



Judicial Review and Courts Act 2022

2022 CHAPTER 35

PART 1

JUDICIAL REVIEW

1 Quashing orders

(1) After section 29 of the Senior Courts Act 1981 insert—

“29A Further provision in connection with quashing orders

- (1) A quashing order may include provision—
 - (a) for the quashing not to take effect until a date specified in the order, or
 - (b) removing or limiting any retrospective effect of the quashing.
- (2) Provision included in a quashing order under subsection (1) may be made subject to conditions.
- (3) If a quashing order includes provision under subsection (1)(a), the impugned act is (subject to any conditions under subsection (2)) upheld until the quashing takes effect.
- (4) If a quashing order includes provision under subsection (1)(b), the impugned act is (subject to any conditions under subsection (2)) upheld in any respect in which the provision under subsection (1)(b) prevents it from being quashed.
- (5) Where (and to the extent that) an impugned act is upheld by virtue of subsection (3) or (4), it is to be treated for all purposes as if its validity and force were, and always had been, unimpaired by the relevant defect.
- (6) Provision under subsection (1)(a) does not limit any retrospective effect of a quashing order once the quashing takes effect (including in relation to the period between the making of the order and the taking effect of the quashing); and subsections (3) and (5) are to be read accordingly.

- (7) Section 29(2) does not prevent the court from varying a date specified under subsection (1)(a).
- (8) In deciding whether to exercise a power in subsection (1), the court must have regard to—
- (a) the nature and circumstances of the relevant defect;
 - (b) any detriment to good administration that would result from exercising or failing to exercise the power;
 - (c) the interests or expectations of persons who would benefit from the quashing of the impugned act;
 - (d) the interests or expectations of persons who have relied on the impugned act;
 - (e) so far as appears to the court to be relevant, any action taken or proposed to be taken, or undertaking given, by a person with responsibility in connection with the impugned act;
 - (f) any other matter that appears to the court to be relevant.
- (9) In this section—
- “impugned act” means the thing (or purported thing) being quashed by the quashing order;
 - “relevant defect” means the defect, failure or other matter on the ground of which the court is making the quashing order.”
- (2) In section 31 of the Senior Courts Act 1981 (judicial review)—
- (a) in subsection (5), for “quashes” substitute “makes a quashing order in respect of”;
 - (b) in subsection (5A)(b), for “decision is quashed” substitute “quashing order is made”.
- (3) In section 17 of the Tribunals, Courts and Enforcement Act 2007 (supplementary provision about quashing orders made by the Upper Tribunal)—
- (a) before subsection (1) insert—
 - “(A1) In cases arising under the law of England and Wales, section 29A of the Senior Courts Act 1981 applies in relation to a quashing order under section 15(1)(c) of this Act as it applies in relation to a quashing order under section 29 of that Act.”;
 - (b) in subsection (2)(b), for “decision is quashed” substitute “quashing order is made”.
- (4) The amendments made by subsections (1) to (3) have effect only in relation to proceedings commenced on or after the day on which this section comes into force.