



# Senior Courts Act 1981

## 1981 CHAPTER 54

### PART II

#### JURISDICTION

#### THE HIGH COURT

#### *Other particular fields of jurisdiction*

### **31 Application for judicial review.**

(1) An application to the High Court for one or more of the following forms of relief, namely—

- [<sup>F1</sup>(a) a mandatory, prohibiting or quashing order;]
- (b) a declaration or injunction under subsection (2); or
- (c) an injunction under section 30 restraining a person not entitled to do so from acting in an office to which that section applies,

shall be made in accordance with rules of court by a procedure to be known as an application for judicial review.

(2) A declaration may be made or an injunction granted under this subsection in any case where an application for judicial review, seeking that relief, has been made and the High Court considers that, having regard to—

- (a) the nature of the matters in respect of which relief may be granted by [<sup>F2</sup>mandatory, prohibiting or quashing orders];
- (b) the nature of the persons and bodies against whom relief may be granted by such orders; and
- (c) all the circumstances of the case,

it would be just and convenient for the declaration to be made or the injunction to be granted, as the case may be.

[<sup>F3</sup>(2A) The High Court—

- (a) must refuse to grant relief on an application for judicial review, and

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- (b) may not make an award under subsection (4) on such an application, if it appears to the court to be highly likely that the outcome for the applicant would not have been substantially different if the conduct complained of had not occurred.
- (2B) The court may disregard the requirements in subsection (2A)(a) and (b) if it considers that it is appropriate to do so for reasons of exceptional public interest.
- (2C) If the court grants relief or makes an award in reliance on subsection (2B), the court must certify that the condition in subsection (2B) is satisfied.]
- (3) No application for judicial review shall be made unless the leave of the High Court has been obtained in accordance with rules of court; and the court shall not grant leave to make such an application unless it considers that the applicant has a sufficient interest in the matter to which the application relates.
- [<sup>F4</sup>(3C) When considering whether to grant leave to make an application for judicial review, the High Court—
  - (a) may of its own motion consider whether the outcome for the applicant would have been substantially different if the conduct complained of had not occurred, and
  - (b) must consider that question if the defendant asks it to do so.
- (3D) If, on considering that question, it appears to the High Court to be highly likely that the outcome for the applicant would not have been substantially different, the court must refuse to grant leave.
- (3E) The court may disregard the requirement in subsection (3D) if it considers that it is appropriate to do so for reasons of exceptional public interest.
- (3F) If the court grants leave in reliance on subsection (3E), the court must certify that the condition in subsection (3E) is satisfied.]
- [<sup>F5</sup>(4) On an application for judicial review the High Court may award to the applicant damages, restitution or the recovery of a sum due if—
  - (a) the application includes a claim for such an award arising from any matter to which the application relates; and
  - (b) the court is satisfied that such an award would have been made if the claim had been made in an action begun by the applicant at the time of making the application.]
- [<sup>F6</sup>(5) If, on an application for judicial review, the High Court quashes the decision to which the application relates, it may in addition—
  - (a) remit the matter to the court, tribunal or authority which made the decision, with a direction to reconsider the matter and reach a decision in accordance with the findings of the High Court, or
  - (b) substitute its own decision for the decision in question.
- (5A) But the power conferred by subsection (5)(b) is exercisable only if—
  - (a) the decision in question was made by a court or tribunal,
  - (b) the decision is quashed on the ground that there has been an error of law, and
  - (c) without the error, there would have been only one decision which the court or tribunal could have reached.
- (5B) Unless the High Court otherwise directs, a decision substituted by it under subsection (5)(b) has effect as if it were a decision of the relevant court or tribunal.]

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- (6) Where the High Court considers that there has been undue delay in making an application for judicial review, the court may refuse to grant—
- (a) leave for the making of the application; or
  - (b) any relief sought on the application,
- if it considers that the granting of the relief sought would be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or would be detrimental to good administration.
- (7) Subsection (6) is without prejudice to any enactment or rule of court which has the effect of limiting the time within which an application for judicial review may be made.
- [<sup>F7</sup>(8) In this section “the conduct complained of”, in relation to an application for judicial review, means the conduct (or alleged conduct) of the defendant that the applicant claims justifies the High Court in granting relief.]

#### Textual Amendments

- F1** S. 31(1)(a) substituted (1.5.2004) by [The Civil Procedure \(Modification of Supreme Court Act 1981\) Order 2004 \(S.I. 2004/1033\)](#), [art. 4\(a\)](#)
- F2** Words in s. 31(2)(a) substituted (1.5.2004) by [The Civil Procedure \(Modification of Supreme Court Act 1981\) Order 2004 \(S.I. 2004/1033\)](#), [art. 4\(b\)](#)
- F3** S. 31(2A)-(2C) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 84\(1\)](#), 95(1); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 69](#) (with [Sch. 2 para. 6](#))
- F4** S. 31(3C)-(3F) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 84\(2\)](#), 95(1); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 69](#) (with [Sch. 2 para. 6](#))
- F5** S. 31(4) substituted (1.5.2004) by [The Civil Procedure \(Modification of Supreme Court Act 1981\) Order 2004 \(S.I. 2004/1033\)](#), [art. 4\(c\)](#)
- F6** S. 31(5)-(5B) substituted (6.4.2008) for s. 31(5) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), [ss. 141](#), 148; [S.I. 2008/749](#), [art. 2](#)
- F7** S. 31(8) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 84\(3\)](#), 95(1); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 69](#) (with [Sch. 2 para. 6](#))

#### Modifications etc. (not altering text)

- C1** S. 31(2A)(2B) applied by [2007 c. 15, s. 16\(6A\)](#) (as inserted (8.8.2016) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 84\(6\)](#), 95(1); [S.I. 2016/717](#), [art. 3\(c\)](#) (with [art. 6](#)))
- C2** S. 31(2A)(2B) applied by [2007 c. 15, s. 15\(5A\)\(5B\)](#) (as inserted (8.8.2016) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 84\(4\)](#), 95(1); [S.I. 2016/717](#), [art. 3\(c\)](#) (with [art. 6](#)))

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