

LEGAL NOTICE NO. 184

REPUBLIC OF TRINIDAD AND TOBAGO

THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01

RULES OF COURT

MADE BY THE RULES COMMITTEE UNDER SECTION 78 OF THE SUPREME COURT OF JUDICATURE ACT AND PURSUANT TO SECTION 24 OF THE JUDICIAL REVIEW ACT, 2000

THE SUPREME COURT OF JUDICATURE (JUDICIAL REVIEW) (AMENDMENT) RULES, 2002

1. These Rules may be cited as the Supreme Court of Judicature (Judicial Review) (Amendment) Rules, 2002, and shall be read as one with the Rules of the Supreme Court, 1975.

2. Order 53 is revoked and replaced by the following:

Order 53
revoked and
replaced

“ORDER 53

APPLICATIONS FOR JUDICIAL REVIEW

Interpretation 1. In this Order ‘the Act’ means the Judicial Review Act, 2000.

Application 2. An application for judicial review shall be made in accordance with this Order.

Grant of leave to apply for judicial review

3. (1) Subject to section 5(5) of the Act, 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 leave shall be made *ex parte* to the High Court, except in vacation when it may be made to a Judge in Chambers, and be supported—

(a) by a statement setting out—

- (i) the name and description of the applicant;
- (ii) the applicant’s address for service;
- (iii) the relief sought, including any interim relief;
- (iv) the grounds on which it is sought;

- (v) particulars of damages, where appropriate;
 - (vi) whether or not an alternative form of redress exists and, if so, why leave should be granted;
 - (vii) the reason for the delay, if any, in making the application; and
 - (viii) the facts which entitle the applicant to make the application; and
- (b) by affidavit to be filed before the application is made, verifying the facts relied on.

(3) The applicant shall file his application for leave not later than the day before the application is made and at the same time lodge with the Registrar or appropriate Assistant Registrar copies of the statement and every affidavit in support.

(4) Without prejudice to its powers under Order 20, rule 8, the Court hearing an application for leave may allow the applicant's statement to be amended, whether by specifying different or additional grounds or relief or otherwise, on such terms, if any, as it thinks fit.

(5) Where leave is sought to apply for judicial review of any judgment, 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.

(6) Where the Court grants leave, it may impose such terms as to costs and the giving of security as it thinks fit.

(7) Where leave to apply for judicial review is granted, then—

- (a) if the relief sought is an order of prohibition or certiorari and the Court so directs, the grant shall operate as a stay of the proceedings to which the application relates until the determination of the application or until the Court otherwise orders;
- (b) if any other relief is sought, the Court may at any time grant in the proceedings such interim relief as could be granted in an action begun by writ.

Mode of applying for judicial review

4. (1) Subject to section 5(5) of the Act, when leave has been granted to make an application for judicial review, the application shall be made by originating motion to the High Court, except in vacation when it may be made by originating summons to a Judge in Chambers.

(2) The notice of motion or summons shall 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 shall also be served on the clerk or other appropriate officer of the court and, where any objection to the conduct of the judge or other person presiding over such court is to be made, on the judge or other person.

(3) Unless the Court granting leave has otherwise directed, there shall be at least ten days between the service of the notice of motion or summons and the day named therein for the hearing.

(4) A motion shall be entered for hearing within fourteen days after the grant of leave.

(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 or summons shall be filed before the motion or summons is entered for hearing and, if any person who ought to be served under this 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 or summons.

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

Statements and affidavits

5. (1) Copies of the statement in support of an application for leave under rule 3 shall be served with the notice of motion or summons and, subject to subrule (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 to amend his statement, whether by specifying different or additional grounds or relief, or otherwise, on such terms, if any, as it thinks fit, and may allow further affidavits to be used by him.

(3) Where the applicant intends to seek 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.

(4) Any respondent who intends to use an affidavit at the hearing shall file it in the Registry or appropriate Sub-Registry and give notice thereof to the applicant as soon as practicable and in any event unless the Court otherwise directs, within twenty-eight days after service upon him of the documents required to be served by subrule (1).

(5) 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 proposes to use at the hearing, including, in the case of the applicant, the affidavit in support of the application for leave under rule 3.

Interlocutory applications

6. (1) Subject to rule 3(2), unless the Court otherwise directs, any interlocutory application in proceedings on an application for judicial review may be made to a Judge in Chambers.

(2) This rule is without prejudice to any statutory provision or rule of law restricting the making of an order against the State.

Hearing of application for judicial review

7. (1) On the hearing of any motion or summons under rule 4, any person who desires to be heard in opposition to the motion or summons 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 motion or the summons.

(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, commitment, conviction, inquisition or record unless before the hearing of the motion or summons he has lodged with the Registrar a copy thereof verified by affidavit or accounts for his failure to do so to the satisfaction of the Court hearing the motion or summons.

(3) Where an order of certiorari is made in any such case as is referred to in subrule (2), the order shall, subject to subrule (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 redress sought is capable of being provided by a declaration, injunction or damages and the Court considers that for the reasons mentioned in section 12 of the Act or for any other reason, such redress should not or cannot be granted on an application for judicial review but might have been granted in an action begun by writ 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 begun by writ; and Order 28, rule 8, shall apply, as if, in the case of an application made by motion, it had been made by summons.

Saving for person acting in obedience to mandamus

8. No action or proceedings shall be commenced or prosecuted against any person in respect of anything done in obedience to an order of mandamus.

Consolidation of applications

9. Where there is more than one application pending under section 18 of the Act against several persons in respect of the same office, and on the same grounds, the Court may order the applications to be consolidated.

Entry of motion

10. (1) Entry of a motion in proceedings to which this Order applies shall be made when a copy of the notice of motion and any other documents required to be lodged before entry, have been lodged in the Registry or appropriate Sub-Registry, as the case may be.

(2) The party entering the motion for hearing shall leave a copy of the proceedings for the use of the Judge.

Directions

11. Nothing herein contained shall prevent the Court from making such orders or giving such directions as may be appropriate in the circumstances for the just, convenient and expeditious hearing and determination of any application for judicial review.

Meaning of 'Court'

12. In relation to the hearing by a Judge of an application for leave under rule 3 or of an application for judicial review, any reference in this Order to 'the Court' shall, unless the context otherwise requires, be construed as a reference to the Judge."

Made by the Rules Committee this 28th day of May, 2002.

M. DE LA BASTIDE
Chief Justice

R. HAMEL-SMITH
Justice of Appeal

P. JAMADAR
Judge of the High Court

R. DOYLE
Master of the High Court

G. MOREAN-PHILLIP
Attorney General

P. PIERRE
Acting Registrar, Supreme Court

A. FITZPATRICK
Attorney-at-law

G. ARMORER
Attorney-at-law

Laid in the House of Representatives this 23rd day of May, 2003.

J. SAMPSON-JACENT
Clerk of the House

Laid in the Senate this 16th day of September, 2003.

D. DOLLY
Clerk of the Senate