

SCHEDULE 1 RSC ORDER 94

APPLICATIONS AND APPEALS TO HIGH COURT UNDER VARIOUS ACTS: QUEEN'S BENCH DIVISION

Rule 1 Jurisdiction of High Court to quash certain orders, schemes, etc.

- (1) Where by virtue of any enactment the High Court has jurisdiction, on the application of any person, to quash or prohibit any order, scheme, certificate or plan, any amendment or approval of a plan, any decision of a Minister or government department or any action on the part of a Minister or government department, the jurisdiction shall be exercisable by a single judge of the Queen's Bench Division.
- (2) The application must be made by claim form which must state the grounds of the application.

Rule 2 Filing and service of claim form

- (1) A claim form under rule 1 must be filed at the Crown Office, and served, within the time limited by the relevant enactment for making the application.
- (2) Subject to paragraph (4) the claim form must be served on the appropriate Minister or government department, and –
 - (a) if the application relates to a compulsory purchase order made by an authority other than the appropriate Minister or government department, or to a clearance order under the Housing Act 1985¹, on the authority by whom the order was made;
 - (b) if the application relates to a scheme or order to which Schedule 2 to the Highways Act 1980², applies made by an authority other than the Secretary of State, on that authority;
 - (c) if the application relates to a structure plan, local plan or other development plan within the meaning of the Town and Country Planning Act 1990³, on the local planning authority who prepared the plan;
 - (d) if the application relates to any decision or order, or any action on the part of a Minister of the Crown to which section 21 of the Land Compensation Act 1961⁴, or section 288 of the Town and Country Planning Act 1990, applies, on the authority directly concerned with such decision, order or action or, if that authority is the applicant, on every person who would, if he were aggrieved by the decision, order or action, be entitled to apply to the High Court under the said section 21 or the said section 245, as the case may be;
 - (e) if the application relates to a scheme to which Schedule 32 to the Local Government, Planning and Land Act 1980⁵ applies, on the body which adopted the scheme.
- (3) In paragraph (2) 'the appropriate Minister or government department' means the Minister of the Crown or government department by whom the order, scheme, certificate, plan, amendment, approval or decision in question was or may be made, authorised, confirmed, approved or given or on whose part the action in question was or may be taken.

1 1985 c.68.

2 1980 c.66.

3 1990 c.8.

4 1961 c.33.

5 1980 c.65.

- (4) Where the application relates to an order made under the Road Traffic Regulation Act 1984¹, the claim form must be served –
- (a) if the order was made by a Minister of the Crown, on that Minister;
 - (b) if the order was made by a local authority with the consent, or in pursuance of a direction, of a Minister of the Crown, on that authority and also on that Minister;
 - (c) in any other case, on the local authority by whom the order was made.

Rule 3 Filing of witness statement or affidavits, etc.

- (1) Evidence at the hearing of an application under rule 1 shall be by witness statement or affidavit.
- (2) Any witness statement or affidavit in support of the application must be filed by the applicant in the Crown Office within 14 days after service of the claim form and the applicant must, at the time of filing, serve a copy of the witness statement or affidavit and of any exhibit thereto on the respondent.
- (3) Any witness statement or affidavit in opposition to the application must be filed by the respondent in the Crown Office within 21 days after the service on him under paragraph (2) of the applicant's witness statement or affidavit and the respondent must, at the time of filing, serve a copy of his witness statement or affidavit and of any exhibit thereto on the applicant.
- (4) When filing a witness statement or affidavit under this rule a party must leave a copy thereof and of any exhibit thereto at the Crown Office for the use of the court.
- (5) Unless the court otherwise orders, an application under rule 1 shall not be heard earlier than 14 days after the time for filing a witness statement or affidavit by the respondent has expired.

Rule 4 Rectification of register of deeds of arrangement

- (1) Every application to the Court under section 7 of the Deeds of Arrangement Act 1914², for an order –
 - (a) that any omission to register a deed of arrangement within the time prescribed by that Act be rectified by extending the time for such registration; or
 - (b) that any omission or mis-statement of the name, residence or description of any person be rectified by the insertion in the register of his true name, residence or description, must be made by witness statement or affidavit without notice being served on any other party to a master of the Queen's Bench Division.
- (2) The witness statement or affidavit must set out particulars of the deed of arrangement and of the omission or mis-statement in question and must state the grounds on which the application is made.

Rule 5 Exercise of jurisdiction under Representation of the People Acts

- (1) Proceedings in the High Court under the Representation of the People Acts shall be assigned to the Queen's Bench Division.
- (2) Subject to paragraphs (3) and (4) the jurisdiction of the High Court under the said Acts in matters relating to parliamentary and local government elections shall be exercised by a Divisional Court.

¹ 1984 c.27.

² 1914 c.47.

- (3) Paragraph (2) shall not be construed as taking away from a single judge or a Master any jurisdiction under the said Acts which, but for that paragraph, would be exercisable by a single judge or, as the case may be, by a Master.
- (4) Where the jurisdiction of the High Court under the said Acts is by a provision of any of those Acts made exercisable in matters relating to parliamentary elections by a single judge, that jurisdiction in matters relating to local government elections shall also be exercisable by a single judge.

Rule 8 Tribunals and Inquiries Act 1992¹: appeal from tribunal

- (1) A person who was a party to proceedings before any such tribunal as is mentioned in section 11(1) of the Tribunals and Inquiries Act 1992^(b) and is dissatisfied in point of law with the decision of the tribunal may appeal to the High Court.
- (2) The appellant's notice must be served –
 - (a) on the chairman of the tribunal;
 - (b) in the case of a tribunal which has no chairman or member who acts as a chairman, on the member or members of that tribunal; or
 - (c) in the case of any such tribunal as is specified in paragraph 16 of Schedule 1 to the said Act of 1992, on the secretary of the tribunal.
- (3) Where an appeal is against the decision of the tribunal constituted under section 46 of the National Health Service Act 1977² the appellant's notice must be filed at the High Court within 14 days after the date of that decision.
- (4) Where an appeal is against the decision of a tribunal established under section 1 of the Employment Tribunals Act 1996³ the appellant's notice must be filed at the High Court within 42 days after the date of that decision.

Rule 9 Tribunals and Inquiries Act 1992: case stated by tribunal

- (1) Any such tribunal as is mentioned in section 11(1) of the Tribunals and Inquiries Act 1992 may, of its own initiative or at the request of any party to proceedings before it, state in the course of proceedings before it in the form of a special case for the decision of the High Court any question of law arising in the proceedings.
- (2) Any party to proceedings before any such tribunal who is aggrieved by the tribunal's refusal to state such a case may apply to the High Court for an order directing the tribunal to do so.
- (3) A case stated by any such tribunal which has no chairman or member who acts as a chairman must be signed by the member or members of the tribunal.

Rule 12 Applications for permission under section 289(6) of the Town and Country Planning Act 1990⁴ and section 65(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990⁵

- (1) An application for permission to appeal to the High Court under section 289 of the Town and Country Planning Act 1990 or section 65 of the Planning (Listed Buildings and Conservation

1 1992 c.53.

2 1977 c.49.

3 1996 c.17; see section 1(2) of the Employment Rights (Dispute Resolution) Act 1998 (c.8)

4 1990 c.8.

5 1990 c.9.

Areas) Act 1990 shall be made within 28 days after the date on which notice of the decision was given to the applicant.

- (2) An application shall –
 - (a) include, where necessary, any application to extend the time for applying;
 - (b) be in writing setting out the reasons why permission should be granted, and if the time for applying has expired, the reasons why the application was not made within that time;
 - (c) be made by filing it in the Crown Office together with the decision, a draft appellant's notice, and a witness statement or affidavit verifying any facts relied on;
 - (d) before being filed under sub-paragraph (c), be served together with the draft appellant's notice and a copy of the witness statement or affidavit to be filed with the application, upon the persons who are referred to in rule 13(5); and
 - (e) be accompanied by a witness statement or affidavit giving the names and addresses of, and the places and dates of service on, all persons who have been served with the application and, if any person who ought to be served has not been served, the witness statement or affidavit must state that fact and the reason for it.
- (3) An application shall be heard –
 - (a) by a single judge;
 - (b) unless the court otherwise orders, not less than 21 days after it was filed at the Crown Office. Any person served with the application shall be entitled to appear and be heard.
- (4) If on the hearing of an application the court is of opinion that any person who ought to have been served has not been served, the court may adjourn the hearing on such terms (if any) as it may direct in order that the application may be served on that person.
- (5) If the court grants permission –
 - (a) it may impose such terms as to costs and as to giving security as it thinks fit;
 - (b) it may give directions; and
 - (c) the appellant's notice by which the appeal is to be brought shall be served and filed within 7 days of the grant.
- (6) Any respondent who intends to use a witness statement or affidavit at the hearing shall file it in the Crown Office and serve a copy thereof on the applicant as soon as is practicable and in any event, unless the court otherwise allows, at least 2 days before the hearing.
The court may allow the applicant to use a further witness statement or affidavit.

Rule 13 Proceedings under sections 289 and 290 of the Town and Country Planning Act 1990 and under section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990

- (1) In this rule a reference to 'section 65' is a reference to section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990, but, save as aforesaid, a reference to a section by number is a reference to the section so numbered in the Town and Country Planning Act 1990.
- (2) An appeal shall lie to the High Court on a point of law against a decision of the Secretary of State under subsection (1) or (2) of section 289 or under subsection (1) of section 65 at the instance of any person or authority entitled to appeal under any of those subsections respectively.

- (3) In the case of a decision to which section 290 applies, the person who made the application to which the decision relates, or the local planning authority, if dissatisfied with the decision in point of law, may appeal against the decision to the High Court.
- (4) Any appeal under section 289(1) or (2), section 65(1) or section 290, and any case stated under section 289(3) or section 65(2), shall be heard and determined by a single judge unless the court directs that the matter shall be heard and determined by a Divisional Court.
- (5) The persons to be served with the appellant's notice by which an appeal to the High Court is brought by virtue of section 289(1) or (2), section 65(1) or section 290 are –
 - (a) the Secretary of State;
 - (b) the local planning authority who served the notice or gave the decision, as the case may be, or, where the appeal is brought by that authority, the appellant or applicant in the proceedings in which the decision appealed against was given;
 - (c) in the case of an appeal brought by virtue of section 289(1) or section 65(1), any other person having an interest in the land to which the notice relates; and
 - (d) in the case of an appeal brought by virtue of section 289(2), any other person on whom the notice to which those proceedings related was served.
- (6) The court hearing any such appeal may remit the matter to the Secretary of State to the extent necessary to enable him to provide the court with such further information in connection with the matter as the court may direct.
- (7) Where the court is of opinion that the decision appealed against was erroneous in point of law, it shall not set aside or vary that decision but shall remit the matter to the Secretary of State with the opinion of the court for re-hearing and determination by him.
- (9) The court may give directions as to the exercise, until an appeal brought by virtue of section 289(1) is finally concluded and any re-hearing and determination by the Secretary of State has taken place, of the power to serve, and institute proceedings (including criminal proceedings) concerning –
 - (a) a stop notice under section 183; and
 - (b) a breach of condition notice under section 187A.

Rule 14 Applications under section 13 of the Coroners Act 1988¹

- (1) Any application under section 13 of the Coroners Act 1988 shall be heard and determined by a Divisional Court.
- (2) The application must be made by claim form and the claim form must state the grounds of the application and, unless the application is made by the Attorney General, shall be accompanied by his fiat.
- (3) The claim form must be filed in the Crown Office and served upon all persons directly affected by the application within six weeks after the grant of the fiat.

Rule 15 Applications under section 42 of the Supreme Court Act 1981²

- (1) Every application to the High Court by the Attorney General under section 42 of the Supreme Court Act 1981 shall be heard and determined by a Divisional Court.

¹ 1988 c.13.

² 1981 c.54.

- (2) The application must be made by claim form which, together with a witness statement or affidavit in support, shall be filed in the Crown Office and served on the person against whom the order is sought.