



# Criminal Justice and Courts Act 2015

## 2015 CHAPTER 2

### PART 4

#### JUDICIAL REVIEW

##### *Judicial review in the High Court and Upper Tribunal*

#### **87 Interveners and costs**

- (1) This section applies where—
  - (a) a person is granted permission to file evidence or make representations in judicial review proceedings, and
  - (b) at that time, the person is not a relevant party to the proceedings.
- (2) That person is referred to in this section as an “intervener”.
- (3) A relevant party to the proceedings may not be ordered by the High Court or the Court of Appeal to pay the intervener’s costs in connection with the proceedings.
- (4) Subsection (3) does not prevent the court making an order if it considers that there are exceptional circumstances that make it appropriate to do so.
- (5) On an application to the High Court or the Court of Appeal by a relevant party to the proceedings, if the court is satisfied that a condition described in subsection (6) is met in a stage of the proceedings that the court deals with, the court must order the intervener to pay any costs specified in the application that the court considers have been incurred by the relevant party as a result of the intervener’s involvement in that stage of the proceedings.
- (6) Those conditions are that—
  - (a) the intervener has acted, in substance, as the sole or principal applicant, defendant, appellant or respondent;
  - (b) the intervener’s evidence and representations, taken as a whole, have not been of significant assistance to the court;

- (c) a significant part of the intervener’s evidence and representations relates to matters that it is not necessary for the court to consider in order to resolve the issues that are the subject of the stage in the proceedings;
  - (d) the intervener has behaved unreasonably.
- (7) Subsection (5) does not require the court to make an order if it considers that there are exceptional circumstances that make it inappropriate to do so.
- (8) In determining whether there are exceptional circumstances that are relevant for the purposes of subsection (4) or (7), the court must have regard to criteria specified in rules of court.
- (9) In this section, “judicial review proceedings” means—
  - (a) proceedings on an application for leave to apply for judicial review,
  - (b) proceedings on an application for judicial review,
  - (c) any proceedings on an application for leave to appeal from a decision in proceedings described in paragraph (a) or (b), and
  - (d) proceedings on an appeal from such a decision,and the proceedings described in paragraphs (a) to (d) are “stages” of judicial review proceedings.
- (10) For the purposes of this section, “a relevant party” to judicial review proceedings means any of the following—
  - (a) a person who is or has been an applicant or defendant in the proceedings described in subsection (9)(a), (b) or (c);
  - (b) a person who is or has been an appellant or respondent in the proceedings described in subsection (9)(d);
  - (c) any other person who is or has been directly affected by the proceedings and on whom the application for judicial review, or for leave to apply for judicial review, has been served.
- (11) If a person who is an intervener in judicial review proceedings becomes a relevant party to the proceedings, the person is to be treated for the purposes of subsections (3) and (5) as having been a relevant party, rather than an intervener, at all times when involved in the proceedings.