Textual Amendments

- F1** Pt. 76 inserted (14.3.2005) by [The Civil Procedure \(Amendment No. 2\) Rules 2005 \(S.I. 2005/656\)](#), rule 1, **Sch.**
- F2** Words in rule 76.29(1)(a) inserted (17.4.2015) by [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), rules 2, **5**
- F3** Words in rule 76.29(2)(b)(i) inserted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **10(e)**

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Section 76.29.