

2010 No. 3038 (L. 20)

SENIOR COURTS OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES

The Civil Procedure (Amendment No.4) Rules 2010

Approved by both Houses of Parliament

Made - - - - 23rd December 2010

Laid before Parliament 23rd December 2010

Coming into force in accordance with rule 1

The Lord Chancellor, in exercise of the power conferred by section 29 of the Terrorist Asset-Freezing etc Act 2010^(a) to make rules of court under section 1 of the Civil Procedure Act 1997^(b) and section 28(4) of the Terrorist Asset-Freezing etc Act 2010, and after consulting in accordance with section 29(3) of that Act, makes the following Rules—

Citation, commencement and interpretation

- 1.—(1) These Rules may be cited as the Civil Procedure (Amendment No.4) Rules 2010.
- (2) These Rules come into force on the day after they are laid.
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 Part 79—
 - (a) in the table of contents—
 - (i) for “1. APPLICATION OF THIS PART” substitute “1. GENERAL PROVISIONS”;
 - (ii) at the end of “Scope and interpretation” insert “of this Part”;
 - (iii) for “2. APPLICATION TO SET ASIDE FINANCIAL RESTRICTIONS DECISION” substitute “2. APPLICATION TO SET ASIDE FINANCIAL RESTRICTIONS DECISIONS UNDER THE 2008 ACT AND THE 2010 ACT”;
 - (iv) omit “Where to make an application Rule 79.4”;
 - (v) omit “3. APPEAL TO THE COURT OF APPEAL”;

^(a) 2010 c. 38
^(b) 1997 c.12
^(c) S.I. 1998/3132. There are relevant amendments in S.I. 2008/3085, S.I. 2009/2092 and in Part 1 of Schedule 1 to the Terrorist Asset-Freezing etc Act 2010.

(vi) after “Service of appellant’s notice on special advocate Rule 79.14” insert—

“3. APPEALS IN RELATION TO DESIGNATIONS UNDER THE 2010 ACT

Scope of this Section	Rule 79.14A
Modification of Part 52 (appeals)	Rule 79.14B
Appellant’s notice	Rule 79.14C
Appeals to the Court of Appeal	Rule 79.14D”

;

(vii) at the end of “4. GENERAL PROVISIONS” insert “THAT APPLY TO SECTIONS 2 AND 3 OF THIS PART; and

(viii) after “Scope of this Section Rule 79.15” insert—

“Where to make an application Rule 79.15A”;

(b) in the heading to Section 1, for “APPLICATION OF THIS PART” substitute “GENERAL PROVISIONS”;

(c) for rule 79.1(1) and the heading to that rule substitute—

“Scope and interpretation of this Part

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

- (a) in Section 1, interpretation and modification of the overriding objective;
- (b) in Section 2, financial restrictions proceedings under the Counter-Terrorism Act 2008 and the Terrorist Asset-Freezing etc Act 2010;
- (c) in Section 3, appeals relating to designations under the Terrorist Asset-Freezing etc Act 2010;
- (d) in Section 4, general provisions applicable to proceedings within Sections 2 and 3; and
- (e) in Section 5, applications for a notification order under Schedule 4 to the Counter-Terrorism Act 2008.”;

(d) after rule 79.1(2)(c) insert—

“(ca) “designation” means a designation in accordance with Chapter 1 of Part 1 of the 2010 Act.”;

(e) for the heading to Section 2 substitute “APPLICATION TO SET ASIDE FINANCIAL RESTRICTIONS DECISIONS UNDER THE 2008 ACT OR THE 2010 ACT”;

(f) in rule 79.3 at the end insert “under section 63(2) of the 2008 Act or section 27(2) of the 2010 Act”;

(g) omit rule 79.4 and the heading to that rule;

(h) after rule 79.12 omit “ SECTION 3 APPEAL TO THE COURT OF APPEAL”;

(i) after rule 79.14 insert—

“SECTION 3

APPEALS IN RELATION TO DESIGNATIONS UNDER THE 2010 ACT

Scope of this Section

79.14A. This section applies to an appeal under section 26 of the 2010 Act (appeals to the court in relation to designations) in relation to designations and variations, revocation and renewal, of those designations.

Modification of Part 52 (appeals)

79.14B.—(1) Part 52 (appeals) applies to an appeal under section 26 of the 2010 Act subject to—

- (a) rule 79.2;
- (b) Section 4 of this Part; and
- (c) the modifications set out in paragraph (2).

(2) Rule 52.2 (parties to comply with Practice Direction 52) applies, but the parties are not required to comply with paragraphs 5.6, 5.6A, 5.7, 5.9 and 5.10 of that practice direction.

Appellant’s notice

79.14C.—(1) The appellant’s notice must set out the details of—

- (a) the interim or final designation;
- (b) how the appellant is affected by the interim or final designation; and
- (c) the grounds of the appeal.

(2) The appellant must file and serve the following documents with the appellant’s notice—

- (a) a copy of the written notice of the interim or final designation; and
- (b) any evidence, including witness statements in support of the application.

(Practice Direction 52 contains details about the filing and service of the appellant’s notice for statutory appeals.)

Appeals to the Court of Appeal

79.14D.—(1) Part 52 (appeals) applies to an appeal to the Court of Appeal against an order of the High Court under this Section subject to—

- (a) rule 79.2;
- (b) Section 4 of this Part; and
- (c) paragraph (2) of this rule.

(2) The appellant must serve a copy of the appellant’s notice on any special advocate.”;

- (j) in the heading to Section 4, at the end insert “APPLICABLE TO SECTIONS 2 AND 3 OF THIS PART”;
- (k) in rule 79.15 for “in rule 79.1(1)(a) and (b)” substitute “in Sections 2 and 3 of this Part.”;
- (l) after rule 79.15 insert—

“Where to make an application

79.15A. An application under Section 2 and an appeal under Section 3 of this Part must be started and heard in the Administrative Court.”;

- (m) in rule 79.17(1)(c) after “ a decision of” insert “the Treasury or”;
- (n) in rule 79.23, after paragraph (1) insert—
“(1A) Paragraph (1)(b)(iii) does not apply to proceedings to which Section 3 of this Part applies.”;
- (o) in rule 79.25(3)(b) for “undredacted” substitute “unredacted”.

Signed by authority of the Lord Chancellor

23rd December 2010

J Djanogly
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of these Rules)

These Rules amend the Civil Procedure Rules 1998 by inserting a new Section into Part 79 concerning appeals against designations under the Terrorist Asset-Freezing etc Act 2010 which modifies the application of Part 52 to such appeals.

The Terrorist Asset-Freezing etc Act 2010 provides for the Treasury to impose financial restrictions by way of ‘designation’, on, and in relation to, certain persons believed or suspected to be, or to have been involved in terrorist activities. Section 26 of the Act provides that challenges to decisions relating to both interim and final designations will be heard by way of appeal to the High Court. Other decisions taken by the Treasury under the Act may be reviewed by the High Court applying the principles applicable to judicial review. The amendments to Part 79 of the Civil Procedure Rules 1998 by these Rules set out the procedure for appeals before the High Court and for any appeal to the Court of Appeal.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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