

## SCHEDULE 1

### RSC ORDER 53

#### APPLICATIONS FOR JUDICIAL REVIEW

##### **Cases appropriate for application for judicial review**

**Rule 1.**—(1) An application for—

- (a) an order of mandamus, prohibition or certiorari, or
- (b) an injunction under section 30 of the Act restraining a person from acting in any office in which he is not entitled to act,

shall be made by way of an application for judicial review in accordance with the provisions of this Order.

(2) An application for a declaration or an injunction (not being an injunction mentioned in paragraph (1)(b)) may be made by way of an application for judicial review, and on such an application the Court may grant the declaration or injunction claimed if it considers that, having regard to—

- (a) the nature of the matters in respect of which a remedy may be granted by way of an order of mandamus, prohibition or certiorari;
- (b) the nature of the persons and bodies against whom a remedy may be granted by way of such an order; and
- (c) all the circumstances of the case,

it would be just and convenient for the declaration or injunction to be granted on an application for judicial review.

##### **Joinder of claims for relief**

**Rule 2** On an application for judicial review any remedy mentioned in rule 1 (1) or (2) may be claimed as an alternative or in addition to any other remedy so mentioned if it arises out of or relates to or is connected with the same matter.

##### **Grant of leave to apply for judicial review**

**Rule 3.**—(1) No application for judicial review shall be made unless the permission of the Court has been obtained in accordance with this rule.

(2) An application for permission must be made without notice being served on any other party to a Judge by filing in the Crown Office—

- (a) an application 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) written evidence 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 public; in any case, the Crown Office shall serve a copy of the Judge's order on the applicant.

*Status: This is the original version (as it was originally made).*

(4) Where the application for permission 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 public or, if the Court so directs, to a Divisional Court of the Queen’s Bench Division:

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

(5) In order to renew his application for permission 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.

(6) The Court hearing an application for permission may allow the applicant’s statement to be amended, whether by specifying different or additional grounds or relief or otherwise, on such terms, if any, as it thinks fit.

(7) The Court shall not grant permission unless it considers that the applicant has a sufficient interest in the matter to which the application relates.

(8) Where permission is sought to apply for an order of certiorari to remove for the purpose of its being quashed any judgment, order, conviction or other proceeding which is subject to appeal and a time is limited for the bringing of the appeal, the Court may adjourn the application for permission until the appeal is determined or the time for appealing has expired.

(9) If the Court grants permission, it may impose such terms as to costs and as to giving security as it thinks fit.

(10) Where permission to apply for judicial review is granted, then—

- (a) if the relief sought is an order of prohibition or certiorari and the Court so directs, the grant shall operate as a stay of the proceedings to which the application relates until the determination of the application or until the Court otherwise orders;
- (b) if any other relief is sought, the Court may at any time grant in the proceedings interim remedies in accordance with CPR Part 25.

### **Delay in applying for relief**

**Rule 4.**—(1) An application for permission to apply 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 an order of certiorari is sought 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.

### **Mode of applying for judicial review**

**Rule 5.**—(1) In any criminal cause or matter, where permission has been granted to make an application for judicial review, the application shall be made to a Divisional Court of the Queen’s Bench Division.

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

- (a) to a Judge in private; or

(b) to a Divisional Court of the Queen's Bench Division.

(2A) An application for judicial review shall be made by the issue of a claim form.

(3) The claim form must be served on all persons directly affected and where it relates to any proceedings in or before a Court and the object of the application is either to compel the Court or an officer of the Court to do any act in relation to the proceedings or to quash them or any order made therein, the claim form must also be served on the Clerk or Registrar of the Court and, where any objection to the conduct of the Judge is to be made, on the Judge.

(4) Unless the Court granting permission has otherwise directed, there must be at least 10 days between the service of the claim form and the hearing.

(5) The application must be entered for hearing within 14 days after the grant of permission.

(6) Written evidence giving the names and addresses of, and the places and dates of service on, all persons who have been served with the claim form must be filed before the application is entered for hearing and, if any person who ought to be served under this rule has not been served, the written evidence must state that fact and the reason for it; and shall be before the Court on the hearing of the application.

(7) If on the hearing of the application the Court is of opinion that any person who ought, whether under this rule or otherwise, to have been served has not been served, the Court may adjourn the hearing on such terms (if any) as it may direct in order that the claim form may be served on that person.

### **Statements and evidence**

**Rule 6.**—(1) Copies of the statement in support of an application for permission under rule 3 must be served with the claim form and, subject to paragraph (2) no grounds shall be relied upon or any remedy sought at the hearing except the grounds and remedies set out in the statement.

(2) The Court may on hearing of the application for judicial review allow the applicant to amend his statement, whether by specifying different or additional grounds or otherwise, on such terms, if any, as it thinks fit and may allow further written evidence to be relied on by him.

(3) Where the applicant intends to ask to be allowed to amend his statement or to rely on further written evidence he shall give notice of his intention and of any proposed amendment to every other party.

(4) Any respondent who intends to use written evidence 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 56 days after service upon him of the documents required to be served by paragraph (1).

(5) Each party to the application must supply to every other party on demand and on payment of the proper charges copies of any written evidence which he proposes to rely on at the hearing, including, in the case of the applicant, the written evidence in support of the application for permission under rule 3.

### **Claim for damages**

**Rule 7.**—(1) On an application for judicial review the Court may, subject to paragraph (2) award damages to the applicant if—

(a) he has included in the statement in support of his application for permission under rule 3 a claim for damages arising from any matter to which the application relates; and

(b) the Court is satisfied that, if the claim had been made in proceedings for damages begun by the applicant at the time of making his application for judicial review, he could have been awarded damages.

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(2) CPR Part 16 shall apply to a statement relating to a claim for damages as it applies to a statement of case.

#### **Application for disclosure, further information, cross—examination, etc.**

**Rule 8.**—(1) Unless the Court otherwise directs, any interlocutory application in proceedings on an application for judicial review may be made to any judge or a master of the Queen’s Bench Division, notwithstanding that the application for judicial review has been made to and is to be heard by a Divisional Court.

In this paragraph “interlocutory application” includes an application for an order under CPR Part 31 or CPR Part 18 or for an order for permission to cross—examine any person who has given written evidence or for an order dismissing the proceedings by consent of the parties.

(2) In relation to an order made by a Master pursuant to paragraph (1) Order 58, rule 1, shall, where the application for judicial review is to be heard by a Divisional Court, have effect as if a reference to that Court were substituted for the reference to a Judge in Chambers.

(3) This rule is without prejudice to any statutory provision or rule of law restricting the making of an order against the Crown.

#### **Hearing of application for judicial review**

**Rule 9.**—(1) On the hearing of any application for judicial review under rule 5, any person who desires to be heard in opposition to the application, and appears to the Court to be a proper person to be heard, shall be heard, notwithstanding that he has not been served with the claim form.

(2) Where the remedy sought is or includes an order of certiorari to remove any proceedings for the purpose of quashing them, the applicant may not question the validity of any order, warrant, commitment, conviction, inquisition or record unless before the hearing of the application he has filed in the Crown Office a copy thereof verified by witness statement or affidavit or accounts for his failure to do so to the satisfaction of the Court hearing the application.

(3) Where an order of certiorari is made in any such case as is referred to in paragraph (2) the order shall, subject to paragraph (4) direct that the proceedings shall be quashed forthwith on their removal into the Queen’s Bench Division.

(4) Where an order of certiorari is sought and the Court is satisfied that there are grounds for quashing the decision to which the application relates, the Court may, in addition to quashing it, remit the matter to the Court, tribunal or authority concerned with a direction to reconsider it and reach a decision in accordance with the findings of the Court.

(5) Where the remedy sought is a declaration, an injunction or damages and the Court considers that it should not be granted on an application for judicial review but might have been granted if it had been sought in a claim begun by the applicant at the time of making his application for judicial review, the Court may, instead of refusing the application, order the judicial review proceedings to continue as proceedings brought under CPR Part 7 and if it does so may give any directions it considers appropriate.

#### **Saving for person acting in obedience to mandamus**

**Rule 10** No action or proceeding shall be begun or prosecuted against any person in respect of anything done in obedience to an order of mandamus.

### **Proceedings for disqualification of member of local authority**

**Rule 11.**—(1) Proceedings under section 92 of the Local Government Act 1972(1) must be begun by the issue of a claim form and brought before a Divisional Court of the Queen’s Bench Division.

(1A) Unless otherwise directed, there must be at least 10 days between the service of the claim form and the hearing.

(2) The claim form must set out the name and description of the applicant, the remedy sought and the grounds on which it is sought, and must be supported by written evidence verifying the facts relied on.

(3) Copies of any written evidence must be filed in the Crown Office before the proceedings are entered for hearing and must be supplied to any other party on demand and on payment of the proper charges.

(4) The provisions of rules 5, 6 and 9 (1) as to the persons on whom the claim form is to be served and as to the hearing shall apply, with the necessary modifications, to proceedings under the said section 92 as they apply to an application for judicial review.

### **Consolidation of applications**

**Rule 12** Where there is more than one application pending under section 30 of the Act, or section 92 of the Local Government Act 1972, against several persons in respect of the same office, and on the same grounds, the Court may order the applications to be consolidated.

### **Appeal from Judge’s order**

**Rule 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.

### **Meaning of “Court”**

**Rule 14** In relation to the hearing by a Judge of an application for leave under rule 3 or of an application for judicial review, any reference in this Order to “the Court” shall, unless the context otherwise requires, be construed as a reference to the Judge.

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(1) 1972 c. 70; section 92 was amended by the Criminal Justice Act 1982 (c. 48), sections 38, 46; and by Local Government Act 1985 (c. 51), section 84, schedule 14, Part I, paragraph 12; by the Education Reform Act 1988 (c. 40), section 237(2), schedule 13, Part 1; and by the Norfolk and Suffolk Broads Act, section 21, schedule 6, paragraph 10(3).