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STATUTORY INSTRUMENTS

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**2017 No. 100**

**CIVIL PROCEEDINGS, ENGLAND AND WALES**

**The Criminal Justice and Courts Act 2015  
(Disapplication of Sections 88 and 89) Regulations 2017**

<i>Made</i>	- - - -	<i>2nd February 2017</i>
<i>Laid before Parliament</i>		<i>3rd February 2017</i>
<i>Coming into force</i>	- -	<i>28th February 2017</i>

The Lord Chancellor, in exercise of the powers conferred by section 90(1) and (2) of the Criminal Justice and Courts Act 2015(1), makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Criminal Justice and Courts Act 2015 (Disapplication of Sections 88 and 89) Regulations 2017 and come into force on 28th February 2017.

**Disapplication of sections 88 and 89 of the Criminal Justice and Courts Act 2015**

2.—(1) Sections 88 and 89 of the Criminal Justice and Courts Act 2015 do not apply in relation to judicial review proceedings which are—

- (a) an Aarhus Convention claim commenced on or after 28th February 2017; or
- (b) an appeal against a decision made in such a claim.

(2) “Aarhus Convention claim” has the same meaning as in Section VII of Part 45 of the Civil Procedure Rules 1998(2).

2nd February 2017

*Oliver Heald*  
Minister of State  
Ministry of Justice

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(1) 2015 c. 2.

(2) S.I. 1998/3132, to which there are relevant amendments in SI.95, L. 1.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of these Regulations)*

Sections 88 and 89 of the Criminal Justice and Courts Act 2015 (c. 2) (“the 2015 Act”) make provision for costs capping orders, which are orders which limit or remove the liability of a party to judicial review proceedings (as defined in section 88(12) of the 2015 Act) to pay another party’s costs. Section 90 of the 2015 Act enables the Lord Chancellor by regulations to provide that sections 88 and 89 do not apply to judicial review proceedings which, in the Lord Chancellor’s opinion, have as their subject an issue relating entirely or partly to the environment. These Regulations provide that sections 88 and 89 do not apply to judicial review proceedings to which the separate costs protection regime in the Civil Procedure Rules 1998 (S.I. 1998/3132, as amended) for Aarhus Convention claims, and appeals from decisions in such claims, applies.