

# JUDICIAL REVIEW

**This Practice Direction supplements Part 54**

## SECTION I – GENERAL PROVISIONS RELATING TO JUDICIAL REVIEW

**1.1** In addition to Part 54 and this practice direction attention is drawn to:

- section 31 of the Supreme Court Act 1981; and
- the Human Rights Act 1998

### THE COURT

**2.1** Part 54 claims for judicial review are dealt with in the Administrative Court.

**2.2** Where the claim is proceeding in the Administrative Court in London, documents must be filed at the Administrative Court Office, the Royal Courts of Justice, Strand, London, WC2A 2LL.

**2.3** Where the claim is proceeding in the Administrative Court in Wales (see paragraph 3.1), documents must be filed at the Civil Justice Centre, 2 Park Street, Cardiff, CF10 1ET.

### Urgent applications

**2.4** Where urgency makes it necessary for the claim for judicial review to be made outside London or Cardiff, the Administrative Court Office in London should be consulted (if necessary, by telephone) prior to filing the claim form.

## JUDICIAL REVIEW CLAIMS IN WALES

**3.1** A claim for judicial review may be brought in the Administrative Court in Wales where the claim or any remedy sought involves:

- (1) a devolution issue arising out of the Government of Wales Act 1998; or
- (2) an issue concerning the National Assembly for Wales, the Welsh executive, or any Welsh public body (including a Welsh local authority) (whether or not it involves a devolution issue).

**3.2** Such claims may also be brought in the Administrative Court at the Royal Courts of Justice.

### Rule 54.5 – Time limit for filing claim form

**4.1** Where the claim is for a quashing order in respect of a judgment, order or conviction, the date when the grounds to make the claim first arose, for the purposes of rule 54.5(1)(b), is the date of that judgment, order or conviction.

## RULE 54.6 – CLAIM FORM

### Interested parties

- 5.1** Where the claim for judicial review relates to proceedings in a court or tribunal, any other parties to those proceedings must be named in the claim form as interested parties under rule 54.6(1)(a) (and therefore served with the claim form under rule 54.7(b)).
- 5.2** For example, in a claim by a defendant in a criminal case in the Magistrates or Crown Court for judicial review of a decision in that case, the prosecution must always be named as an interested party.

### Human rights

- 5.3** Where the claimant is seeking to raise any issue under the Human Rights Act 1998, or seeks a remedy available under that Act, the claim form must include the information required by paragraph 15 of the practice direction supplementing Part 16.

### Devolution issues

- 5.4** Where the claimant intends to raise a devolution issue, the claim form must:
- (1)** specify that the applicant wishes to raise a devolution issue and identify the relevant provisions of the Government of Wales Act 1998, the Northern Ireland Act 1998 or the Scotland Act 1998; and
  - (2)** contain a summary of the facts, circumstances and points of law on the basis of which it is alleged that a devolution issue arises.
- 5.5** In this practice direction ‘devolution issue’ has the same meaning as in paragraph 1, schedule 8 to the Government of Wales Act 1998; paragraph 1, schedule 10 to the Northern Ireland Act 1998; and paragraph 1, schedule 6 of the Scotland Act 1998.

### Claim form

- 5.6** The claim form must include or be accompanied by –
- (1)** a detailed statement of the claimant’s grounds for bringing the claim for judicial review;
  - (2)** a statement of the facts relied on;
  - (3)** any application to extend the time limit for filing the claim form;
  - (4)** any application for directions.
- 5.7** In addition, the claim form must be accompanied by
- (1)** any written evidence in support of the claim or application to extend time;
  - (2)** a copy of any order that the claimant seeks to have quashed;
  - (3)** where the claim for judicial review relates to a decision of a court or tribunal, an approved copy of the reasons for reaching that decision;
  - (4)** copies of any documents on which the claimant proposes to rely;
  - (5)** copies of any relevant statutory material; and
  - (6)** a list of essential documents for advance reading by the court (with page references to the passages relied on).
- 5.8** Where it is not possible to file all the above documents, the claimant must indicate which documents have not been filed and the reasons why they are not currently available.

### **Bundle of documents**

- 5.9** The claimant must file two copies of a paginated and indexed bundle containing all the documents referred to in paragraphs 5.6 and 5.7.
- 5.10** Attention is drawn to rules 8.5(1) and 8.5(7).

### **RULE 54.7 – SERVICE OF CLAIM FORM**

- 6.1** Except as required by rules 54.11 or 54.12(2), the Administrative Court will not serve documents and service must be effected by the parties.

### **RULE 54.8 – ACKNOWLEDGMENT OF SERVICE**

- 7.1** Attention is drawn to rule 8.3(2) and the relevant practice direction and to rule 10.5.

### **RULE 54.10 – PERMISSION GIVEN**

#### **Directions**

- 8.1** Case management directions under rule 54.10(1) may include directions about serving the claim form and any evidence on other persons.
- 8.2** Where a claim is made under the Human Rights Act 1998, a direction may be made for giving notice to the Crown or joining the Crown as a party. Attention is drawn to rule 19.4A and paragraph 6 of the Practice Direction supplementing Section I of Part 19.
- 8.3** A direction may be made for the hearing of the claim for judicial review to be held outside London or Cardiff. Before making any such direction the judge will consult the judge in charge of the Administrative Court as to its feasibility.

#### **Permission without a hearing**

- 8.4** The court will generally, in the first instance, consider the question of permission without a hearing.

#### **Permission hearing**

- 8.5** Neither the defendant nor any other interested party need attend a hearing on the question of permission unless the court directs otherwise.
- 8.6** Where the defendant or any party does attend a hearing, the court will not generally make an order for costs against the claimant.

### **RULE 54.11 – SERVICE OF ORDER GIVING OR REFUSING PERMISSION**

- 9.1** An order refusing permission or giving it subject to conditions or on certain grounds only must set out or be accompanied by the court's reasons for coming to that decision.

## RULE 54.14 – RESPONSE

- 10.1** Where the party filing the detailed grounds intends to rely on documents not already filed, he must file a paginated bundle of those documents when he files the detailed grounds.

## RULE 54.15 – WHERE CLAIMANT SEEKS TO RELY ON ADDITIONAL GROUNDS

- 11.1** Where the claimant intends to apply to rely on additional grounds at the hearing of the claim for judicial review, he must give notice to the court and to any other person served with the claim form no later than 7 clear days before the hearing (or the warned date where appropriate).

## RULE 54.16 – EVIDENCE

- 12.1** Disclosure is not required unless the court orders otherwise.

## RULE 54.17 – COURT’S POWERS TO HEAR ANY PERSON

- 13.1** Where all the parties consent, the court may deal with an application under rule 54.17 without a hearing.
- 13.2** Where the court gives permission for a person to file evidence or make representations at the hearing of the claim for judicial review, it may do so on conditions and may give case management directions.
- 13.3** An application for permission should be made by letter to the Administrative Court office, identifying the claim, explaining who the applicant is and indicating why and in what form the applicant wants to participate in the hearing.
- 13.4** If the applicant is seeking a prospective order as to costs, the letter should say what kind of order and on what grounds.
- 13.5** Applications to intervene must be made at the earliest reasonable opportunity, since it will usually be essential not to delay the hearing.

## RULE 54.20 – TRANSFER

- 14.1** Attention is drawn to rule 30.5.
- 14.2** In deciding whether a claim is suitable for transfer to the Administrative Court, the court will consider whether it raises issues of public law to which Part 54 should apply.

### **Skeleton arguments**

- 15.1** The claimant must file and serve a skeleton argument not less than 21 working days before the date of the hearing of the judicial review (or the warned date).

- 15.2** The defendant and any other party wishing to make representations at the hearing of the judicial review must file and serve a skeleton argument not less than 14 working days before the date of the hearing of the judicial review (or the warned date).
- 15.3** Skeleton arguments must contain:
- (1) a time estimate for the complete hearing, including delivery of judgment;
  - (2) a list of issues;
  - (3) a list of the legal points to be taken (together with any relevant authorities with page references to the passages relied on);
  - (4) a chronology of events (with page references to the bundle of documents (see paragraph 16.1);
  - (5) a list of essential documents for the advance reading of the court (with page references to the passages relied on) (if different from that filed with the claim form) and a time estimate for that reading; and
  - (6) a list of persons referred to.

### **Bundle of documents to be filed**

- 16.1** The claimant must file a paginated and indexed bundle of all relevant documents required for the hearing of the judicial review when he files his skeleton argument.
- 16.2** The bundle must also include those documents required by the defendant and any other party who is to make representations at the hearing.

### **Agreed final order**

- 17.1** If the parties agree about the final order to be made in a claim for judicial review, the claimant must file at the court a document (with 2 copies) signed by all the parties setting out the terms of the proposed agreed order together with a short statement of the matters relied on as justifying the proposed agreed order and copies of any authorities or statutory provisions relied on.
- 17.2** The court will consider the documents referred to in paragraph 17.1 and will make the order if satisfied that the order should be made.
- 17.3** If the court is not satisfied that the order should be made, a hearing date will be set.
- 17.4** Where the agreement relates to an order for costs only, the parties need only file a document signed by all the parties setting out the terms of the proposed order.

## **SECTION II – APPLICATIONS FOR PERMISSION TO APPLY FOR JUDICIAL REVIEW IN IMMIGRATION AND ASYLUM CASES – CHALLENGING REMOVAL**

- 18.1**
- (1) This Section applies where –
    - (a) a person has been served with a copy of directions for his removal from the United Kingdom by the Immigration and Nationality Directorate of the Home Office and notified that this Section applies; and
    - (b) that person makes an application for permission to apply for judicial review before his removal takes effect.

- (2) This Section does not prevent a person from applying for judicial review after he has been removed.
- (3) The requirements contained in this Section of this Practice Direction are additional to those contained elsewhere in the Practice Direction.

#### **18.2**

- (1) A person who makes an application for permission to apply for judicial review must file a claim form and a copy at court, and the claim form must –
  - (a) indicate on its face that this Section of the Practice Direction applies; and
  - (b) be accompanied by –
    - (i) a copy of the removal directions and the decision to which the application relates; and
    - (ii) any document served with the removal directions including any document which contains the Immigration and Nationality Directorate's factual summary of the case; and
  - (c) contain or be accompanied by the detailed statement of the claimant's grounds for bringing the claim for judicial review; or
  - (d) if the claimant is unable to comply with paragraph (b) or (c), contain or be accompanied by a statement of the reasons why.
- (2) The claimant must, immediately upon issue of the claim, send copies of the issued claim form and accompanying documents to the address specified by the Immigration and Nationality Directorate.

(Rule 54.7 also requires the defendant to be served with the claim form within 7 days of the date of issue. Rule 6.5(8) provides that service on a Government Department must be effected on the solicitor acting for that Department, which in the case of the Immigration and Nationality Directorate is the Treasury Solicitor. The address for the Treasury Solicitor may be found in the Annex to Part 66 of these Rules.)

- 18.3** Where the claimant has not complied with paragraph 18.2(1)(b) or (c) and has provided reasons why he is unable to comply, and the court has issued the claim form, the Administrative Court –

- (a) will refer the matter to a Judge for consideration as soon as practicable; and
- (b) will notify the parties that it has done so.

- 18.4** If, upon a refusal to grant permission to apply for judicial review, the Court indicates that the application is clearly without merit, that indication will be included in the order refusing permission.