

Uganda

Judicature Act

Judicature (Judicial Review) Rules, 2009

Statutory Instrument 11 of 2009

Legislation as at 31 May 2019

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Judicature (Judicial Review) Rules, 2009

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Judicature Act
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[Amended by Judicature (Judicial Review) (Amendment) Rules, 2019 (Statutory Instrument 32 of 2019) on 31 May 2019]

IN EXERCISE of the powers conferred upon the Rules Committee and Chief Justice by Sections 41 and 42 of the Judicature Act, these Rules are made this 29th day of July, 2008.

Part I – Preliminary

1. Title

These Rules may be cited as the Judicature (Judicial Review) Rules, 2009.

1A. Objectives

The objectives of these Rules are—

- (a) to ensure that individuals receive fair treatment by the authorities to which they have been subjected;
- (b) to ensure that public powers are exercised in accordance with the basic standards of legality, fairness and rationality and that the opinion of an individual judge, is not construed as that of the authority;
- (c) to ensure clarity, consistency and uniformity in the handling of applications for judicial review; and
- (d) to ensure adherence to the constitutional right to a fair trial and expeditious hearing.

[section 1A inserted by section 2 of Statutory Instrument 32 of 2019]

2. Interpretation

- (1) In these Rules, unless the context otherwise requires—

"**certiorari**" means an order by court to quash a decision which is *ultravires*;

[definition of "certiorari" inserted by section 3 of Statutory Instrument 32 of 2019]

"**Civil Division of the High Court**" means the administrative arrangement by which civil court matters are assigned to a Judge of the High Court sitting in Kampala or at a High Court in any other part of Uganda;

"**Commercial Court**" means the administrative arrangement by which commercial court matters are assigned to a Judge of the High Court sitting in Kampala or at a High Court in any other part of Uganda;

"Court" or "Lower Courts" means any subordinate court established by law; the Industrial Court; tribunals established by law, and any other similar bodies;

"Criminal Division of the High Court" means the administrative arrangement by which criminal matters are assigned to a judge of the High Court sitting in Kampala or at a High Court in any other part of Uganda;

"declaration" means a pronouncement by court on the legal position of a party, after considering the evidence and applying the law and that evidence to an existing legal situation;

[definition of "declaration" inserted by section 3 of [Statutory Instrument 32 of 2019](#)]

"High Court" means the High Court as provided for by article 138 of the Constitution, sitting in Kampala and any other places appointed for the sitting of the High Court;

"judicial review" means the process by which the High Court exercises its supervisory jurisdiction over the proceedings and decisions of subordinate courts, tribunals and other bodies or persons who carry out quasi-judicial functions or who are charged with the performance of public acts and duties;

[definition of "judicial review" inserted by section 3 of [Statutory Instrument 32 of 2019](#)]

"mandamus" means a court order issued to compel performance by public officers of statutory duties imposed on them;

[definition of "mandamus" inserted by section 3 of [Statutory Instrument 32 of 2019](#)]

"prohibition" means an order issued by court to forbid some act or decision which would be ultra vires;

[definition of "prohibition" inserted by section 3 of [Statutory Instrument 32 of 2019](#)]

"public body" includes—

- (a) the Government, any department, services or undertaking of the Government;
- (b) the East African Community, its institutions and corporations;
- (c) the Cabinet, Parliament, any court;
- (d) District Administration, a District Council, any district committee of a district council, a local council and any committee of a local council;
- (e) any corporation, committee, board, commission or similar body whether corporate or incorporate established by an Act of Parliament for the purposes of any written relating to the public health or public undertakings of public utility, education or for promotion of sports, literature, science, arts or any other purpose for the benefit of the public or any section of the public or any section of the public to administer funds or property belonging to or granted by the Government or the East African Community, its institutions or its corporations or money raised by public subscription or its corporations or money raised by public subscription, rates, taxes, cess or charges in pursuance of any written law;
- (f) a political party, a trade union, a society registered under the Cooperative Societies Act and any council, board, committee or society established by an Act of Parliament for the benefit, regulation and control of any profession and non-governmental organisations.

[definition of "public body" inserted by section 3 of [Statutory Instrument 32 of 2019](#)]

"Registry of the High Court" means the Registry of the High Court at Kampala and the Registry of a High Court appointed for the sitting of the High Court in any other part of Uganda.

- (2) Where no civil or commercial court exists in any place, a reference to the court means the High Court.

Part II – Judicial review

3. Cases appropriate for judicial review

- (1) An application for—
- (a) an order of mandamus, prohibition or certiorari; or
 - (b) an injunction under section 38(2) of the Judicature Act restraining a person from acting in any office in which the person is not entitled to act,
- shall be made by way of an application for judicial review in accordance with these Rules.
- (2) An application for a declaration or an injunction (not being an injunction mentioned in subrule (1) (b)) may be made by way of application for judicial review, and on such an application, the High Court may grant the declaration or injunction claimed if it considers that, having regard to—
- (a) the nature of the matter in respect of which relief may be granted by way of an order of mandamus, prohibition or certiorari;
 - (b) the nature of the persons and bodies against whom relief 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.

3A. Application for judicial review

Any person who has a direct or sufficient interest in a matter may apply for judicial review.

[section 3A inserted by section 4 of [Statutory Instrument 32 of 2019](#)]

4. Joinder of claims for relief

On any application for judicial review, any relief mentioned in rule 3(1) or 3(2) may be claimed as an alternative to any other relief so mentioned if it arises out of, or relates to, or is connected with the same matter.

5. Time for applying for judicial review

- (1) An application for judicial review shall be made promptly and in any event within three months from the date when the grounds of 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 the relief sought is an order of certiorari in respect of any judgment, order, conviction or other proceedings, the date when the grounds for the application first arose shall be taken to be the date of that judgment, order, conviction or proceedings if that decision is delivered in open court, but where the judgment, order, conviction or proceedings is ordered to be sent to the parties, or their advocates, (if any), the date when the decision was delivered to the parties, their advocates or prison officers, or sent by registered post.
- (3) This rule shall apply, without prejudice, to any statutory provision which has the effect of limiting the time within which an application for judicial review may be made.

6. Mode of applying for judicial review

- (1) In any criminal or civil cause or matter, an application for judicial review shall be made by notice of motion in the form specified in the Schedule to these Rules.
- (2) The notice of motion must be served on all persons directly affected and where it relates to any proceedings in or before a lower Court and the object of the application is either to compel the lower Court or an officer of the lower Court to do an act in relation to the proceedings or to quash them or any order made in the proceedings, the notice or summons shall also be served on the Registrar of the Court and, where any objection to the conduct of the Presiding Officer is to be made, on the Presiding Officer.
- (3) Unless the Court has otherwise directed, there shall be at least ten days between the service of the notice of motion and the hearing.
- (4) A motion shall be fixed for hearing within fourteen days after service of the notice of motion.
- (5) 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 shall be filed before the motion is fixed for hearing and, if any person who ought to be served under the rule has not been served, the affidavit shall state that fact and the reason for it; and the affidavit shall be before the Court on the hearing of the motion.
- (6) If, on the hearing of the motion, the Court is of the 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 of the motion may be served on that person.

7. Motion and affidavit

- (1) The Court may, on the hearing of the motion, allow the applicant to amend his or her motion, whether by specifying different additional grounds or reliefs 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 any affidavit of any other party to the application.
- (2) Where the applicant intends to ask to be allowed to amend his or her motion or to use further affidavits, he or she shall give notice of his or her intention and of any proposed amendment, to every other party.
- (3) Any respondent who intends to use any affidavit at the hearing shall file it with the Registrar of the High Court as soon as practicable and in any event, unless the Court otherwise directs, within fifty six days after service upon the respondent of the documents required to be served by subrule (1).
- (4) Each party to the application shall supply to every other party on demand and on payment of the proper charges, copies of every affidavit which he or she proposes to use at the hearing.

7A. Factors to consider in handling applications for judicial review

- (1) The court shall, in considering an application for judicial review, satisfy itself of the following—
 - (a) that the application is amenable for judicial review;
 - (b) that the aggrieved person has exhausted the existing remedies available within the public body or under the law; and
 - (c) that the matter involves an administrative public body or official.

- (2) The court shall grant an order for judicial review where it is satisfied that the decision making body or officer did not follow due process in reaching a decision and that, as a result, there was unfair and unjust treatment.

[section 7A inserted by section 5 of [Statutory Instrument 32 of 2019](#)]

7B. Time for disposal

An application for judicial review shall be disposed of within ninety days from the date of filing the application.

[section 7B inserted by section 5 of [Statutory Instrument 32 of 2019](#)]

8. Claims for damages

- (1) On an application for judicial review the court may, subject to subrule (2), award damages to the applicant, if—
 - (a) he or she has included in the motion in support of his or her application 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 an action begun by the applicant at the time of making his or her application, he or she could have been awarded damages.
- (2) Rules 1 to 5 of Order VI of the Civil Procedure Rules shall be applied to a statement relating to a claim for damages as they apply to a pleading.

9. Application for discovery, interrogations, cross-examination, etc.

- (1) Unless the court otherwise directs, any interlocutory application in proceedings on an application for judicial review may be made to any judge, notwithstanding that the application for judicial review has been made by motion and is to be heard by the Criminal Division of the High Court.
- (2) This rule does not apply to any statutory provision or rule of law restricting the making of an order against the Government of Uganda.
- (3) In this rule, "interlocutory application" includes an application for an order under Order X or XVII of the Civil Procedure Rules for an order dismissing the proceedings by consent of the parties.

10. Hearing of applications for judicial review

- (1) On the hearing of any motion under rule 6, any person who desires to be heard in opposition to the motion and appears to the court to be a proper person to be heard, shall be heard, notwithstanding that he or she has not been served with notice of the motion or the summons.
- (2) When 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 of commitment, conviction, inquisition or record unless, before the hearing of the motion or summons, he or she has lodged with the Registrar of the High Court, a copy of the order verified by affidavit or accounts for the failure to do so to the satisfaction of the High Court hearing the motion or summons.
- (3) Where an order for certiorari is in any such case as is referred to in subrule (2), the order shall, subject to subrule (4), direct that the proceedings shall be immediately quashed or removed into the High Court.
- (4) Where the relief sought is an order of certiorari and the High Court is satisfied that there are grounds for quashing the decision to which the application relates, the Court may, in addition to quashing the decision, remit the matter to the lower Court, tribunal or authority concerned, with a direction to reconsider it and reach a decision in accordance with the findings of the High Court.

Part III – Miscellaneous

11. Revocation

The Law Reform (Miscellaneous Provisions) (Rules of Court) Rules, S.I No. 79-1 are revoked.

Schedule (Rules 6, 7 and 8)

Application for Judicial Review

The Judicature (Judicial Review) Rules, 2009

Notice of motion

Take notice that the Court will be moved on the ___ day of _____, 20__ or as soon as Counsel for the applicant can be heard on the applicant's behalf for an order for judicial relief(s) (specify relief sought e.g order of mandamus, certiorari etc).

Take further notice that the grounds for the application are as follows

_____ (state grounds).

And take notice that the costs of and occasioned by this motion be provided by the respondent or as the court may direct.

And take notice on the hearing of this motion, the applicant will use the affidavit and exhibits, copies of which accompany this motion.

Date this ___ day of _____ 20__

To: Advocate for Respondent

Signed: _____

Applicant of Advocate for Applicant

Given under my hand and the Seal of this Court this ___ day of _____ 20__
