

RULE 54 – APPLICATION FOR JUDICIAL REVIEW

Application of rule

- (1) Applications for judicial review of administrative action seeking relief in the nature of declaration, injunction, *mandamus*, prohibition, *certiorari* or *habeas corpus* are governed by this rule.

Writs abolished

- (2) No writ of *mandamus*, prohibition, *certiorari*, or *habeas corpus* shall be issued but all necessary directions shall be made by order.

Form of application for judicial review

- (3) An application for judicial review is an originating application and shall be commenced by a petition in Form 2, setting out
 - (a) the names of the petitioner and respondent,
 - (b) the decision and decision-maker in respect of which the application is made,
 - (c) the date and details of any decision in respect of which judicial review is sought and the date on which it was first communicated to the petitioner,
 - (d) a precise statement of the relief sought,
 - (e) a complete and concise statement of the grounds intended to be argued, including a reference to any statutory provision or rule to be relied upon, and
 - (f) a list of the documentary evidence to be used at the hearing of the application.

Limited to single order

- (4) Unless the court orders otherwise, an application for judicial review shall be limited to a single decision in respect of which relief is sought and need not specify the relief set out in subrule (1).

Respondents

- (5) An applicant shall name as a respondent every person directly affected by the order sought in the application, including the decision-maker in respect of which the application is brought and every person required to be named as a party under the statute pursuant to which the application is brought.

Service of notice of application

- (6) Unless the Court directs otherwise, within 10 days after the issuance of a petition, the applicant shall serve it upon

- (a) all respondents,
- (b) the decision-maker in respect of which the application is brought,
- (c) any other person who participated in the proceeding before the decision-maker in respect of which the application is made,
- (d) the Government of Yukon, and
- (e) where the application is made under a statute,
 - (i) the official appointed under that statute, and
 - (ii) any other person required to be served under that statute.

Person affected may take part in proceeding

- (7) The court may order that a person who may be affected by a proceeding for an order in the nature of *mandamus* may take part in the proceeding to the same extent as if served with the petition.

Case management

- (8) Either the applicant or a respondent may seek directions in a case management conference or at an appearance day.
- (9) The court may order that a case management conference be held.

Appearance and response

- (10) A respondent who intends to oppose an application shall file and serve an appearance in Form 9 and a response in Form 11 within the time set out in the petition.

Applicant's affidavits

- (11) Within 30 days after issuance of a petition, an applicant shall serve and file its supporting affidavits and documentary exhibits.

Respondent's affidavits

- (12) Within 30 days after service of the applicant's affidavits, a respondent shall serve and file any supporting affidavits and documentary exhibits.

Cross-examinations

- (13) The applicant or a respondent may apply for the right to cross-examine.

Setting the application down for hearing

- (14) The applicant or a respondent shall follow the procedure in Rule 48 to set the application for judicial review for hearing.

Preparation by decision-maker

- (15) The court may order the decision-maker to prepare a record of the proceeding to be reviewed.

Additional steps

- (16) With leave of the court, a party may
 - (a) file additional affidavits,
 - (b) conduct cross-examinations on additional affidavits, or
 - (c) file a supplementary record.

Requirement to file additional material

- (17) Where the court considers that the record is incomplete, the court may order that other material, including any portion of a transcript, be filed.

Testimony regarding issue of fact

- (18) On application, the court may, in special circumstances, authorize a witness to testify in court in relation to an issue of fact raised in an application.

Material from tribunal

- (19) A party may request material relevant to an application that is in the possession of a decision-maker whose order is the subject of the application and not in the possession of the party, by filing with the registry a written request, identifying the material requested and serving a copy of the written request on the decision-maker.

Request in petition

- (20) An applicant may include a request under subrule (19) in its petition.

Service of request

- (21) If an applicant does not include a request under subrule (20) in its petition, the applicant shall serve the request on the other parties.

Material to be transmitted

- (22) Within 20 days after service of a request under subrule (19), the decision-maker

shall transmit

(a) a certified copy of the requested material to the registry and to the party making the request, or

(b) where the material cannot be reproduced, the original material to the registry.

Objection by decision-maker

(23) Where a decision-maker or party objects to a request under subrule (19), the decision-maker or the party shall inform all parties and the clerk, in writing, of the reasons for the objection.

Directions as to procedure

(24) The court may give directions to the parties and to a decision-maker as to the procedure for making submissions with respect to an objection under subrule (23).

Order

(25) The court may, after hearing submissions with respect to an objection under subrule (23), order that a certified copy, or the original, of all or part of the material requested be forwarded to the registry.

Return of material

(26) Unless the court directs otherwise, after an application has been heard, the clerk shall return to a decision-maker any original material received from it under subrules (22) (b) and (25).