
STATUTORY INSTRUMENTS

1980 No. 2000 (L.31)

**SUPREME COURT OF JUDICATURE,
ENGLAND AND WALES**

PROCEDURE

The Rules of the Supreme Court (Amendment No.4) 1980

<i>Made</i>	- - - -	<i>18th December 1980</i>
<i>Laid before Parliament</i>		<i>19th December 1980</i>
<i>Coming into Operation</i>		
<i>as to Rules 1 to 14</i>		<i>12th January 1981</i>
<i>as to Rules 15 to 23</i>		<i>2nd June 1981</i>

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under section 99(4) of the Supreme Court of Judicature (Consolidation) Act 1925 to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature, hereby exercise those powers as follows:—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment No. 4) 1980 and shall come into operation on 12th January 1981, except for rules 15 to 23, which shall come into operation on 2nd June 1981

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(1) and, unless the context otherwise requires, a form referred to by number means the form so numbered in Appendix A to those Rules.

Judicial Review

2. Order 53, rule 3 shall be amended as follows:—

(1) For paragraphs (2) and (3) there shall be substituted the following paragraphs:—

(1) The relevant amending instruments are S.I. 1968/1244, 1971/1269, 1974/115, 1976/337, 1977/1955, 1979/1542 and 1716, 1980/629, 1010 and 1908.

“(2) An application for leave must be made ex parte to a judge by filing in the Crown Office—

- (a) a notice in Form No. 86A containing a statement of
 - (i) the name and description of the applicant,
 - (ii) the relief sought and the grounds upon which it is sought,
 - (iii) the name and address of the applicant's solicitors (if any), and
 - (iv) the applicant's address for service; and
- (b) an affidavit verifying the facts relied on.

(3) The judge may determine the application without a hearing, unless a hearing is requested in the notice of application, and need not sit in open court; in any case, the Crown Office shall serve a copy of the judge's order on the applicant.

(4) Where the application for leave is refused by the judge, or is granted on terms, the applicant may renew it by applying—

- (a) in any criminal cause or matter, to a Divisional Court of the Queen's Bench Division;
- (b) in any other case, to a single judge sitting in open court or, if the Court so directs, to a Divisional Court of the Queen's Bench Division:

Provided that no application for leave may be renewed in any non-criminal cause or matter in which the judge has refused leave under paragraph (3) after a hearing.

(5) In order to renew his application for leave the applicant must, within 10 days of being served with notice of the judge's refusal, lodge in the Crown Office notice of his intention in Form No. 86B.”.

(2) Paragraphs (8) and (9) shall be omitted and the existing paragraphs (4), (5), (6) and (7) shall be renumbered (6), (7), (8) and (9) respectively.

3. For Order 53, rule 4 there shall be substituted the following rule:—

“**4.**—(1) An application for judicial review shall be made promptly and in any event within three months from the date when grounds for the application first arose unless the Court considers that there is good reason for extending the period within which the application shall be made.

(2) Where the relief sought is an order of certiorari in respect of any judgment, order, conviction or other proceeding, the date when grounds for the application first arose shall be taken to be the date of that judgment, order, conviction or proceeding.

(3) Paragraph (1) is without prejudice to any statutory provision which has the effect of limiting the time within which an application for judicial review may be made.”.

4. Order 53, rule 5 shall be amended as follows:—

(1) For paragraphs (1) and (2) of rule 5 there shall be substituted the following paragraphs:—

“(1) In any criminal cause or matter where leave has been granted to make an application for judicial review, the application shall be made by originating motion to a Divisional Court of the Queen's Bench Division.

(2) In any other such cause or matter, the application shall be made by originating motion to a judge sitting in open court, unless the Court directs that it shall be made—

- (a) by originating summons to a judge in chambers; or
- (b) by originating motion to a Divisional Court of the Queen's Bench Division.

Any direction under sub-paragraph (a) shall be without prejudice to the judge's powers under Order 32, rule 13.”.

(2) In paragraph (4) the words “the day named therein for” shall be omitted.

5. Order 53, rule 6 shall be amended as follows:—

(1) After paragraph (3) there shall be inserted the following paragraph:—

“(4) Any respondent who intends to use an affidavit at the hearing shall file it in the Crown Office, and give notice thereof to the applicant, as soon as practicable and in any event, unless the Court otherwise directs, within 21 days after the service upon him of the documents required to be served by paragraph (1).”.

(2) The existing paragraph (4) shall be renumbered as paragraph (5).

6. Order 53, rule 11 shall be amended by omitting:—

(1) From paragraph (1), the words “except in vacation when they may be begun by originating summons to a judge in chambers”, “or summons” and “the day named therein for”;

(2) From paragraphs (2) and (4), the words “or summons”;

(3) From paragraph (3), the words “or the summons is issued”.

7. For Order 53, rule 13 there shall be substituted the following rule:—

“Appeal from judge's order

13. No appeal shall lie from an order made under paragraph (3) of rule 3 on an application for leave which may be renewed under paragraph (4) of that rule.”.

Habeas Corpus

8. For paragraph (1) of Order 54, rule 1 there shall be substituted the following paragraph:—

“(1) Subject to rule 11, an application for a writ of habeas corpus ad subjiciendum shall be made to a judge in court, except that—

(a) it shall be made to a Divisional Court of the Queen's Bench Division if the Court so directs;

(b) it may be made to a judge otherwise than in court at any time when no judge is sitting in court; and

(c) any application on behalf of a minor must be made in the first instance to a judge otherwise than in court.”.

Appeal by case stated

9. Order 56 shall be amended as follows:—

(1) Rules 1(1) and 5(1) shall each be amended by substituting, for the words “by a Divisional Court of the Queen's Bench Division”, the following words:—

“(a) in any criminal cause or matter, by a Divisional Court of the Queen's Bench Division;

(b) in any other cause or matter, by a single judge sitting in court, or if the Court so directs, by a Divisional Court of the Queen's Bench Division.”.

(2) Rules 4A and 5(2) shall each be amended by inserting, before the words “a Divisional Court”, the words “a single judge or, if the Court so directs,”.

Enforcement appeals under the Town and Country Planning Act 1971(2)

10. Order 94, rule 12 shall be amended by substituting, for the existing paragraph (2A), the following paragraph:—

“(2A) Any appeal under section 246(1) or 247 or any case stated under section 246(2) of the said Act 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.”.

Applications and appeals under the Local Government Act 1972, Part VII(3)

11. Order 98, rule 2 shall be amended by substituting, for the existing paragraph (1), the following paragraph:—

“(1) Any application for a declaration under section 161(1) of the Act that an item of account is contrary to law shall be made by originating motion.”.

12. Order 98, rule 4 shall be amended as follows:—

(1) For the existing paragraph (1) there shall be substituted the following paragraph:—

“(1) Any proceedings in which the jurisdiction conferred on the High Court by section 161 of the Act is invoked shall be assigned to the Queen's Bench Division and be heard by a single judge, unless the Court directs that the matter shall be heard by a Divisional Court; and the Court may, at any stage and without prejudice to its powers under Order 15, direct that any officer or member of the body to whose accounts the application or appeal relates be joined as a respondent.”.

(2) Paragraph (2) shall be amended by omitting the word “Divisional”.

Forms

13. For Form 86 there shall be substituted the following form:—

“No.86Notice of motion for judicial review

(0.53 r.5)

14. AfterForm No. 86 there shall be inserted two new forms, Form No. 86A and Form No. 86B, as follows:—

“No. 86AIN THE HIGH COURT OF JUSTICE

“No. 86BIN THE HIGH COURT OF JUSTICE

(0.53, r. 3(5))

The Royal Arms

15. Order 1, rule 9 shall be amended as follows:—

(1) Before the words “The forms” there shall be inserted the number “(1)”.

(2) After the words “the particular case require” there shall be added the following paragraph:—

“(2) A form marked with the words “[*Royal Arms*]” shall have printed, or embossed by an officer of the Court, at the head of the first page a replica of the Royal Arms.”.

16. Order 9, rule 2(1) shall be amended by inserting, after the words “Every petition must”, the words “have printed or embossed by an officer of the Court, at the head of the first page a replica of the Royal Arms and must” and Forms 8, 10, 11, 11A, 13, 20, 86, 87, 97, 97A, 101 and 103 shall be amended by inserting in square brackets at the head of each Form the words “*Royal Arms*”, but these amendments shall not affect any proceedings begun before 2nd June 1981.

Service abroad of the writ

17. Order 11, rule 3 shall be revoked.
18. Order 11, rule 5(1) shall be amended as follows:—
- (a) For the words “Order 10, rule 1(1), (4) and (5)” there shall be substituted the words “Order 10, rule 1(1), (4), (5) and (6)”;
 - (b) the words “, or notice of a writ,” and “or notice” shall be omitted;
 - (c) there shall be inserted after the word “jurisdiction” a comma and the words “save that the accompanying form of acknowledgment of service shall be modified in such manner as may be appropriate”.
19. Order 11, rule 9(8) shall be omitted.
20. Form No. 6 in Appendix A and Form No. 2A in Appendix B shall be revoked.
21. The rules cited in Column 1 below shall be amended by omitting the words mentioned in Column 2 as follows:—

“Column 1	Column 2
Order 6, rule 6(2)	“, or notice of which,” (twice)
Order 6, rule 7(1)	“, or notice of which,”
Order 10, rule 3(2)	“, or notice thereof,”
Order 11, rule 1(1)	“Subject to rule 3 and” and “, or notice of a writ,”
Order 11, rule 1(2)	“notice of”
Order 11, rule 1(3)	“or notice of a writ” and “or notice”
Order 11, rule 2	“, subject to rule 3,” and “, or notice of the writ,”
Order 11, rule 4(4)	“, or notice of a writ,”
Order 11, rule 5 (title)	“or notice of writ”
Order 11, rule 5(3)	“, or notice of a writ,”
Order 11, rule 5(5)	“a notice of”
Order 11, rule 5(6)	“notice of”
Order 11, rule 6 (title and paras. (1), (2), (3), (4) and (7))	“notice of”
Order 11, rule 7 (title and para. (1))	“notice of”
Order 11, rule 7 (4)	“or notice of the writ”
Order 11, rule 9(2)	“, or notice of the writ,”

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“Column 1	Column 2
Order 11, rule 9(7)	“notice of”
Order 12, rule 8(1)(a)	“or notice of the writ”
Order 12, rule 8(1)(b) and (c)	“or notice”
Order 12, rule 8(7)	“or notice of the writ”
Order 13, rule 7(1)(a) and (b)	“or notice of the writ”
Order 13, rule 7A(2)(c)	“, or notice of the writ,”
Order 13, rule 7A(5)	“notice of”
Order 15, rule 3(5) and	“(except rule 3)”
Order 16, rule 3(4)	
Order 18, rule 1	“, or notice of the writ” and “or notice”
Order 71, rule 7(2)	“notice of”
Order 72, rule 4(2)	“notice of the writ” and “, or notice of the writ,”
Order 73, rule 7(3)	“notice of”
Order 73, rule 10(5)	“notice of”
Order 75, rule 4(2)	“rule 3 and”
Order 75, rule 4(4)	“or to notice of any such writ”
Order 76, rule 6(2) and (4)	“, or notice of the writ,”
Order 81, rule 5(3)(c)	“, or notice of the writ,”

22. The following rules shall be amended by substituting for the word “notice” the word “writ”:

- (a) Order 11, rule 6(2), (2A), (3) and (4);
- (b) Order 11, rule 6(5) in three places;
- (c) Order 11, rule 7(1) in three places;
- (d) Order 11, rule 7(3)

23. The amendments made by rules 16 to 21 shall apply to all proceedings served after 1st June 1981 except where the Court's leave to serve them abroad has been granted on or before that date.

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EXPLANATORY NOTE

These Rules make three major changes in the Rules of the Supreme Court:—

- (1) They provide for a single judge to hear many of the appeals and applications in civil matters which under the existing Rules are required to be heard by a Divisional Court; and conversely for certain appeals and applications in criminal matters to be heard in vacation by a Divisional Court rather than by a vacation judge, as at present; the changes affect proceedings for judicial review (Order 53), habeas corpus (Order 54), case stated (Order 56), enforcement appeals (Order 94, rule 12) and applications and appeals under the Local Government Act 1972, Part VII (Order 98): (rules 1 to 14 of these Rules).
- (2) All forms of originating process, not just writs of summons, must have the Royal Arms printed or embossed on them as from 2nd June 1981: (rules 1, 15 and 16).
- (3) Where leave is given after 1st June 1981 for proceedings begun by writ to be served abroad, the document to be served will be a copy of the writ itself, not notice of the writ (Form No. 6) as is required at present: (rules 1 and 17 to 23).