

CRIMINAL JUSTICE AND COURTS ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Judicial Review

Judicial review in the High Court and Upper Tribunal

Section 86: Use of information about financial resources

643. *Section 86* applies to the High Court, the Upper Tribunal and the Court of Appeal in deciding liability for costs in judicial review proceedings under the law of England and Wales. The High Court and the Court of Appeal have a broad discretion under section 51 of the 1981 Act which enables them to determine by whom and to what extent costs are to be paid. The Upper Tribunal has similar discretion under section 29 of the 2007 Act.
644. *Subsection (2)* provides that when making costs orders the courts must have regard to information about the financing of proceedings provided pursuant to section 31 of the 1981 Act or section 16 of the 2007 Act, as amended by section 85, and any additional information about financing provided in accordance with rules of court or the Tribunal Procedure Rules.
645. *Subsection (3)* stipulates that when a court or tribunal is considering an order for costs it must consider whether to order costs to be paid by a person who, although not a party to the judicial review, is identified in the information provided under section 31 of the 1981 Act or section 16 of the 2007 Act as having financially assisted the proceedings.
646. *Subsection (4)* defines the types of proceedings which are ‘judicial review proceedings’ for the purpose of this section, which include judicial reviews being appealed.