
Judicial Review Procedure Rules 2007

In exercise of his powers under section 9(1) of the Courts (Judicial Review) Ordinance 2004(a) the Administrator, with the advice and approval of the Senior Judge, makes the following Rules:-

Part 1

Citation and Commencement

1. These Rules may be cited as the Judicial Review Procedure Rules 2007 and come into force on the day on which they are published in the Gazette.

Application

2. (1) Order 56 of the Civil Procedure Rules(b) (Action of Mandamus) is revoked.
(2) The provisions of any existing rules of procedure of any court or tribunal will have effect subject to the provisions of this Order.

Scope and interpretation

3. (1) This Order contains rules about judicial review.—
(2) In this Order—
“claim form” has the same meaning as “writ of summons” for the purposes of the Civil Procedure Rules;
“claimant” means a person who makes an application.
“court” means the Senior Judges’ Court unless otherwise stated;
“declaration” means an order declaratory of the rights of the parties;
“injunction” means an order prohibiting a person from doing something or requiring a person to do something;
“interested party” means any person (other than the claimant and defendant) who is directly affected by the application, which will be taken to include, where the application for judicial review relates to proceedings in a court or tribunal, any other parties to those proceedings;
“Judge” means the Judge who has jurisdiction to deal with the relevant matter under the Ordinance or these rules;
“Ordinance” means the Courts (Judicial Review) Ordinance 2004;
“stay” means an order imposing a halt on proceedings, apart from taking any steps allowed by the Rules or the terms of the stay, and subject to proceedings being continued if the stay is lifted; and
“set aside” means an order cancelling a judgment or order or a step taken by a party in the proceedings.
(3) Where provision is made in this Order, these rules will apply instead of any equivalent provision in the Civil Procedure Rules. Where no provision is made in these rules, the relevant provision of the Civil Procedure Rules will apply.

When this Order must or may be used and requirement for leave

4. (1) The judicial review procedure must be used in an application for judicial review where the claimant is seeking, whether or not in addition to a declaration or injunction under rule 3, –

- (a) a mandatory order;
- (b) a prohibiting order;
- (c) a quashing order; or
- (d) a habeas corpus order.

(2) The judicial review procedure may be used in an application for judicial review where the claimant is seeking –

- (a) a declaration, or
- (b) an injunction

under section 13(1) of the Ordinance (circumstances in which the court may grant a declaration or injunction in an application for judicial review).

(3) An application for judicial review may include an application under section 12 of the Ordinance for damages, restitution or the recovery of a sum due, but may not seek such a remedy alone.

Permission to proceed

5. The court's permission to proceed is required in a claim for judicial review whether started under the Ordinance or transferred to the Senior Judges' Court.

Time limit for filing claim

6. (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 application first arose.

(2) Where the application is for a quashing order in respect of a judgment, order, or conviction, the date when the grounds to make the application first arose for the purposes of rule 4(1)(b) is the date of that judgment, order or conviction.

(3) The time limit in this rule may not be extended by agreement between the parties, but may be extended by the court as it sees fit on application by any party.

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

(5) Where a claim is transferred under the provisions of rule 19, for the purposes of rule 4(1), the date the claim was filed will be the date on which the original application was first filed.

Beginning a claim

7. (1) An application for judicial review must be commenced using a claim form as set out in Schedule 1.

(2) The claimant must endorse on the claim form,

- (a) that he is requesting leave to proceed with an application for judicial review;
- (b) any remedy he is claiming;
- (c) if the application is being made under an enactment, what that enactment is;
- (d) if the claimant is applying in a representative capacity, what that capacity is; and
- (e) the name and address of any person he considers to be an interested party.

(3) The claim form must be endorsed with or be accompanied by a detailed statement of the claimant's grounds for bringing the application for judicial review.

(4) In addition, the claim form must be accompanied by

- (a) an affidavit setting out the facts relied on, and exhibiting any written evidence and documents on which the claimant proposes to rely;
- (b) a summons for any application to extend the time limit for filing the claim form, together with an affidavit containing any evidence in support of the application;
- (c) any summons for directions;
- (d) a copy of any order that the claimant seeks to have quashed;
- (e) where the application for judicial review relates to a decision of a court or tribunal, an approved copy of the reasons for reaching that decision or a certificate from the court or tribunal stating that it is not practical to produce a record of the reasons;
- (f) copies of any documents on which the claimant proposes to rely;
- (g) copies of any relevant statutory material; and
- (h) a list of essential documents for advance reading by the court (with page references to the passages relied on).

(5) The claimant must file two copies of a paginated and indexed bundle containing all the documents referred to in paragraphs (3) and (4).

(6) Where it is not possible to file all the above documents, the claimant must indicate which documents have not been filed and the reasons why they are not currently available.

(7) Where the claimant is seeking to raise any issue under the Human Rights Ordinance 2004, or seeks a remedy available under that Ordinance(c), the claim form or particulars of claim must also include the information specified in the Human Rights Rules 2005(d).

Service of claim

8. 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

9. (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 form set out in Schedule 2, 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 7(b), any other person named in the writ,

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, but may be extended by the court as it sees fit on application by any party.

(4) The acknowledgment of service—

- (a) must –
 - (i) where the person filing it intends to contest the application, 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.

Failure to file acknowledgment of service

10. (1) Where a person served with the claim form has failed to file an acknowledgment of service in accordance with rule 7, he –

- (a) may not take part in a hearing to decide whether leave should be given unless the court allows him to do so; but
- (b) provided he complies with rule 13 or any other direction of the court regarding the filing and service of –
 - (i) detailed grounds for contesting the application 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.

Leave given

11. (1) Where leave to proceed is given the court may also give directions.

(2) Directions under paragraph (1) may include a stay of proceedings to which the application relates.

Service of order giving or refusing leave

12. The court will serve –

- (a) the order giving or refusing leave; and
- (b) any directions, on –
 - (i) the claimant;
 - (ii) the defendant; and
 - (iii) any other person who filed an acknowledgment of service.

Leave decision without a hearing

13. (1) This rule applies where the court, without a hearing –

- (a) refuses leave to proceed; or
- (b) gives leave 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 leave in accordance with rule 10.

(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 5 clear days' notice of the hearing date.

Defendant etc may not apply to set aside

14. Neither the defendant nor any other person served with the claim form may apply to set aside an order giving leave to proceed.

Response

15. (1) A defendant and any other person served with the claim form who wishes to contest the application or support it on additional grounds must file and serve –

- (a) detailed grounds for contesting the application or supporting it on additional grounds; and

- (b) any written evidence,

within 35 days after service of the order giving leave.

Where claimant seeks to rely on additional grounds

16. The court's permission is required if a claimant seeks to rely on grounds other than those for which he has been given leave to proceed.

Evidence

17. No written evidence may be relied on unless—
- (a) it has been served in accordance with any—
 - (i) rule under this Order; or
 - (ii) direction of the court; or
 - (b) the court gives permission.

Court's powers to hear any person

18. (1) Any person may apply for the court's permission—
- (a) to file evidence; or
 - (b) make representations when the court is considering whether leave should be granted, or 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

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

Transfer

20. (1) Where an action which may raise an issue of judicial review has been commenced in the Judges' Court, it may order the application to be transferred to continue in the Senior Judges' Court.

(2) Where the Judges' Court is considering transferring the application in accordance with the provisions of paragraph (1), the defendant to such a claim must be joined if they are not already a party to the application, and must be given the opportunity to make representations to the Judge's Court regarding any possible transfer.

(3) In considering whether to transfer an application, the Judges' Court will have regard to all relevant factors, including the date on which the original application was first made.

(4) Where an application has been transferred from the Judges' Court to the Senior Judges' Court, the application for leave to apply for judicial review may not be considered by the Judge who ordered the transfer.

(5) Where an action for Judicial Review is commenced in the Senior Judges' Court which does not raise an issue under the Ordinance, but may raise another cause of action, the Senior Judges' Court may order the action to be transferred to continue in the Judges' Court.

Appeals against refusal to grant leave

21. (1) Where leave to apply for judicial review has been refused at a hearing by a single Judge in the Senior Judges' Court, the claimant seeking that leave may apply to a panel of 3 different Judges of the Senior Judges' Court for leave to appeal. Unless otherwise specified by the court the application for permission to appeal will be determined without a hearing.

(2) An application in accordance with paragraph (1) must be made within 7 days of the decision of the single Judge of the Senior Judges' Court to refuse to give leave to apply for judicial review.

(3) On an application under paragraph (1), the panel of Senior Judges may, instead of giving permission to appeal, give leave to apply for judicial review. Where permission to appeal is granted, unless otherwise specified the appeal will be determined without a hearing. The appeal will be determined by a panel of 3 Judges of the Senior Judges' Court.

(4) Where the panel of Senior Judges give leave to apply for judicial review in accordance with paragraph (3), the case will proceed in the Senior Judges' Court.

(5) An application to the panel of Senior Judges for leave to appeal in accordance with paragraph (4) must be made within 7 days of the decision of the panel of Senior Judges to refuse to give leave to apply for judicial review. Unless otherwise specified, the application to the panel of Senior Judges will be determined without a hearing.

Appeals against Judicial Review Order

22. (1) Where an application for a Judicial Review Order has been granted or refused, or has been set aside and another order substituted in accordance with section 3(8) of the Ordinance, a claimant or defendant may apply to a panel of 3 Senior Judges of the Senior Judges' Court for leave to appeal. Unless otherwise specified the application for leave will be determined without a hearing.

(2) An application in accordance with paragraph (1) must be made within 7 days of the decision to grant or refuse the Order.

(3) Where the panel of Senior Judges give permission to appeal in accordance with paragraph (1), the appeal will proceed before a panel of 3 Senior Judges in the Senior Judges' Court. Unless otherwise specified, the appeal will be determined without a hearing.

(4) Where an appeal to the panel of Senior Judges is granted or refused, an interested party may appeal to Judicial Committee of the Privy Council with the leave of the Senior Judges' Court.

(5) An application to the Senior Judges' Court for leave to appeal under paragraph (4) must be made within 7 days of the decision of the panel of Senior Judges to grant or refuse the appeal. Unless otherwise specified, the application will be determined without a hearing.

Part 2

Application for a Habeas Corpus Order

23. (1) An application for an order of habeas corpus order will be made to a Senior Judge or to another Judge in accordance with sections 3(4) and (5) of the Ordinance, except that -

- (a) it may be made to a Judge otherwise than in court at any time when no Judge is sitting in court;
- (b) any application on behalf of a child must be made in the first instance to a Judge otherwise than in court.

(2) An application for such an order may be made without notice being served on any other party and, subject to paragraph (3), must be supported by an affidavit by the person restrained showing that it is made at his instance and setting out the nature of the restraint.

(3) Where the person restrained is unable for any reason to make the affidavit required by paragraph (2), the affidavit may be made by some other person on his behalf and that affidavit must state that the person restrained is unable to make the affidavit himself and for what reason.

Power to make Order

24. (1) The Judge to whom an application under rule 23(1) is made without notice being served on any other party may make the order, or may -

- (a) where the application is made to a Judge otherwise than in court, direct the issue of a claim form seeking the order, or that an application therefore be made by claim form to the Senior Judges' Court or to a Judge in court;
- (b) where the application is made to a Judge in court, adjourn the application so that notice thereof may be given, or direct that an application be made by claim form to the Senior Judges' Court;
- (c) where the application is made to the Senior Judges' Court, adjourn the application so that notice thereof may be given.

(2) The claim form must be served personally on the person to whom the issue of the order is sought and on such other persons as the court or Judge may direct, and, unless the court or Judge otherwise directs, there must be at least 8 clear days between the service of the claim form and the date named therein for the hearing of the application.

Obligation to serve witness statements or affidavits

25. Every party to an application under rule 23 must supply to every other party on demand and on payment of a reasonable charge copies of the witness statements or affidavits

which he proposes to use at the hearing of the application.

Discretion to order release

26. (1) Without prejudice to rule 24 the court or Judge hearing an application for a habeas corpus order may in its discretion order that the person restrained be released, and such order will be a sufficient warrant to any governor of a prison, constable or other person for the release of the person under restraint.

(2) Where such an application in criminal proceedings is heard by a Judge and the Judge does not order the release of the person restrained, he will direct that the application be made by claim form to a panel of at least 2 Judges in the Senior Judges' Court.

Procedure at hearing of application

27. Where a habeas corpus order is ordered to issue, the court or Judge by whom the order is made will give directions as to the court or Judge before whom, and the date on which, the order is returnable.

Service of Order

28. (1) Subject to paragraphs (2) and (3), a habeas corpus order ad subjiciendum must be served personally on the person to whom it is directed.

(2) If it is not possible to serve such an order personally, or if it is directed to a governor of a prison or other public official, it must be served by leaving it with a servant or agent of the person to whom the order is directed at the place where the person restrained is confined or restrained.

(3) If the order is directed to more than one person, it must be served in a manner provided by this rule on the first person named in it, and copies must be served on each of the other persons in the same manner as the order.

(4) The court will serve with the order a notice stating the court or Judge before whom and the date on which the person restrained is to be brought and that in default of obedience proceedings for committal of the party disobeying will be taken.

Return of the claim form

29. (1) The return to an order of habeas corpus must be indorsed on or annexed to the order and must state all the causes of the detainer of the person restrained.

(2) The return may be amended, or another return substituted therefore, by permission of the court or Judge before whom the order is returnable.

Form of application

30. When a return to an order of habeas corpus is made, the return will first be read, and motion then made for discharging or remanding the person restrained or amending or quashing the return, and where that person is brought up in accordance with the order, his advocate will be heard first, then the counsel for the Crown, and then one counsel for the person restrained in reply.

Application form for prisoner to give evidence

31. An application for an order to bring up a prisoner, otherwise than by order of habeas corpus, to give evidence in any proceedings, civil or criminal, before any court, tribunal or justice, may be made on witness statement or affidavit to a Judge.

JUDICIAL REVIEW CLAIM FORM

The claim form to commence an application for judicial review is set out below.

Judicial Review

Claim Form

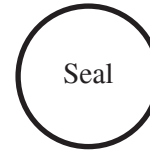
[Rule 7]

Notes for guidance are available which explain how to complete the judicial review claim form.

Please read them carefully before you complete the form.

<i>For Court use only</i>	
Court Reference no.	
Date filed	

In the Senior Judges' Court of the Sovereign Base Areas



SECTION 1 Details of the claimant(s) and defendant(s)

Claimant(s) name and address(es)

Name	
Address	
Telephone no.	Fax no.
E-mail address	

Claimant's or claimant's advocates' address to which documents should be sent.

Name	
Address	
Telephone no.	Fax no.
E-mail address	

Claimant's Counsel's details

Name	
Address	
Telephone no.	Fax no.
E-mail address	

1st Defendant

Name

Defendant's or (where known) defendant's advocates' address to which documents should be sent.

Name	
Address	
Telephone no.	Fax no.
E-mail address	

2nd Defendant

Name

Defendant's or (where known) defendant's advocates' address to which documents should be sent.

Name	
Address	
Telephone no.	Fax no.
E-mail address	

SECTION 2 Details of other interested parties

Include name and address and, if appropriate, details of telephone or fax numbers and e-mail

Name	
Address	
Telephone no.	Fax no.
E-mail address	

Name	
Address	
Telephone no.	Fax no.
E-mail address	

SECTION 3 Details of the decision to be judicially reviewed

Decision
Date of decision

Name and address of the court, tribunal, person or body who made the decision to be reviewed.

Name

Address

SECTION 4 Permission to proceed with a claim for judicial review

I am seeking permission to proceed with my claim for Judicial Review

Are you making any other applications? If Yes, complete Section 7.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are you claiming exceptional urgency, or do you need this application determined within a certain time scale? If Yes, complete Form [] and file this with your application.	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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Does the claim include any issues arising from the Human Rights Ordinance 2004? If yes, state the articles which you contend have been breached in the space below.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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SECTION 5 Detailed statement of grounds

Set out below

Attached

SECTION 6 Details of remedy (including any interim remedy) being sought

SECTION 7 Other applications

I wish to make an application for:-

SECTION 8 Statement of facts relied on

[Empty box for statement of facts]

Statement of Truth

I believe(The Claimant believes) that the facts stated in this claim form are true.

Full name

Name of claimant's advocate's firm

Signed Position or office held.....
Claimant('s advocate) (if signing on behalf of firm or company)

SECTION 9 Supporting documents

If you do not have a document that you intend to use to support your claim, identify it, give the date when you expect it to be available and give reasons why it is not currently available in the box below.

Please tick the papers you are filing with this claim form any you will be filing later.

- | | | | | | |
|--------------------------|--|--------------------------|----------|--------------------------|----------|
| <input type="checkbox"/> | Statement of grounds | <input type="checkbox"/> | included | <input type="checkbox"/> | attached |
| <input type="checkbox"/> | Statement of the facts relied on | <input type="checkbox"/> | included | <input type="checkbox"/> | attached |
| <input type="checkbox"/> | Application to extend the time limit for filing the claim form | <input type="checkbox"/> | included | <input type="checkbox"/> | attached |
| <input type="checkbox"/> | Application for directions | <input type="checkbox"/> | included | <input type="checkbox"/> | attached |
| <input type="checkbox"/> | Any written evidence in support of the claim or application to extend time | | | | |
| <input type="checkbox"/> | Where the claim for judicial review relates to a decision of a Court or tribunal, an approved copy of the reasons for reaching that decision | | | | |
| <input type="checkbox"/> | Copies of any documents on which the claimant proposes to rely | | | | |
| <input type="checkbox"/> | A copy of the legal aid certificate (<i>if legally represented</i>) | | | | |
| <input type="checkbox"/> | Copies of any relevant statutory material | | | | |
| <input type="checkbox"/> | A list of essential documents for advance reading by the Court (<i>with page references to the passages relied upon</i>) | | | | |

Reasons why you have not supplied a document and date when you expect it to be available:-

Signed Claimant('s Advocate)

Notes

- (a) Ordinance 10/04.
- (b) Subsidiary Legislation of Cyprus revised edition volume 1, 1954, page 120, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68).
- (c) Ordinance 9/04.
- (d) Public Instrument 25/05.

JUDICIAL REVIEW ACKNOWLEDGEMENT OF SERVICE

The form for acknowledgement of service in judicial review is set out below.

Judicial Review
Acknowledgment of Service

[Rule 9]

Name and address of person to be served

Name
Address

In the Senior Judges' Court of the Sovereign Base Areas	
Claim No.	
Claimant(s) <i>(including ref.)</i>	
Defendant(s)	
Interested Parties	

SECTION A

Tick the appropriate box

- | | | | |
|---|--------------------------|---|---------------------------------|
| 1. I intend to contest all of the claim | <input type="checkbox"/> | } | complete sections B, C, D and E |
| 2. I intend to contest part of the claim | <input type="checkbox"/> | } | |
| 3. I do not intend to contest the claim | <input type="checkbox"/> | | complete section E |
| 4. The defendant (interested party) is a court or tribunal and intends to make a submission. | <input type="checkbox"/> | | complete sections B,C and E |
| 5. The defendant (interested party) is a court or tribunal and does not intend to make a submission. | <input type="checkbox"/> | | complete sections B and E |

Note: If the application seeks to judicially review the decision of a Court or tribunal, the Court or tribunal need only provide the Court with as much evidence as it can about the decision to help the Court perform its judicial function.

SECTION B

Insert the name and address of any person you consider should be added as an interested party.

Name	
Address	
Telephone no.	Fax no.
E-mail address	

Name	
Address	
Telephone no.	Fax no.
E-mail address	

SECTION C

Summary of grounds for contesting the claim. If you are contesting only part of the claim, set out which part before you give your grounds for contesting it. If you are a court or tribunal filing a submission, please indicate that this is the case.

SECTION D

Give details of any directions you will be asking the court to make, or tick the box to indicate that a separate application notice is attached.

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SECTION E

<p>*delete as appropriate</p>	<p>* (I believe)(The defendant believes) that the facts stated in this form are true.</p> <p>* I am duly authorised by the defendant to sign this statement.</p>	<p>(if signing on behalf of firm or company, court or tribunal)</p>	<p>Position or Office held</p>
<p>(To be signed by you or by your solicitor or litigation friend)</p>	<p>Signed</p>		<p>Date</p>

Give an address to which notices about this case can be sent to you

Name	
Address	
Telephone no.	Fax no.
E-mail address	

If you have instructed counsel, please give their name address and contact details below.

Name	
Address	
Telephone no.	Fax no.
E-mail address	

Completed forms, together with a copy, should be lodged with the Office of the Senior Registrar, HM Court of the Sovereign Base Areas, Block A, Episkopi B F P O 53, within 21 days of service of the claim upon you, and further copies should be served on the Claimant(s), any other Defendant(s) and any interested parties within 7 days of lodgement with the Court.

Dated this 23rd day of April 2007.

By the Administrator's Command,

P. D. Draycott,
Chief Officer,

Sovereign Base Areas.

(SBA/AG/2/CT/260/1)

EXPLANATORY NOTE

(This note is not part of the Rules)

Introduction

1. These explanatory notes relate to the Judicial Review Rules 2007. They have been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Rules. They do not form part of the Rules.
2. The notes need to be read in conjunction with the Rules. They are not, and are not meant to be, a comprehensive description of the Rules. When a section or part of a section does not seem to require any explanation or comment, none is given.

The Rules

3. The Rules establish the procedure where there is an application for Judicial Review, or for an Order of Habeas Corpus, made under the Judicial Review Ordinance (Ordinance 10 of 2004).
4. The time limit for an application for Judicial Review is up to 3 months after the grounds to make the application first arose (rule 6(1)). The time limit may be extended if the court sees fit (rule 6(3)).
5. The rules provide that claims must be brought using the form specified (rule 7), and that a defendant must acknowledge service of the claim also using a specific form (rule 9).
6. Where it appears that an application in the Judge's Court may raise an issue of judicial review, the Court may order the transfer of the action to the Senior Judge's Court for the Judicial Review issue to be heard (rule 20).
7. The procedure for appeals against a refusal to grant leave to apply for Judicial Review are set out at rule 21, and for appeals against a decision to grant or refuse a Judicial Review Order are set out at rule 22.
8. The rules also establish the procedure to be used where there is an application for a Habeas Corpus Order.