

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 Crown Office List

- 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 Crown Office List in accordance with Practice Direction (Crown Office List) 1987 1 WLR 232 [1987] 1 All ER 368.
- (In Schedule 1, RSC Order 57 rule 2 provides for the entry of claims in the appropriate office and for the filing of copy documents for the use of the court)

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.

Table 1

Practice Direction etc.	Content
Practice Note [1983] 2 All ER 1020	Urgent matters outside London-consultation of Crown Office and continuation in London;
Practice Note (Crown Office List) [1987] 1 All ER 1184	Need for accuracy in time estimates
Practice Direction (Crown Office List) [1987] 1 WLR 232; [1987] 1 All ER 368.	Parts of the List.
Practice Direction (Crown Office List: Preparation for hearings) [1994] 4 All ER 671, [1994] 1 WLR 1551 (18th November 1994).	Preparation for hearings; Documentation; Time limits; Skeleton arguments; amendment of grounds.
Practice Direction (Crown Office List; Consent Orders) [1997] 1 WLR 825	Consent orders
Practice Statement (Supreme Court; Judgments) [1998] 1 WLR 825, [1998] 2 All ER 638.	Judgments