



# Tribunals, Courts and Enforcement Act 2007

## 2007 CHAPTER 15

### PART 1

#### TRIBUNALS AND INQUIRIES

#### CHAPTER 2

##### FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL

##### *“Judicial review”*

#### **16 Application for relief under section 15(1)**

- (1) This section applies in relation to an application to the Upper Tribunal for relief under section 15(1).
- (2) The application may be made only if permission (or, in a case arising under the law of Northern Ireland, leave) to make it has been obtained from the tribunal.
- (3) The tribunal may not grant permission (or leave) to make the application unless it considers that the applicant has a sufficient interest in the matter to which the application relates.

[<sup>F1</sup>(3C) In cases arising under the law of England and Wales, when considering whether to grant permission to make the application, the tribunal—

- (a) may of its own initiative 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 respondent asks it to do so.

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**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007, Section 16 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (3D) In subsection (3C) “ the conduct complained of ” means the conduct (or alleged conduct) of the respondent that the applicant claims justifies the tribunal in granting relief.
- (3E) If, on considering the question mentioned in subsection (3C)(a) and (b), it appears to the tribunal to be highly likely that the outcome for the applicant would not have been substantially different, the tribunal must refuse to grant permission.
- (3F) The tribunal may disregard the requirement in subsection (3E) if it considers that it is appropriate to do so for reasons of exceptional public interest.
- (3G) If the tribunal grants permission in reliance on subsection (3F), the tribunal must certify that the condition in subsection (3F) is satisfied.]
- (4) Subsection (5) applies where the tribunal considers—
- (a) that there has been undue delay in making the application, and
  - (b) that granting the relief sought on the application would be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or would be detrimental to good administration.
- (5) The tribunal may—
- (a) refuse to grant permission (or leave) for the making of the application;
  - (b) refuse to grant any relief sought on the application.
- (6) The tribunal 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 tribunal is satisfied that such an award would have been made by the High Court if the claim had been made in an action begun in the High Court by the applicant at the time of making the application.
- [<sup>F2</sup>(6A) In cases arising under the law of England and Wales, subsections (2A) and (2B) of section 31 of the Senior Courts Act 1981 apply to the Upper Tribunal as regards the making of an award under subsection (6) as they apply to the High Court as regards the making of an award under section 31(4) of the Senior Courts Act 1981.
- (6B) If the tribunal makes an award in reliance on section 31(2B) of the Senior Courts Act 1981 as applied by subsection (6A), the tribunal must certify that the condition in section 31(2B) as so applied is satisfied.]
- (7) An award under subsection (6) may be enforced as if it were an award of the High Court.
- (8) Where—
- (a) the tribunal refuses to grant permission (or leave) to apply for relief under section 15(1),
  - (b) the applicant appeals against that refusal, and
  - (c) the Court of Appeal grants the permission (or leave),
- the Court of Appeal may go on to decide the application for relief under section 15(1).
- (9) Subsections (4) and (5) do not prevent Tribunal Procedure Rules from limiting the time within which applications may be made.

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#### Textual Amendments

- F1** S. 16(3C)-(3G) inserted (8.8.2016) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 84(5)**, 95(1); [S.I. 2016/717](#), **art. 3(c)** (with **art. 6**)
- F2** S. 16(6A)(6B) 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**)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(8)(bza) inserted by [2022 c. 36 s. 23\(2\)](#)
- s. 13(8)(bzb) inserted by [2022 c. 36 s. 24\(9\)](#)
- s. 16(3)(a) word inserted by [2015 c. 2 s. 85\(3\)\(a\)](#)
- s. 16(3)(b) and word inserted by [2015 c. 2 s. 85\(3\)\(b\)](#)
- s. 16(3A)(3B) inserted by [2015 c. 2 s. 85\(4\)](#)
- s. 22(6) inserted by [2022 c. 35 Sch. 4 para. 4\(2\)](#)
- s. 23(8) inserted by [2022 c. 35 Sch. 4 para. 4\(3\)](#)
- s. 25A inserted by [2022 c. 36 s. 80\(1\)](#)
- s. 29(3A) inserted by [2022 c. 36 s. 81\(6\)](#)
- Sch. 5 para. 11A and cross-heading inserted by [2022 c. 36 s. 80\(2\)](#)
- Sch. 7 para. 6(1)(e) words substituted by [2013 c. 22 Sch. 14 para. 13\(2\)](#) (Sch. 7 was already repealed when this amendment came into force)
- Sch. 7 para. 6(4)(b) words substituted by [2013 c. 22 Sch. 14 para. 13\(2\)](#) (Sch. 7 was already repealed when this amendment came into force)