

RULE 54 – APPLICATION FOR JUDICIAL REVIEW

Application of rule

- (1) Applications for judicial review of administrative decisions seeking relief in the nature of declaration, injunction, *mandamus*, prohibition, *certiorari* or *habeas corpus* must be brought under this rule, except by leave of the court.

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 an Application for Judicial Review in Form 2A, setting out:
 - (a) the names of the applicant and respondent;
 - (b) the decision and decision-maker in respect of which the application is made;
 - (c) the date and details of the decision in respect of which judicial review is sought and the date on which it was first communicated to the applicant;
 - (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 decision

- (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 and every person required to be named as a party under the statute pursuant to which the application is brought.
 - (5.1) Where in an application for judicial review there are no persons that can be named under Rule 54(5), the applicant shall name the decision-maker in respect of which the application is made as a respondent

Filing of Application for Judicial Review and Affidavits

- (5.2) Unless the court directs otherwise, the applicant shall file the application for judicial review and supporting affidavits at the same time.

Service of application for judicial review

- (6) Unless the Court directs otherwise, within 10 days after the filing of an Application, 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.

Appearance and response

- (6.1) A respondent who intends to oppose an application for judicial review shall file and serve an Appearance in Form 9 and a Response in Form 11 within the time set out in the application for judicial review.

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 application for judicial review.

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.
- (10) [repealed by O.I.C. 2022/168]

Applicant's affidavits

- (11) Within 30 days after issuance of an application, an applicant shall file and serve its

supporting affidavits and documentary exhibits.

Respondent's affidavits

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

Cross-examination on affidavits

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

Additional steps

- (14) 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.

Preparation by decision-maker

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

Requirement to file additional material

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

Setting the application down for hearing

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

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 for judicial review 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 application for judicial review

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

Service of request

- (21) If an applicant does not include a request under subrule (20) in its application, 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 for judicial review has been heard, the clerk shall return to a decision-maker any original material received from it under subrules (22)(b) and (25).