

Practice Direction - Schedule 1, Order 54 (Application for writ of habeas corpus)

THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 50, AND SCHEDULE 1 TO THE CPR

Terminology

- 1.1 In this practice direction -
 - (1) “Order 54” means those provisions contained in Schedule 1, RSC Order 54 which were previously contained in the Rules of the Supreme Court (1965);
 - (2) a reference to a rule or Part prefixed with CPR is a reference to a rule or Part contained in the CPR rules; and
 - (3) a reference to a rule number alone is a reference to the rule so numbered in Order 54.

Scope

- 2.1 This practice direction supplements Order 54 (which sets out how to apply for a writ of habeas corpus) by providing further detail about the application.
- 2.2 This practice direction must be read together with Order 54.
- 2.3 It also lists at paragraph 7 other practice directions which governed procedure relating to Order 54 before 26 April 1999 and which will continue to do so.

Form to be used where court directs claim form to be used

- 3.1 Where the court directs that an application be made by claim form, under -
 - (1) rule 2, (on hearing application under rule 1); or
 - (2) rule 4(2) (application in criminal proceedings ordered to be made to Divisional Court of the Queen’s Bench Division),

the claimant must use Form 87 modified in accordance with the guidance set out in the Forms practice direction.

Form to be used for Notice of adjourned application directed by court

- 4.1 Where the court directs under rule 2 (1) (c) that an application made under rule 1 is adjourned to allow for service of notice of the application, such notice must be given in modified Form 88.

Service

- 5.1 The party seeking the writ must serve-
- (1) the claim form in accordance with rule 2.2; and
 - (2) the writ of habeas corpus ad subjiciendum and notice in Form 90, as modified, in accordance with rule 6.
- (CPR rule 6.3 provides that the court will normally serve a document which it has issued or prepared).

The Administrative Court

- 6.1 When the court directs that an application is to be made by claim form under-
- (1) rule 2 (1) (powers of court to whom application made under rule 1); or
 - (2) rule 4 (2) (power of court in where application made in criminal proceedings)
- the application must be entered in the Administrative Court List in accordance with Practice Direction (Crown Office List) 1987 1 WLR 232 [1987] 1 All ER 368.

Practice Directions etc., which apply to Order 54

- 7.1 On and after 26 April 1999, the Practice directions, Statements and Practice Notes set out in Table 1 continue to apply to proceedings under Order 54.