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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Civil Procedure Rules 1998 (S.I. 1998/3132) in two areas. First, they amend rule 46.4 to enable a more streamlined approach to assessing certain costs payable by a child or protected party (and amending the Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299) in consequence of this amendment).

Second, they make provision for the purpose of implementing sections 84 and 87 of the Criminal Justice and Courts Act 2015 (“the 2015 Act”).

Section 84 of the 2015 Act amends section 31 of the Senior Courts Act 1981 to require the High Court to refuse a remedy or permission on an application for judicial review if it considers it highly likely that the defendant’s conduct in the matter in question would not have affected the outcome for the applicant. In such circumstances permission or remedy can still be granted if the court considers it is appropriate to do so for reasons of exceptional public interest and certifies that is the case. These rules amend the CPR to implement section 84 by–

- amending rule 54.8 to require a defendant who wishes to contest the application for permission on the basis that it is highly likely that the outcome for the claimant would not have been substantially different if the conduct complained of had not occurred to do so in the acknowledgment of service;
- amending rule 54.11 to require the court to serve any certificate that permission is given for reasons of exceptional public interest on the claimant, the defendant and any other person who filed and acknowledgement of service;
- inserting new rule 54.11A which enables the court to hold a hearing before deciding whether to give permission to hear submissions on whether it is highly likely that the outcome for the application would not have been substantially different if the conduct complained of had not occurred and if so, whether there are reasons of exceptional public interest that make it appropriate to give permission.

Section 87 of the 2015 Act makes provision about interveners in judicial review proceedings and costs. New rule 46.2A is inserted by rule 5 which sets out in the rules that a relevant party (within the meaning of section 84 of the 2015 Act) may apply to the court for the intervener to pay the costs that the relevant party has incurred as a result of the intervention.