

S T A T U T O R Y I N S T R U M E N T S

2009 No. 11.

THE JUDICATURE (JUDICIAL REVIEW) RULES, 2009.

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STATUTORY INSTRUMENTS

2009 No. 11.

The Judicature (Judicial Review) Rules, 2009.

(Under sections 41 and 42 of the Judicature Act, Cap. 13)

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.

2. Interpretation.

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

“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;

“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;

“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.

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.

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 hering 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 nd the Seal of this Court this day of 20.....

.....
Registrar

B.J. ODOKI,
Chief Justice.