

JUDICIAL REVIEW AND STATUTORY REVIEW

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I JUDICIAL REVIEW

54.1 Scope and interpretation

- (1) This Section of this Part contains rules about judicial review.
- (2) In this Section –
 - (a) a 'claim for judicial review' means a claim to review the lawfulness of –
 - (i) an enactment; or
 - (ii) a decision, action or failure to act in relation to the exercise of a public function.
 - (b) revoked
 - (c) revoked
 - (d) revoked
 - (e) 'the judicial review procedure' means the Part 8 procedure as modified by this Section;

- (f) ‘interested party’ means any person (other than the claimant and defendant) who is directly affected by the claim; and
- (g) ‘court’ means the High Court, unless otherwise stated.

(Rule 8.1(6)(b) provides that a rule or practice direction may, in relation to a specified type of proceedings, disapply or modify any of the rules set out in Part 8 as they apply to those proceedings)

54.2 When this Section must be used

The judicial review procedure must be used in a claim for judicial review where the claimant is seeking –

- (a) a mandatory order;
- (b) a prohibiting order;
- (c) a quashing order; or
- (d) an injunction under section 30 of the Supreme Court Act 1981¹ (restraining a person from acting in any office in which he is not entitled to act).

54.3 When this Section may be used

- (1) The judicial review procedure may be used in a claim for judicial review where the claimant is seeking –
 - (a) a declaration; or
 - (b) an injunction^(GL).

(Section 31(2) of the Supreme Court Act 1981 sets out the circumstances in which the court may grant a declaration or injunction in a claim for judicial review)

(Where the claimant is seeking a declaration or injunction in addition to one of the remedies listed in rule 54.2, the judicial review procedure must be used)

- (2) A claim for judicial review may include a claim for damages, restitution or the recovery of a sum due but may not seek such a remedy alone.

(Section 31(4) of the Supreme Court Act sets out the circumstances in which the court may award damages, restitution or the recovery of a sum due on a claim for judicial review)

54.4 Permission required

The court’s permission to proceed is required in a claim for judicial review whether started under this Section or transferred to the Administrative Court.

54.5 Time limit for filing claim form

- (1) The claim form must be filed –
 - (a) promptly; and
 - (b) in any event not later than 3 months after the grounds to make the claim first arose.
- (2) The time limit in this rule may not be extended by agreement between the parties.
- (3) This rule does not apply when any other enactment specifies a shorter time limit for making the claim for judicial review.

¹ 1981 c.54.

54.6 Claim form

- (1) In addition to the matters set out in rule 8.2 (contents of the claim form) the claimant must also state –
 - (a) the name and address of any person he considers to be an interested party;
 - (b) that he is requesting permission to proceed with a claim for judicial review; and
 - (c) any remedy (including any interim remedy) he is claiming.

(Part 25 sets out how to apply for an interim remedy)

- (2) The claim form must be accompanied by the documents required by Practice Direction 54A.

54.7 Service of claim form

The claim form must be served on –

- (a) the defendant; and
- (b) unless the court otherwise directs, any person the claimant considers to be an interested party, within 7 days after the date of issue.

54.8 Acknowledgment of service

- (1) Any person served with the claim form who wishes to take part in the judicial review must file an acknowledgment of service in the relevant practice form in accordance with the following provisions of this rule.
- (2) Any acknowledgment of service must be –
 - (a) filed not more than 21 days after service of the claim form; and
 - (b) served on –
 - (i) the claimant; and
 - (ii) subject to any direction under rule 54.7(b), any other person named in the claim form, as soon as practicable and, in any event, not later than 7 days after it is filed.
- (3) The time limits under this rule may not be extended by agreement between the parties.
- (4) The acknowledgment of service –
 - (a) must –
 - (i) where the person filing it intends to contest the claim, set out a summary of his grounds for doing so; and
 - (ii) state the name and address of any person the person filing it considers to be an interested party; and
 - (b) may include or be accompanied by an application for directions.
- (5) Rule 10.3(2) does not apply.

54.9 Failure to file acknowledgment of service

- (1) Where a person served with the claim form has failed to file an acknowledgment of service in accordance with rule 54.8, he –
 - (a) may not take part in a hearing to decide whether permission should be given unless the court allows him to do so; but
 - (b) provided he complies with rule 54.14 or any other direction of the court regarding the filing and service of –
 - (i) detailed grounds for contesting the claim or supporting it on additional grounds; and

- (ii) any written evidence,
may take part in the hearing of the judicial review.
- (2) Where that person takes part in the hearing of the judicial review, the court may take his failure to file an acknowledgment of service into account when deciding what order to make about costs.
- (3) Rule 8.4 does not apply.

54.10 Permission given

- (1) Where permission to proceed is given the court may also give directions.
- (2) Directions under paragraph (1) may include –
 - (a) a stay^(GL) of proceedings to which the claim relates;
 - (b) directions requiring the proceedings to be heard by a Divisional Court.

54.11 Service of order giving or refusing permission

- The court will serve –
- (a) the order giving or refusing permission; and
 - (b) any directions,
on –
 - (i) the claimant;
 - (ii) the defendant; and
 - (iii) any other person who filed an acknowledgment of service.

54.12 Permission decision without a hearing

- (1) This rule applies where the court, without a hearing –
 - (a) refuses permission to proceed; or
 - (b) gives permission to proceed –
 - (i) subject to conditions; or
 - (ii) on certain grounds only.
- (2) The court will serve its reasons for making the decision when it serves the order giving or refusing permission in accordance with rule 54.11.
- (3) The claimant may not appeal but may request the decision to be reconsidered at a hearing.
- (4) A request under paragraph (3) must be filed within 7 days after service of the reasons under paragraph (2).
- (5) The claimant, defendant and any other person who has filed an acknowledgment of service will be given at least 2 days' notice of the hearing date.
- (6) The court may give directions requiring the proceedings to be heard by a Divisional Court.

54.13 Defendant etc. may not apply to set aside^(GL)

Neither the defendant nor any other person served with the claim form may apply to set aside^(GL) an order giving permission to proceed.

54.14 Response

- (1) A defendant and any other person served with the claim form who wishes to contest the claim or support it on additional grounds must file and serve –
 - (a) detailed grounds for contesting the claim or supporting it on additional grounds; and
 - (b) any written evidence,
within 35 days after service of the order giving permission.
- (2) The following rules do not apply –
 - (a) rule 8.5 (3) and 8.5 (4) (defendant to file and serve written evidence at the same time as acknowledgment of service); and
 - (b) rule 8.5 (5) and 8.5(6) (claimant to file and serve any reply within 14 days).

54.15 Where claimant seeks to rely on additional grounds

The court's permission is required if a claimant seeks to rely on grounds other than those for which he has been given permission to proceed.

54.16 Evidence

- (1) Rule 8.6 (1) does not apply.
- (2) No written evidence may be relied on unless –
 - (a) it has been served in accordance with any –
 - (i) rule under this Section; or
 - (ii) direction of the court; or
 - (b) the court gives permission.

54.17 Court's powers to hear any person

- (1) Any person may apply for permission –
 - (a) to file evidence; or
 - (b) make representations at the hearing of the judicial review.
- (2) An application under paragraph (1) should be made promptly.

54.18 Judicial review may be decided without a hearing

The court may decide the claim for judicial review without a hearing where all the parties agree.

54.19 Court's powers in respect of quashing orders

- (1) This rule applies where the court makes a quashing order in respect of the decision to which the claim relates.
- (2) The court may –
 - (a)
 - (i) remit the matter to the decision-maker; and
 - (ii) direct it to reconsider the matter and reach a decision in accordance with the judgment of the court; or
 - (b) in so far as any enactment permits, substitute its own decision for the decision to which the claim relates.

(Section 31 of the Supreme Court Act 1981¹ enables the High Court, subject to certain conditions, to substitute its own decision for the decision in question.)

54.20 Transfer

The court may

- (a) order a claim to continue as if it had not been started under this Section; and
- (b) where it does so, give directions about the future management of the claim.

(Part 30 (transfer) applies to transfers to and from the Administrative Court)

¹ 1981 c.54. Section 31 is amended by section 141 of the Tribunals, Courts and Enforcement Act 2007 (c. 15).