

SCHEDULE 3

Rule 9(c)

“SECTION VIII

*INJUNCTIONS UNDER THE POLICING AND CRIME ACT 2009*

**Scope of this Section and interpretation**

**65.42.**—(1) This Section applies to applications for an injunction and other related proceedings under Part 4 of the Policing and Crime Act 2009<sup>(1)</sup> (Injunctions: gang-related violence).

(2) In this Section “the 2009 Act” means the Policing and Crime Act 2009.

**Applications for an injunction**

**65.43.**—(1) An application for an injunction under Part 4 of the 2009 Act is subject to the Part 8 procedure as modified by this rule and Practice Direction 65.

(2) The application must be—

- (a) made by a claim form in accordance with Practice Direction 65;
- (b) commenced in the court for the district in which the defendant resides or the conduct complained of occurred; and
- (c) supported by a witness statement which must be filed with the claim form.

(3) The claim form must state—

- (a) the matters required by rule 8.2; and
- (b) the terms of the injunction applied for.

(4) An application under this rule may be made without notice and where such an application without notice is made—

- (a) the witness statement in support of the application must state the reasons why notice has not been given; and
- (b) the following rules do not apply—
  - (i) 8.3;
  - (ii) 8.4;
  - (iii) 8.5(2) to (6);
  - (iv) 8.6(1);
  - (v) 8.7; and
  - (vi) 8.8.

(5) In every application made on notice, the application notice must be served, together with a copy of the witness statement, by the claimant on the defendant personally.

(6) An application made on notice may be listed for hearing before the expiry of the time for the defendant to file an acknowledgement of service under rule 8.3, and in such a case—

- (a) the claimant must serve the application notice and witness statement on the defendant not less than 2 days before the hearing; and
- (b) the defendant may take part in the hearing whether or not the defendant has filed an acknowledgment of service.

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<sup>(1)</sup> 2009 c. 26.

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### **Injunction containing provisions to which a power of arrest is attached**

**65.44.**—(1) In this rule ‘relevant provision’ means a provision of an injunction to which a power of arrest is attached.

(Section 36(6) and (7) and section 40(3) and 41(4) of the 2009 Act confer powers to attach a power of arrest to an injunction.)

(2) Where an injunction contains one or more relevant provisions—

- (a) each relevant provision must be set out in a separate paragraph of the injunction; and
- (b) subject to paragraph (3), the claimant must deliver a copy of the relevant provisions to any police station for the area where the conduct occurred.

(3) Where the injunction has been granted without notice, the claimant must not deliver a copy of the relevant provisions to any police station for the area where the conduct occurred before the defendant has been served with the injunction containing the relevant provisions.

(4) Where an order is made varying or discharging any relevant provision, the claimant must—

- (a) immediately inform the police station to which a copy of the relevant provisions was delivered under paragraph (2)(b); and
- (b) deliver a copy of the order to any police station so informed.

### **Application to vary or discharge an injunction**

**65.45.**—(1) An application to vary or discharge an injunction under section 42(1)(b) of the 2009 Act must be made in accordance with Part 23.

(2) An application by the claimant to vary or discharge the injunction under section 42(1)(b) of the 2009 Act may be made without notice.

(3) If an application under this rule is made without giving notice, the application notice must state the reasons why notice has not been given.

### **Application for warrant of arrest under section 44(2) of the 2009 Act**

**65.46.**—(1) An application for a warrant of arrest under section 44(2) of the 2009 Act must be made in accordance with Part 23 and may be made without notice.

(2) An applicant for a warrant of arrest under section 44(2) of the 2009 Act must—

- (a) file an affidavit setting out grounds for the application with the application notice; or
- (b) give oral evidence of the grounds for the application at the hearing.

(3) Where in accordance with sub-paragraph (2)(b), oral evidence is given, the applicant must produce a written record of that evidence which must be served on the person arrested at the time of the arrest.

### **Proceedings following arrest under the 2009 Act**

**65.47.**—(1) This rule applies where a person is arrested pursuant to—

- (a) a power of arrest attached to a provision of an injunction; or
- (b) a warrant of arrest.

(2) The judge before whom a person is brought following his arrest may—

- (a) deal with the matter; or
- (b) adjourn the proceedings.

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(3) If proceedings under section 43 or 44 of the 2009 Act are adjourned and the arrested person is released—

- (a) the matter must be dealt with (whether by the same or another judge) within 28 days of the date on which the arrested person appears in court; and
- (b) the arrested person must be given not less than 2 days' notice of the hearing.

(4) An application notice seeking the committal for contempt of court of the arrested person may be issued even if the arrested person is not dealt with within the period in sub-paragraph (3) (a).

(5) CCR Order 29, rule 1 applies where an application is made in a county court to commit a person for breach of an injunction as if references in that rule to the judge include references to a district judge.

(For applications in the High Court for the discharge of a person committed to prison for contempt of court see RSC Order 52, rule 8. For such applications in the county court see CCR Order 29, rule 3.)

### **Recognizance**

**65.48.**—(1) Where, in accordance with paragraph 2(2)(b) of Schedule 5 to the 2009 Act, the court fixes the amount of any recognizance with a view to it being taken subsequently, the recognizance may be taken by—

- (a) a judge;
- (b) a justice of the peace;
- (c) a justices' clerk;
- (d) a police officer of the rank of inspector or above, or in charge of a police station; or
- (e) where the arrested person is in custody, the governor or keeper of a prison,

with the same consequences as if it had been entered into before the court.

(2) The person having custody of an applicant for bail must release that person if satisfied that the required recognizances have been taken.

### **Applications for a power of arrest to be attached to any provision of an injunction**

**65.49.**—(1) An application under section 34 or 39 of the 2009 Act which includes an application for a power of arrest to be attached to any provision of an injunction must be made in the proceedings seeking the injunction by—

- (a) the claim form; or
- (b) an application under Part 23.

(2) Every application must be supported by written evidence.

(3) Every application made on notice must be served personally, together with a copy of the written evidence, by the applicant on the person against whom the injunction is sought not less than 2 days before the hearing.

(Attention is drawn to rule 25.3(3) – applications without notice.)”