



STATUTORY INSTRUMENTS.

S.I. No. 691 of 2011



RULES OF THE SUPERIOR COURTS (JUDICIAL REVIEW) 2011

(Prn. A11/2391)

RULES OF THE SUPERIOR COURTS (JUDICIAL REVIEW) 2011

We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, by virtue of the powers conferred upon us by The Courts of Justice Act 1924, section 36, and the Courts of Justice Act 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), the Courts (Supplemental Provisions) Act 1961, section 14, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 28th day of November 2011.

Susan Denham

Nicholas Kearns

Joseph Finnegan

Elizabeth Dunne

John Edwards

Paul McGarry

Gerard Meehan

Patrick Groarke

Patrick O'Connor

Mary Cummins

Noel Rubotham

Geraldine Manners

I concur in the making of the following Rules of Court.

Dated this 20th day of December, 2011.

ALAN SHATTER,

Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 30th December, 2011.*

S.I. No. 691 of 2011

RULES OF THE SUPERIOR COURTS (JUDICIAL REVIEW) 2011

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Judicial Review) 2011, shall come into operation on the 1st day of January 2012.

(2) These Rules shall be construed together with the Rules of the Superior Courts.

(3) The Rules of the Superior Courts as amended by these Rules may be cited as the Rules of the Superior Courts 1986 to 2011.

2. The Rules of the Superior Courts are amended by the substitution for rules 18 to 28 inclusive of Order 84 of the rules set out in Schedule 1.

3. The Forms in Schedule 2 shall be substituted for Form No. 13 in Appendix T.

4. Notwithstanding the amendments made by these Rules, an application for leave to apply for judicial review by way of certiorari may, where the grounds for such application first arose on a date before the date on which these Rules come into operation, be made within six months from the date when the grounds for the application first arose.

Schedule 1

“V. Judicial review.

18. (1) An application for an order of certiorari, mandamus, prohibition or quo warranto 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 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 relief may be granted by way of an order of mandamus, prohibition, certiorari, or quo warranto,
- (b) the nature of the persons and bodies against whom relief may be granted by way of such 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.

19. On an application for judicial review any relief mentioned in rule 18(1) or (2) may be claimed as an alternative or in addition to any other relief so mentioned if it arises out of or relates to or is connected with the same matter and in any event the Court may grant any relief mentioned in rules 18(1) or (2) which it considers appropriate notwithstanding that it has not been specifically claimed.

20. (1) No application for judicial review shall be made unless the leave of the Court has been obtained in accordance with this rule.

(2) An application for such leave shall be made by motion ex parte grounded upon—

- (a) a notice in Form No. 13 in Appendix T containing:
 - (i) the name, address and description of the applicant,
 - (ii) a statement of each relief sought and of the particular grounds upon which each such relief is sought,
 - (iii) where any interim relief is sought, a statement of the orders sought by way of interim relief and a statement of the particular grounds upon which each such order is sought,
 - (iv) the name and registered place of business of the applicant’s solicitors (if any), and

- (v) the applicant's address for service within the jurisdiction (if acting in person); and
- (b) an affidavit, in Form No. 14 in Appendix T, which verifies the facts relied on.

Such affidavit shall be entitled:

THE HIGH COURT
JUDICIAL REVIEW

BETWEEN A.B.... APPLICANT

AND

C.D.... RESPONDENT

(3) It shall not be sufficient for an applicant to give as any of his grounds for the purposes of paragraphs (ii) or (iii) of sub-rule (2)(a) an assertion in general terms of the ground concerned, but the applicant should state precisely each such ground, giving particulars where appropriate, and identify in respect of each ground the facts or matters relied upon as supporting that ground.

(4) The Court hearing an application for leave may, on such terms, if any, as it thinks fit—

- (a) allow the applicant's statement to be amended, whether by specifying different or additional grounds of relief or otherwise,
- (b) where it thinks fit, require the applicant's statement to be amended by setting out further and better particulars of the grounds on which any relief is sought.

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

(6) Where leave is sought to apply for an order of certiorari to remove for the purpose of its being quashed any judgement, 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 leave until the appeal is determined or the time for appealing has expired.

(7) If the Court grants leave, it may impose such terms as to costs as it thinks fit and may require an undertaking as to damages.

(8) Where leave to apply for judicial review is granted then the Court, should it consider it just and convenient to do so, may, on such terms as it thinks fit—

- (a) grant such interim relief as could be granted in an action begun by plenary summons,

- (b) where the relief sought is an order of prohibition or certiorari, make an order staying the proceedings, order or decision to which the application relates until the determination of the application for judicial review or until the Court otherwise orders.

21. (1) An application for leave to apply for judicial review shall be made within three months from the date when grounds for the application first arose.

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

(3) Notwithstanding sub-rule (1), the Court may, on an application for that purpose, extend the period within which an application for leave to apply for judicial review may be made, but the Court shall only extend such period if it is satisfied that:—

- (a) there is good and sufficient reason for doing so, and
- (b) the circumstances that resulted in the failure to make the application for leave within the period mentioned in sub-rule (1) either—
 - (i) were outside the control of, or
 - (ii) could not reasonably have been anticipated by

the applicant for such extension.

(4) In considering whether good and sufficient reason exists for the purposes of sub-rule (3), the court may have regard to the effect which an extension of the period referred to in that sub-rule might have on a respondent or third party.

(5) An application for an extension referred to in sub-rule (3) shall be grounded upon an affidavit sworn by or on behalf of the applicant which shall set out the reasons for the applicant's failure to make the application for leave within the period prescribed by sub-rule (1) and shall verify any facts relied on in support of those reasons.

(6) Nothing in sub-rules (1), (3) or (4) shall prevent the Court dismissing the application for judicial review on the ground that the applicant's delay in applying for leave to apply for judicial review (even if otherwise within the period prescribed by sub-rule (1) or within an extended period allowed by an order made in accordance with sub-rule (3)) has caused or is likely to cause prejudice to a respondent or third party.

(7) The preceding sub-rules are without prejudice to any statutory provision which has the effect of limiting the time within which an application for judicial review may be made.

22. (1) An application for judicial review shall be made by originating notice of motion save in a case to which rule 24(2) applies or where the Court directs that the application shall be made by plenary summons.

(2) The notice of motion or summons 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 notice or summons 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 Clerk or Registrar on behalf of the Judge.

(3) A notice of motion or summons, as the case may be, must be served within seven days after perfection of the order granting leave, or within such other period as the Court may direct. In default of service within the said time any stay of proceedings granted in accordance with rule 20(8) shall lapse. In the case of a motion on notice it shall be returnable for the first available motion day after the expiry of seven weeks from the grant of leave, unless the Court otherwise directs.

(4) Any respondent who intends to oppose the application for judicial review by way of motion on notice shall within three weeks of service of the notice on the respondent concerned or such other period as the Court may direct file in the Central Office a statement setting out the grounds for such opposition and, if any facts are relied on therein, an affidavit, in Form No. 14 in Appendix T, verifying such facts, and serve a copy of that statement and affidavit (if any) on all parties. The statement shall include the name and registered place of business of the respondent's solicitor (if any).

(5) It shall not be sufficient for a respondent in his statement of opposition to deny generally the grounds alleged by the statement grounding the application, but the respondent should state precisely each ground of opposition, giving particulars where appropriate, identify in respect of each such ground the facts or matters relied upon as supporting that ground, and deal specifically with each fact or matter relied upon in the statement grounding the application of which he does not admit the truth (except damages, where claimed).

(6) An affidavit giving the names and addresses of, and the places and dates of service on, all persons who have been served with the notice of motion or summons must be filed before the motion or summons is heard and, if any person who ought to be served under this rule has not been served, the affidavit must state that fact and the reason for it; and the affidavit shall be before the Court on the hearing of the motion or summons.

(7) Save in a case to which rule 24(2) applies or where the Court directs that the application shall be made by plenary summons, each party shall, within three weeks of service of the statement referred to in sub-rule (4) or such other period as the Court may direct, exchange with all other parties and file in the Central Office written submissions on points or issues of law which that party proposes to make to the Court on the hearing of the application for judicial review.

(8) The Court may on the return date of the notice of motion, or any adjournment thereof, give directions as to whether it shall require at the hearing of the application for judicial review oral submissions in respect of any of the written submissions of the parties on points or issues of law.

(9) If on the hearing of the motion or summons 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 notice or summons may be served on that person.

23. (1) A copy of the statement in support of an application for leave under rule 20, together with a copy of the verifying affidavit must be served with the notice of motion or summons and, subject to sub-rule (2), no grounds shall be relied upon or any relief sought at the hearing except the grounds and relief set out in the statement.

(2) The Court may, on the hearing of the motion or summons, allow the applicant or the respondent to amend his statement, whether by specifying different or additional grounds of relief or opposition or otherwise, on such terms, if any, as it thinks fit and may allow further affidavits to be used if they deal with new matters arising out of an affidavit of any other party to the application.

(3) Where the applicant or respondent intends to apply for leave to amend his statement, or to use further affidavits he shall give notice of his intention and of any proposed amendment to every other party.

24. (1) The Court hearing an application for leave to apply for judicial review may, having regard to the issues arising, the likely impact of the proceedings on the respondent or another party, or for other good and sufficient reason, direct that the application for leave should be heard on notice and adjourn the application for leave on such terms as it may direct and give such directions as it thinks fit as to the service of notice of the application for leave (and copies of the statement of grounds, affidavit and any exhibits) on the intended respondent and on any other person, the mode of service and the time allowed for such service.

(2) The Court may—

(i) with the consent of all of the parties, or

(ii) on the application of a party or of its own motion, where there is good and sufficient reason for so doing and it is just and equitable in all the circumstances,

treat an application for leave as if it were the hearing of the application for judicial review and may—

(I) adjourn the hearing of the application on such terms as it may direct,

- (II) give directions as to the time within which submissions in writing of the parties on points or issues of law shall be exchanged between the parties and filed in the Central Office,
- (III) on any date to which the application has been adjourned, give directions as to whether it shall require at the hearing of the application for judicial review oral submissions in respect of any of the submissions in writing of the parties on points or issues of law, or
- (IV) give any direction and make any order referred to in sub-rule (3) for which provision is not made in this sub-rule.

(3) On the hearing of an application for leave directed to be on notice or for judicial review (or on any adjournment of such hearing), the Court may give directions and make orders for the conduct of the proceedings as appear convenient for the determination of the proceedings in a manner which is just, expeditious and likely to minimise the costs of those proceedings which, where appropriate, may include:

- (a) directions as to the service of notice of the application or of the proceedings on any other person, including mode of service and the time allowed for such service (and the Court may for that purpose adjourn the hearing or further hearing of the application or notice of motion to a date specified);
- (b) directions as to the filing and delivery of any further affidavits by any party or parties;
- (c) orders fixing time limits;
- (d) directions as to discovery;
- (e) directions as to the exchange of memoranda between or among the parties for the purpose of the agreeing by the parties or the fixing by the Court of any issues of fact or law to be determined in the proceedings on the application, or orders fixing such issues;
- (f) an order under rule 27(5) or rule 27(7) (and the Court may for that purpose make orders and give directions in relation to the exchange of pleadings or points of claim or defence between the parties);
- (g) directions as to the furnishing by the parties to the Court and delivery of written submissions;
- (h) directions as to the publication of notice of the hearing of the application and the giving of notice in advance of such hearing to any person other than a party to the proceedings who desires to be heard on the hearing of the application.

25. (1) On an application for judicial review the Court may, subject to sub-rule (2), award damages to the applicant if—
- (a) he has included in the statement in support of his application for leave under rule 20 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 a civil action against any respondent or respondents begun by the applicant at the time of making his application, he would have been awarded damages.
- (2) Order 19, rules 5 and 7, shall apply to a statement relating to a claim for damages as it applies to a pleading.
26. (1) Any interlocutory application may be made to the Court in proceedings on an application for judicial review. In this rule “interlocutory application” includes an application for an order under Order 31, or Order 39, rule 1, or for an order dismissing the proceedings by consent of the parties.
- (2) Where the relief sought is or includes an order of mandamus, the practice and procedure provided for in Order 57 shall be applicable so far as the nature of the case will admit.
27. (1) On the hearing of an application under rule 22, or an application which has been adjourned in accordance with rule 24(1), 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 notice of the application.
- (2) Where the relief 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, committal, conviction, inquisition or record, unless before the hearing of the motion or summons he has lodged in the High Court a copy thereof verified by affidavit or accounts for his failure to do so to the satisfaction of the Court. If necessary, the court may order that the person against whom an order of certiorari is to be directed do make a record of the judgement, conviction or decision complained of.
- (3) Where an order of certiorari is made in any such case as is referred to in sub-rule (2), the order shall, subject to sub-rule (4), direct that the proceedings shall be quashed forthwith on their removal into the High Court.
- (4) Where the relief sought is an order of certiorari 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 relief 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 civil action against any respondent or respondents begun by plenary summons by the applicant at the time of making his application, the Court may, instead of refusing the application, order the proceedings to continue as if they had been begun by plenary summons.

(6) Where the relief sought is or includes an order of mandamus, the proceedings shall not abate by reason of the death, resignation or removal from office of the respondent but they may, by order of the Court, be continued and carried on in his name or in the name of the successor in office or right of that person.

(7) At any stage in proceedings in prohibition, or in the nature of quo warranto, the Court on the application of any party or of its own motion may direct a plenary hearing with such directions as to pleadings, discovery, or otherwise as may be appropriate, and thereupon all further proceedings shall be conducted as in an action originated by plenary summons and the Court may give such judgement and make such order as if the trial were the hearing of an application to make absolute a conditional order to show cause.

VI. General.

28. The forms in Appendix T shall be used in all proceedings under this Order.

29. Where a certificate referred to in section 96(4) of the Criminal Justice Act 2006 requires to be issued otherwise than on the determination of an appeal, such certificate shall be in the Form No. 28 in Appendix U with such modifications as may be appropriate, and shall be transmitted forthwith by or on behalf of the Registrar to each of the persons referred to in section 96(6) of that Act.”

AFFIDAVIT VERIFYING STATEMENT GROUNDING AN
APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW OR
A STATEMENT OF OPPOSITION

[to be appended to the statement concerned]

I, *AD.*, [applicant]* [respondent]* in these proceedings, make oath and say as follows:

(a) I have read this statement [*or*] This statement has been read to me by my solicitor;

(b) so much of this statement as relates to my own acts and deeds is true, and so much of it as relates to the acts and deeds of any and every other person I believe to be true.

Sworn, &c

*Delete where inapplicable

EXPLANATORY NOTE

(This does not form part of the Instrument and does not purport to be a legal interpretation.)

These rules amend Order 84 of the Rules of the Superior Courts by substituting new rules 18 to 29, inclusive, of Order 84 for the existing rules 18 to 28, inclusive, of that Order and the substitution of new Forms 13 and 14 in Appendix T for the existing Form No.13 in that Appendix, to revise the procedure in respect of applications for leave to apply for judicial review, and applications for judicial review.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
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