



Statutory Document No. 95/07

HIGH COURT ACT 1991

THE RULES OF THE HIGH COURT (AMENDMENT) 2007

Laid before Tynwald 20th March 2007
Coming into operation in accordance with rule 1

In exercise of the powers conferred on the Deemsters by section 25 of the High Court Act 1991¹, and of all other enabling powers, the following Rules are hereby made:—

1. Citation and commencement

These Rules may be cited as the Rules of the High Court (Amendment) 2007 and shall come into operation on the date on which they are made.

2. Claims under Human Rights Act 2001

After Order 37 of the Rules of the High Court of Justice 1952 there is inserted the following Order —

"ORDER 37A HUMAN RIGHTS ACT 2001

1. Allocation of proceedings

The High Court is the appropriate court or tribunal for the purpose of paragraph (a) of section 7(1) of the Human Rights Act 2001² (claim that public authority has contravened Convention right).

2. Human rights — notice to Attorney General

(1) The Court may not make a declaration of incompatibility in accordance with section 4 of the Human Rights Act 2001 unless 21 days' notice, or such other period of notice as the Court directs, has been given to the Attorney General.

(2) Where notice has been given to the Attorney General he, or a person nominated by him, shall be joined as a party on giving notice to the Court.

(3) Where a claim is made under that Act for damages in respect of a judicial act, the party by whom the claim is made must give notice to the Attorney General.

(4) Where paragraph (3) applies and the Attorney General, or a person nominated by him, has not applied to be joined as a party within 21 days, or such other period as the Court directs, after the notice is served, the Court may join the Attorney General as a party.

¹ 1991 c.12

² 2001 c.1

Price 65p

(5) A notice to the Attorney General under this rule must include any directions given by the Court and be accompanied by copies of all the pleadings.

(6) A copy of every notice under this rule must be served on all the parties.

3. Pleading human rights claim

A party who seeks to rely on any provision of or right arising under the Human Rights Act 2001 or seeks a remedy available under that Act –

- (1) must state that fact in his pleading; and
- (2) must in his pleading –
 - (a) give precise details of the Convention right which it is alleged has been infringed and details of the alleged infringement;
 - (b) specify the relief sought;
 - (c) state if the relief sought includes–
 - (i) a declaration of incompatibility in accordance with section 4 of that Act, or
 - (ii) damages in respect of a judicial act to which section 9(3) of that Act applies;
 - (d) where the relief sought includes a declaration of incompatibility in accordance with section 4 of that Act, give precise details of the legislative provision alleged to be incompatible and details of the alleged incompatibility;
 - (e) where the claim is founded on a finding of unlawfulness by another court or tribunal, give details of the finding; and
 - (f) where the claim is founded on a judicial act which is alleged to have infringed a Convention right of the party as provided by section 9 of the Human Rights Act 2001, the judicial act complained of and the court or tribunal which is alleged to have made it.

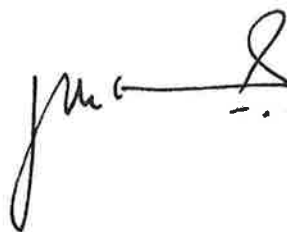
4. Prior finding of infringement of Article 5 right

- (1) This rule applies where a claim is –
 - (a) for a remedy under section 7 of the Human Rights Act 2001 in respect of a judicial act which is alleged to have infringed the claimant's rights under Article 5 of the Convention (right to liberty and security); and
 - (b) based on a finding by a court or tribunal that the claimant's Convention rights have been infringed.
- (2) The Court –
 - (a) may proceed on the basis of the finding of that other court or tribunal that there has been an infringement but it is not required to do so, and
 - (b) may reach its own conclusion in the light of that finding and of the evidence heard by that other court or tribunal.

5. Evidence of judgments etc.

Evidence of any judgment, decision, declaration or opinion of which account has to be taken by the Court under section 2 of the Human Rights Act 2001 shall be given by reference to any authoritative and complete report of the said judgment, decision, declaration or opinion and may be given in any manner."

MADE 7th February 2007



Her Majesty's First Deemster and Clerk of the Rolls



Second Deemster

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Rules of the High Court of Justice 1952 to make provision for claims under the Human Rights Act 2001. They provide that a claim that a public authority has contravened a Convention right is to be heard in the High Court, require notice of certain claims under the Act to be given to the Attorney General, require any claim under the Act to be specifically pleaded, and make provision for evidence of certain judgments etc.

