

**From:** Andrew Hardwick

**Sent:** 10 December 2019 10:29 AM

**To:** ECE-Aarhus-Compliance <[aarhus.compliance@un.org](mailto:aarhus.compliance@un.org)>

**Subject:** RE: ACCC/C/2017/157 (United Kingdom) - update from the Party concerned

Dear Ms Marshall,

Whilst the commitment of the United Kingdom to bring statutory reviews under s.288 of the Town and Country Planning Act 1990 within the Environmental Cost Protection Regime is welcomed, and the amendments made to the Civil Procedure Rules by way of legislative amendment are noted, I am concerned that the actual amendments to the language of the Civil Procedure Rules lead to a contradictory and confusing result.

The Annex to the Party concerned's letter dated 12 November 2019 helpfully contains the amended CPR Rule 45.41. Whilst it rightly says under Rule 45.41(2)(a) that an "*Aarhus Convention claim*" includes claims "*within the scope of Article 9(1), 9(2) or 9(3) of the [Aarhus Convention]*", Rule 45.41(3) then goes on to say "[t]his Section does not apply to appeals other than appeals brought under section 289(1) of the Town and Country Planning Act 1990 or section 65(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which are for the purposes of this Section to be treated as reviews under statute."

Therefore, whilst a s.288 claim would rightly benefit from the Environmental Costs Protection Regime by Rule 45.41(2)(a), it would not by Rule 45.41(3).

Best regards,

Andrew Hardwick

Communicant to ACCC/C/2017/157