



## PART 54 - JUDICIAL REVIEW AND STATUTORY REVIEW

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## I JUDICIAL REVIEW

### Scope and interpretation

#### 54.1

(1) This Section of this Part contains rules about judicial review.

(2) In this Section –

(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) revoked

(c) revoked

(d) revoked

(e) ‘the judicial review procedure’ means the Part 8 procedure as modified by this Section;

(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)

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### Who may exercise the powers of the High Court

#### 54.1A

(1) A court officer assigned to the Administrative Court office who is –

(a) a barrister; or

(b) a solicitor,

may exercise the jurisdiction of the High Court with regard to the matters set out in paragraph (2) with the consent of the President of the Queen's Bench Division.

(2) The matters referred to in paragraph (1) are –

(a) any matter incidental to any proceedings in the High Court;

(b) any other matter where there is no substantial dispute between the parties; and

(c) the dismissal of an appeal or application where a party has failed to comply with any order, rule or practice direction.

(3) A court officer may not decide an application for –

(a) permission to bring judicial review proceedings;

(b) an injunction;

(c) a stay of any proceedings, other than a temporary stay of any order or decision of the lower court over a period when the High Court is not sitting or cannot conveniently be convened, unless the parties seek a stay by consent.

(4) Decisions of a court officer may be made without a hearing.

(5) A party may request any decision of a court officer to be reviewed by a judge of the High Court.

(6) At the request of a party, a hearing will be held to reconsider a decision of a court officer, made without a hearing.

(7) A request under paragraph (5) or (6) must be filed within 7 days after the party is served with notice of the decision.

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## When this Section 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<sup>1</sup> (restraining a person from acting in any office in which he is not entitled to act).

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## When this Section 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<sup>(GL)</sup>.

(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)

(2) A claim for judicial review may include a claim for damages, restitution or the recovery of a sum due but may not seek such a remedy alone.

(Section 31(4) of the Supreme Court Act sets out the circumstances in which the court may award damages, restitution or the recovery of a sum due on a claim for judicial review)

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## Permission required

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

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## Time limit for filing claim form

### 54.5

(A1) In this rule —

'the planning acts' has the same meaning as in section 336 of the Town and Country Planning Act 1990<sup>2</sup>;

'decision governed by the Public Contracts Regulations 2015' means any decision the legality of which is or may be affected by a duty owed to an economic operator by virtue of regulations 89 or 90 of those Regulations (and for this purpose it does not matter that the claimant is not an economic operator); and

'economic operator' has the same meaning as in regulation 2(1) of the Public Contracts Regulations 2015.

(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 limits in this rule may not be extended by agreement between the parties.

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

(4) Paragraph (1) does not apply in the cases specified in paragraphs (5) and (6).

(5) Where the application for judicial review relates to a decision made by the Secretary of State or local planning authority under the planning acts, the claim form must be filed not later than six weeks after the grounds to make the claim first arose.

(6) Where the application for judicial review relates to a decision governed by the Public Contracts Regulations 2015, the claim form must be filed within the time within which an economic operator would have been required by regulation 92 of those Regulations (and disregarding the rest of that regulation) to start any proceedings under those Regulations in respect of that decision.

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## 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; and

(d) where appropriate, the grounds on which it is contended that the claim is an Aarhus Convention claim.

(Rules 45.41 to 45.44 make provision about costs in Aarhus Convention claims.)

(Part 25 sets out how to apply for an interim remedy)

(2) The claim form must be accompanied by the documents required by Practice Direction 54A.

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## 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.

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## Judicial review of decisions of the Upper Tribunal

### 54.7A

(1) This rule applies where an application is made, following refusal by the Upper Tribunal of permission to appeal against a decision of the First Tier Tribunal, for judicial review –

(a) of the decision of the Upper Tribunal refusing permission to appeal; or

(b) which relates to the decision of the First Tier Tribunal which was the subject of the application for permission to appeal.

(2) Where this rule applies –

(a) the application may not include any other claim, whether against the Upper Tribunal or not; and

(b) any such other claim must be the subject of a separate application.

(3) The claim form and the supporting documents required by paragraph (4) must be filed no later than 16 days after the date on which notice of the Upper Tribunal's decision was sent to the applicant.

(4) The supporting documents are –

(a) the decision of the Upper Tribunal to which the application relates, and any document giving reasons for the decision;

(b) the grounds of appeal to the Upper Tribunal and any documents which were sent with them;

(c) the decision of the First Tier Tribunal, the application to that Tribunal for permission to appeal and its reasons for refusing permission; and

(d) any other documents essential to the claim.

(5) The claim form and supporting documents must be served on the Upper Tribunal and any other interested party no later than 7 days after the date of issue.

(6) The Upper Tribunal and any person served with the claim form who wishes to take part in the proceedings for judicial review must, no later than 21 days after service of the claim form, file and serve on the applicant and any other party an acknowledgment of service in the relevant practice form.

(7) The court will give permission to proceed only if it considers –

(a) that there is an arguable case, which has a reasonable prospect of success, that both the decision of the Upper Tribunal refusing permission to appeal and the decision of the First Tier Tribunal against which permission to appeal was sought are wrong in law; and

(b) that either –

(i) the claim raises an important point of principle or practice; or

(ii) there is some other compelling reason to hear it.

(8) If the application for permission is refused on paper without an oral hearing, rule 54.12(3) (request for reconsideration at a hearing) does not apply.

(9) If permission to apply for judicial review is granted –

(a) if the Upper Tribunal or any interested party wishes there to be a hearing of the substantive application, it must make its request for such a hearing no later than 14 days after service of the order granting permission; and

(b) if no request for a hearing is made within that period, the court will make a final order quashing the refusal of permission without a further hearing.

(10) The power to make a final order under paragraph (9)(b) may be exercised by the Master of the Crown Office or a Master of the Administrative Court.

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## 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

(ia) where the person filing it intends to contest the application for permission on the basis that it is highly likely that the outcome for the claimant would not have been substantially different if the conduct complained of had not occurred, set out a summary of the 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.

(Section 31(3C) of the Senior Courts Act 1981(1) requires the court, where it is asked to do so by the defendant, to consider whether the outcome for the claimant would have been substantially different if the conduct complained of had not occurred.)

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## 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.

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## 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) a stay<sup>(GL)</sup> of proceedings to which the claim relates;

(b) directions requiring the proceedings to be heard by a Divisional Court.

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## Service of order giving or refusing permission

### 54.11

The court will serve –

(a) the order giving or refusing permission; and

(ai) any certificate (if not included in the order) that permission has been granted for reasons of exceptional public interest in accordance with section 31(3F) of the Senior Courts Act 1981; and

(b) any directions,

on –

(i) the claimant;

(ii) the defendant; and

(iii) any other person who filed an acknowledgment of service.

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## Permission decision where court requires a hearing

### 54.11A

(1) This rule applies where the court wishes to hear submissions on—

(a) whether it is highly likely that the outcome for the claimant would not have been substantially different if the conduct complained of had not occurred; and if so

(b) whether there are reasons of exceptional public interest which make it nevertheless appropriate to give permission.

(2) The court may direct a hearing to determine whether to give permission.

(3) The claimant, defendant and any other person who has filed an acknowledgment of service must be given at least 2 days' notice of the hearing date.

(4) The court may give directions requiring the proceedings to be heard by a Divisional Court.

(5) The court must give its reasons for giving or refusing permission.

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## 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) Subject to paragraph (7), 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.

(6) The court may give directions requiring the proceedings to be heard by a Divisional Court.

(7) Where the court refuses permission to proceed and records the fact that the application is totally without merit in accordance with rule 23.12, the claimant may not request that decision to be reconsidered at a hearing.

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## Defendant etc. may not apply to set aside<sup>(GL)</sup>

**54.13** Neither the defendant nor any other person served with the claim form may apply to set aside<sup>(GL)</sup> an order giving permission to proceed.

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## 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).

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## 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.

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## Evidence

### 54.16

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

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## 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.

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## 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.

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## 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)
    - (i) remit the matter to the decision-maker; and
    - (ii) direct it to reconsider the matter and reach a decision in accordance with the judgment of the court; or
  - (b) in so far as any enactment permits, substitute its own decision for the decision to which the claim relates.

(Section 31 of the Supreme Court Act 1981<sup>4</sup> enables the High Court, subject to certain conditions, to substitute its own decision for the decision in question.)

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## Transfer

**54.20** The court may

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

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## II PLANNING COURT

### General

**54.21**

(1) This Section applies to Planning Court claims.

(2) In this Section, 'Planning Court claim' means a judicial review or statutory challenge which —

(a) involves any of the following matters —

(i) planning permission, other development consents, the enforcement of planning control and the enforcement of other statutory schemes;

(ii) applications under the Transport and Works Act 1992;

(iii) wayleaves;

(iv) highways and other rights of way;

(v) compulsory purchase orders;

(vi) village greens;

(vii) European Union environmental legislation and domestic transpositions, including assessments for development consents, habitats, waste and pollution control;

(viii) national, regional or other planning policy documents, statutory or otherwise; or

(ix) any other matter the judge appointed under rule 54.22(2) considers appropriate; and

(b) has been issued or transferred to the Planning Court.

(Part 30 (Transfer) applies to transfers to and from the Planning Court.)

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### Specialist list

**54.22**

(1) The Planning Court claims form a specialist list.

(2) A judge nominated by the President of the Queen's Bench Division will be in charge of the Planning Court specialist list and will be known as the Planning Liaison Judge.

(3) The President of the Queen's Bench Division will be responsible for the nomination of specialist planning judges to deal with Planning Court claims which are significant within the meaning of Practice Direction 54E, and of other judges to deal with other Planning Court claims.

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## Application of the Civil Procedure Rules

**54.23** These Rules and their practice directions will apply to Planning Court claims unless this section or a practice direction provides otherwise.

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## Further provision about Planning Court claims

**54.24** Practice Direction 54E makes further provision about Planning Court claims, in particular about the timescales for determining such claims.

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## Footnotes

1. 1981 c.54. [Back to text](#)
2. 1990 c. 8. [Back to text](#)
3. 1981 c.54. Section 31 is amended by section 141 of the Tribunals, Courts and Enforcement Act 2007 (c. 15). [Back to text](#)