

HUMAN RIGHTS, JOINING THE CROWN

This Practice Direction supplements FPR Part 29, rule 29.5 (The Human Rights Act 1998)

Section 4 of the Human Rights Act 1998

- 1.1** Where a party has informed the court about –
 - (a)** a claim for a declaration of incompatibility in accordance with section 4 of the Human Rights Act 1998; or
 - (b)** an issue for the court to decide which may lead to the court considering making a declaration, then the court may at any time consider whether notice should be given to the Crown as required by that Act and give directions for the content and service of the notice. The rule allows a period of 21 days before the court will make the declaration but the court may vary this period of time.
- 1.2** The court will normally consider the issues and give the directions referred to in paragraph 1.1 at a directions hearing.
- 1.3** The notice must be served on the person named in the list published under section 17 of the Crown Proceedings Act 1947.
- 1.4** The notice will be in the form directed by the court and will normally include the directions given by the court. The notice will also be served on all the parties.
- 1.5** The court may require the parties to assist in the preparation of the notice.
- 1.6** Unless the court orders otherwise, the Minister or other person permitted by the Human Rights Act 1998 to be joined as a party must, if he or she wishes to be joined, give notice of his or her intention to be joined as a party to the court and every other party. Where the Minister has nominated a person to be joined as a party the notice must be accompanied by the written nomination.

(Section 5(2)(a) of the Human Rights Act 1998 permits a person nominated by a Minister of the Crown to be joined as a party. The nomination may be signed on behalf of the Minister.)

Section 9 of the Human Rights Act 1998

- 2.1** The procedure in paragraphs 1.1 to 1.6 also applies where a claim is made under sections 7(1)(a) and 9(3) of the Human Rights Act 1998 for damages in respect of a judicial act.
- 2.2** Notice must be given to the Lord Chancellor and should be served on the Treasury Solicitor on his behalf.

2.3 The notice will also give details of the judicial act, which is the subject of the claim for damages, and of the court that made it.

(Section 9(4) of the Human Rights Act 1998 provides that no award of damages may be made against the Crown as provided for in section 9(3) unless the appropriate person is joined in the proceedings. The appropriate person is the Minister responsible for the court concerned or a person or department nominated by him or her (section 9(5) of the Act).