

**THE HIGH COURT
JUDICIAL REVIEW**

[2019/392J.R.]

BETWEEN

PATRICK MCKILLEN

APPLICANT

AND

DAVID TYNAN

**(IN HIS CAPACITY AS ASSESSOR APPOINTED BY THE MINISTER FOR FINANCE
PURSUANT TO SECTION 22 OF THE ANGLO IRISH BANK ACT 2009)**

RESPONDENT

(RULING ON APPLICATION UNDER ORDER 28, RULE 11)

JUDGMENT of Mr. Justice Brian O'Moore delivered on the 1st day of May, 2020.

1. In my judgment dated the 24th of January 2020, bearing the citation [2020] IEHC 189, I summarised my decision at paragraph 140 (9) in this way:-

"Having decided in this manner the issues which the parties agree that I have to address, I therefore refuse all reliefs as sought by Mr. McKillen in this judicial review in its amended form."

2. Mr. McKillen was granted leave to seek judicial review by Order of Noonan J. on the 24th of June 2019. By Order of the 13th of November 2019, Barniville J. granted Mr. McKillen leave to amend the original Statement of Grounds; this enabled Mr. McKillen to seek additional reliefs against Mr. Tynan.
3. It is very clear from the substance of my judgment, and not only from the summary which I have quoted, that I considered and decided Mr. McKillen's application for judicial review in its amended form.
4. The original Order drawn to embody my judgment did not refer to the additional reliefs which Barniville J. had permitted Mr. McKillen to seek.
5. On the 15th of April 2020, the current application was made on behalf of Mr. Tynan to amend the original Order; the gist of the proposed amendment is that it reflects the full range of reliefs sought by Mr. McKillen, and the consequent refusal of all such claims.
6. The application is made pursuant to the provisions of Order 28, rule 11 of the Rules of the Superior Courts. Mr. McKillen has consented to the application. The parties have also agreed that the application be made through correspondence, given the current public health crisis. The approach of the parties has meant that even a brief court hearing is not required, which is very helpful. However, this ruling will be delivered electronically and published online in the normal way.
7. I am satisfied that the original Order should be amended in the manner proposed by Mr. Tynan's solicitors. There can be no doubt that the amended Order reflects my judgment on the merits of the judicial review application in a way which the original Order does not;

equally, I have no doubt that simple and understandable inadvertence is the likely reason why the original Order did not reflect the amended reliefs sought by Mr. McKillen.

8. I am not asked to make any adjectival order on this application (for example, dealing with the costs of seeking to have the original Order amended), and accordingly do not do so.