
STATUTORY INSTRUMENTS

2000 No. 2092 (L.16)

**SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES**

The Civil Procedure (Amendment No. 4) Rules 2000

Made - - - - - *22nd July 2000*
Laid before Parliament *2nd August 2000*
Coming into force - - - *2nd October 2000*

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(1) to make rules of court under section 1 of that Act, after consulting in accordance with section 2(6)(a) of that Act, make the following Rules—

Citation, commencement and interpretation

1. These Rules may be cited as the Civil Procedure (Amendment No. 4) Rules 2000 and shall come into force on 2nd October 2000.

2. In these Rules—

- (a) a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(2);
- (b) a reference to an Order by number and prefixed by “RSC” means the RSC Order so numbered in Schedule 1 to those Rules; and
- (c) a reference to an Order by number and prefixed by “CCR” means the CCR Order so numbered in Schedule 2 to those Rules.

Amendments to Civil Procedure Rules 1998

3. For the definition of “defendant’s home court” in rule 2.3(1), substitute—

““defendant’s home court” means—

- (a) if the claim is proceeding in a county court, the county court for the district in which the defendant resides or carries on business; and

(1) 1997 c. 12.

(2) S.I.1998/3132 as amended by S.I. 1999/1008, S.I. 2000/221, S.I. 2000/940 and S.I. 2000/1317.

- (b) if the claim is proceeding in the High Court, the district registry for the district in which the defendant resides or carries on business or, where there is no such district registry, the Royal Courts of Justice;”
4. For paragraphs (1) and (2) of rule 3.7, substitute—
- “(1) This rule applies where—
- (a) an allocation questionnaire or a listing questionnaire is filed without payment of the fee specified by the relevant Fees Order;
 - (b) the court dispenses with the need for an allocation questionnaire or a listing questionnaire or both;
 - (c) these Rules do not require an allocation questionnaire or a listing questionnaire to be filed in relation to the claim in question; or
 - (d) the court has made an order giving permission to proceed with a claim for judicial review.
- (Rule 26.3 provides for the court to dispense with the need for an allocation questionnaire and rules 28.5 and 29.6 provide for the court to dispense with the need for a listing questionnaire)
- (Rule 54.12 provides for the service of the order giving permission to proceed with a claim for judicial review)
- (2) The court will serve a notice on the claimant requiring payment of the fee specified in the relevant Fees Order if, at the time the fee is due, the claimant has not paid it or made an application for exemption or remission.”
5. After rule 6.5, insert—
- “(Rule 42.1 provides that if the business address of his solicitor is given that solicitor will be treated as acting for that party)”
6. After rule 7.10, insert—

“Human Rights

- 7.11.**—(1) A claim under section 7(1)(a) of the Human Rights Act 1998(3) in respect of a judicial act may be brought only in the High Court.
- (2) Any other claim under section 7(1)(a) of that Act may be brought in any court.”
7. In rule 13.4, omit paragraph (1A).
8. After rule 19.4, insert—

“Human Rights

Section 4 of the Human Rights Act 1998

- 19.4A.**—(1) The court may not make a declaration of incompatibility in accordance with section 4 of the Human Rights Act 1998 unless 21 days' notice, or such other period of notice as the court directs, has been given to the Crown.
- (2) Where notice has been given to the Crown a Minister, or other person permitted by that Act, shall be joined as a party on giving notice to the court.

(Only courts specified in section 4 of the Human Rights Act 1998 can make a declaration of incompatibility)

Section 9 of the Human Rights Act 1998

- (3) Where a claim is made under that Act for damages in respect of a judicial act—
- (a) that claim must be set out in the statement of case or the appeal notice; and
 - (b) notice must be given to the Crown.

(4) Where paragraph (3) applies and the appropriate person has not applied to be joined as a party within 21 days, or such other period as the court directs, after the notice is served, the court may join the appropriate person as a party.

(A practice direction makes provision for these notices)."

9. In rule 24.3(2)—

- (a) omit the word “and” at the end of sub-paragraph (b) and for the semi-colon after the word “rem” substitute a full stop; and
- (b) omit sub-paragraph (c).

10. After rule 26.10, insert—

“Trial with a jury

26.11. An application for a claim to be tried with a jury must be made within 28 days of service of the defence.

(Section 69 of the Supreme Court Act 1981(4) and section 66 of the County Courts Act 1984(5) specify when a claim may be tried with a jury)."

11. Rules 27.12 and 27.13 are revoked.

12. In rule 27.14(2)(c), omit “under rule 27.12”.

13. In rule 30.3(2)—

- (a) for the full stop at the end of sub-paragraph (f) substitute a semi-colon; and
- (b) after sub-paragraph (f), insert—

“(g) whether the making of a declaration of incompatibility under section 4 of the Human Rights Act 1998 has arisen or may arise.”.

14. Rule 30.8 is revoked.

15. After rule 33.8, insert—

“Human Rights

33.9.—(1) This rule applies where a claim is—

- (a) for a remedy under section 7 of the Human Rights Act 1998 in respect of a judicial act which is alleged to have infringed the claimant’s Article 5 Convention rights; and
- (b) based on a finding by a court or tribunal that the claimant’s Convention rights have been infringed.

(4) 1981 c. 54.

(5) 1984 c. 28 amended by the Housing (Consequential Provisions) Act 1985 (c. 71), Schedule 2, paragraph 57(2) and the Housing Act 1988 (c. 50), Schedule 17, paragraph 35(1).

- (2) The court hearing the claim—
- (a) may proceed on the basis of the finding of that other court or tribunal that there has been an infringement but it is not required to do so, and
 - (b) may reach its own conclusion in the light of that finding and of the evidence heard by that other court or tribunal.”.
16. In rule 36.6(5), after “withdrawn” insert “or reduced”.
17. For rule 36.21(6), substitute—
- “(6) Where the court awards interest under this rule and also awards interest on the same sum and for the same period under any other power, the total rate of interest may not exceed 10% above base rate⁽⁶⁾.”.
18. In rule 39.3(4), omit “for an order to restore proceedings”.
19. In rule 47.17(3), after the words “in accordance with” insert “community legal service or”.
20. For rule 52.1(2), substitute—
- “(2) This Part does not apply to an appeal in detailed assessment proceedings against a decision of an authorised court officer.”.
21. After rule 52.1(2), omit the words from “(Rules 27.12” to “small claims track))”.
22. After Part 53, insert Part 54 (judicial review) as set out in the Schedule to these Rules.
23. RSC Order 53 is revoked.
24. RSC Order 57 is revoked.
25. In RSC Order 64, rule 4, paragraph (b) is revoked.
26. In RSC Order 98, rule 2(3), omit “in accordance with Order 57, rule 2,”.
27. CCR Order 49, rule 6 is revoked.
28. After CCR Order 49, rule 6A(17), insert—
- “(17A) Where the defendant seeks postponement of possession on the ground of exceptional hardship under section 89 of the Housing Act 1980(6), the judge may direct a hearing of that issue.
- (17B) Where the judge directs a hearing under paragraph (17A) it must be held before the date on which possession is to be given up.
- (17C) Where the judge is satisfied, on a hearing directed under paragraph (17A), that exceptional hardship would be caused by requiring possession to be given up by the date in the order of possession, he may vary the date on which possession must be given up.”.

Transitional provisions

29. Where a person has, before 2nd October 2000, filed a notice of appeal in a claim allocated to the small claims track—
- (a) Part 52 shall not apply to the appeal to which that notice relates; and
 - (b) rules 27.12 and 27.13 shall apply to that appeal as if they had not been revoked.
30. Where a person has, before 2nd October 2000, filed an application for permission to make an application for judicial review in accordance with RSC Order 53—

(6) 1980 c. 51.

- (a) Part 54 shall not apply to that application for permission or the application for judicial review to which it relates; and
- (b) RSC Order 53 shall apply to those applications as if it had not been revoked.

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I allow these Rules

Dated 22nd July 2000

Irvine of Lairg, C.

SCHEDULE

Rule 22

PART 54
JUDICIAL REVIEW

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Scope and interpretation

54.1.—(1) This Part contains rules about judicial review.

(2) In this Part—

- (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) an order of mandamus is called a “mandatory order”;

- (c) an order of prohibition is called a “prohibiting order”;
- (d) an order of certiorari is called a “quashing order”;
- (e) “the judicial review procedure” means the Part 8 procedure as modified by this Part;
- (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)

When this Part must be used

54.2. —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 1981⁽⁷⁾ (restraining a person from acting in any office in which he is not entitled to act).

When this Part may be used

54.3.—(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^(g).

(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)

54.3.—(2) A claim for judicial review may include a claim for damages but may not seek damages alone.

(Section 31(4) of the Supreme Court Act 1981 sets out the circumstances in which the court may award damages on a claim for judicial review)

Permission required

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

Time limit for filing claim form

54.5.—(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.

(7) 1981 c. 54.

(3) This rule does not apply when any other enactment specifies a shorter time limit for making the claim for judicial review.

Claim form

54.6.—(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 the relevant practice direction.

Service of claim form

54.7. 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.

Acknowledgment of service

54.8.—(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.

Failure to file acknowledgment of service

54.9.—(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.

Permission given

- 54.10.**—(1) Where permission to proceed is given the court may also give directions.
- (2) Directions under paragraph (1) may include a stay^(g1) of proceedings to which the claim relates. (Rule 3.7 provides a sanction for the non-payment of the fee payable when permission to proceed has been given)

Service of order giving or refusing permission

- 54.11.** 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.

Permission decision without a hearing

- 54.12.**—(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.

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

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

Response

54.14.—(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).

Where claimant seeks to rely on additional grounds

54.15. 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.

Evidence

54.16.—(1) Rule 8.6 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 Part; or
 - (ii) direction of the court; or
- (b) the court gives permission.

Court's powers to hear any person

54.17.—(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.

Judicial review may be decided without a hearing

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

Court's powers in respect of quashing orders

54.19.—(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) remit the matter to the decision-maker; and

(b) direct it to reconsider the matter and reach a decision in accordance with the judgment of the court.

(3) Where the court considers that there is no purpose to be served in remitting the matter to the decision-maker it may, subject to any statutory provision, take the decision itself.

(Where a statutory power is given to a tribunal, person or other body it may be the case that the court cannot take the decision itself)

Transfer

54.20. The court may—

- (a) order a claim to continue as if it had not been started under this Part; 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)

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules come into force on the same day as the majority of the Human Rights Act 1998. They add to the Civil Procedure Rules 1998 rules governing the procedure for an application under section 4 of that Act for a declaration of incompatibility, and for a claim under section 7(1)(a) that a public authority has acted in a way incompatible with a Convention right.

Applications for judicial review have until now been governed by Order 53 of the Rules of the Supreme Court in Schedule 1 to the Civil Procedure Rules. Order 53 is now revoked and replaced by a new Part 54.

When the procedure of Part 52 governing appeals was brought into force, it applied to multi-track and fast track cases, but not to cases in the small claims track. The rules have now been amended so that appeals in small claims will also be governed by Part 52.

In accelerated possession proceedings the judge at present has no power under Order 49, rule 6A of the County Court Rules in Schedule 2 to the Civil Procedure Rules to order a hearing of whether possession should be postponed. This rule is amended to allow the judge to direct a hearing of that issue. Order 49, rule 6 is revoked.

A number of other minor amendments have been made to the rules currently in force.