

STATUTORY INSTRUMENTS

**2016 No. 707**

**The Civil Procedure (Amendment No. 2) Rules 2016**

**Amendments to Part 46**

**5. In Part 46—**

- (a) in the Table of Contents of the Part, after the entry for rule 46.14 insert—

<b>“SECTION V – COSTS IN CLAIMS FOR JUDICIAL REVIEW</b>	
Claims for judicial review: costs against interveners	Rule 46.15
<b>SECTION VI – JUDICIAL REVIEW COSTS CAPPING ORDERS UNDER PART 4 OF THE CRIMINAL JUSTICE AND COURTS ACT 2015</b>	
Judicial review costs capping orders – general	Rule 46.16
Applications for judicial review costs capping orders	Rule 46.17
Court to consider making directions	Rule 46.18
Applications to vary judicial review costs capping orders	Rule 46.19”

- (b) after rule 46.15, insert—

*“SECTION VI*

*Judicial Review Costs Capping Orders under Part  
4 of the Criminal Justice and Courts Act 2015*

**Judicial review costs capping orders – general**

**46.16.—(1) For the purposes of this Section—**

- (a) “judicial review costs capping order” means a costs capping order made by the High Court or the Court of Appeal in accordance with sections 88, 89 and 90 of the 2015 Act; and
- (b) “the 2015 Act” means the Criminal Justice and Courts Act 2015.

**(2) This Section does not apply to a costs capping order under rule 3.19.**

(Rule 3.19 makes provision for orders limiting the amount of future costs (including disbursements) which a party may recover pursuant to an order for costs subsequently made.)

**Applications for judicial review costs capping orders**

**46.17.—(1) An application for a judicial review costs capping order must—**

- (a) be made on notice and, subject to paragraphs (2) and (3), in accordance with Part 23; and
- (b) be supported by evidence setting out—

- (i) why a judicial review costs capping order should be made, having regard, in particular, to the matters at subsections (6) to (8) of section 88 of the 2015 Act and subsection (1) of section 89 of that Act;
  - (ii) a summary of the applicant's financial resources;
  - (iii) the costs (and disbursements) which the applicant considers the parties are likely to incur in the future conduct of the proceedings; and
  - (iv) if the applicant is a body corporate, whether it is able to demonstrate that it is likely to have financial resources available to meet liabilities arising in connection with the proceedings.
- (2) Subject to paragraph (3), the applicant must serve a copy of the application notice and copies of the supporting documents on every other party.
- (3) On application by the applicant, the court may dispense with the need for the applicant to serve the evidence setting out a summary of the applicant's financial resources on one or more of the parties.
- (4) The court may direct the applicant to provide additional information or evidence to support its application.

#### **Court to consider making directions**

**46.18.** If the applicant is a body corporate, and the evidence supporting its application in accordance with rule 46.17(1)(b)(iv) sets out that it is unable to demonstrate that it is likely to have financial resources available to meet liabilities arising in connection with the proceedings, the court must consider giving directions for the provision of information about the applicant's members and their ability to provide financial support for the purposes of the proceedings.

#### **Applications to vary judicial review costs capping orders**

- 46.19.—**(1) An application to vary a judicial review costs capping order must be made on notice and, subject to paragraphs (2) and (3), in accordance with Part 23.
- (2) Subject to paragraph (3), the applicant must serve a copy of the application notice and copies of any supporting documents on every other party.
- (3) If the application is supported by evidence setting out a summary of the applicant's financial resources, the court may, on application by the applicant, dispense with the need for the applicant to serve such evidence on one or more of the parties.”.