

- (b) 申請人尋求一項根據本條例第 21J 條授予的、禁制某人擔當他無權擔任的職位的強制令。
- (2) 在以下情況下，可提出司法覆核申請——
- (a) 申請人尋求一項宣布；或
- (b) 申請人尋求一項強制令（並非第 (1)(b) 款所述的強制令者）。
- (3) 司法覆核申請可包括要求判給損害賠償、復還或討回到期應付款項的申請，但不得只尋求該等補救。

(2008 年第 152 號法律公告)

2. 就濟助提出的申索的合併 (第 53 號命令第 2 條規則)

在申請司法覆核時，如申請是由同一事宜所引致或是與同一事宜有關或相關連，則第 1(1) 或 (2) 條規則所述的任何濟助，可代替或附加於該等規則所述的任何其他濟助而予以申索。

3. 批予許可以申請司法覆核 (第 53 號命令第 3 條規則)

- (1) 除非已按照本條規則取得法庭的許可，否則不得提出司法覆核申請。
- (2) 申請許可必須單方面提出，方式是將下列文件送交登記處存檔——
- (a) 一份採用附錄 A 表格 86 格式的通知書，而該通知書須載有以下事宜的陳述——
- (i) 申請人的姓名或名稱及描述；
- (ii) 答辯人的姓名或名稱及描述；
- (iii) 所尋求的濟助及尋求該濟助所據的理由；

- (b) an injunction under section 21J of the Ordinance restraining a person from acting in any office in which he is not entitled to act.
- (2) An application for judicial review may be made if the applicant is seeking—
- (a) a declaration; or
- (b) an injunction (not being an injunction mentioned in paragraph (1)(b)).
- (3) An application for judicial review may include an application for an award of damages, restitution or the recovery of a sum due but may not seek such a remedy alone.

(L.N. 152 of 2008)

2. Joinder of claims for relief (O. 53, r. 2)

On an application for judicial review any relief mentioned in rule 1(1) or (2) may be claimed as an alternative or in addition to any other relief so mentioned if it arises out of or relates to or is connected with the same matter.

3. Grant of leave to apply for judicial review (O. 53, r. 3)

- (1) 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 must be made ex parte by filing in the Registry—
- (a) a notice in Form No. 86 in Appendix A containing a statement of—
- (i) the name and description of the applicant;
- (ii) the name and description of the respondent;

- (iv) 申請人所知悉的有利害關係的各方 (如有的話) 的姓名或名稱及描述 ;
 - (v) 代表申請人的律師行 (如有的話) 的名稱及地址 ; 及
 - (vi) (如申請人沒有律師代表行事) 申請人的送達地址 ; 及 (2008 年第 152 號法律公告)
- (b) 核實所倚據的事實的誓章。
- (3) 除非申請通知書有請求進行聆訊，否則法官可在不進行聆訊的情況下就許可申請作裁定，並且無須在公開法庭上進行聆訊，但在任何情況下，司法常務官均須將法官的命令的文本送達申請人。 (1998 年第 25 號第 2 條；2008 年第 152 號法律公告)
 - (4) 凡申請許可遭一名法官拒准或在有條款施加的情況下獲批予，申請人可在該名法官作出命令後 14 天內，針對該命令而向上訴法庭提出上訴。 (1998 年第 25 號第 2 條；2008 年第 152 號法律公告；2017 年第 122 號法律公告)
 - (6) 在不損害第 20 號命令第 8 條規則所賦予的權力的原則下，聆訊申請許可的法庭，可容許申請人的陳述書按法庭認為適合的條款 (如有的話) 而作出修訂，不論是以指明不同或附加的理由或濟助的方式作出，或是以其他方式作出。
 - (7) 除非法庭認為申請人在申請所關乎的事宜中有足夠權益，否則不得批予許可。
 - (8) 凡有人尋求許可申請移審令，以移走某宗上訴所針對的判決、命令、定罪判決或其他法律程序，目的是為了將之撤銷，而提出該上訴是有時限的，則法庭可將該許可申請押後，直至該上訴已有裁定或上訴時限已屆滿為止。
 - (9) 法庭如批予許可，可施加其認為適合的關於訟費及提供保證的條款。
 - (10) 凡獲批予許可申請司法覆核，則 ——

- (iii) the relief sought and the grounds on which it is sought;
 - (iv) the name and description of all interested parties (if any) known to the applicant;
 - (v) the name and address of the applicant's solicitors (if any); and
 - (vi) if no solicitor acts for the applicant, the applicant's address for service; and (L.N. 152 of 2008)
- (b) an affidavit verifying the facts relied on.
- (3) The judge may determine the application for leave without a hearing, unless a hearing is requested in the notice of application, and need not sit in open court; and in any case the Registrar shall serve a copy of the judge's order on the applicant. (L.N. 152 of 2008)
 - (4) Where an application for leave is refused by a judge or is granted on terms, the applicant may appeal against the judge's order to the Court of Appeal within 14 days after such order. (L.N. 152 of 2008; L.N. 122 of 2017)
 - (6) Without prejudice to its powers conferred by 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 the Court thinks fit.
 - (7) The Court shall not grant leave unless it considers that the applicant has a sufficient interest in the matter to which the application relates.
 - (8) Where leave is sought to apply for an order of certiorari to remove for the purpose of its being quashed any judgment, order, conviction or other proceeding which is subject to appeal and a time is limited for the bringing of the appeal, the

- (a) 如所尋求的濟助是禁止令或移審令，而法庭指示批予該命令，則該項批予的作用即為將該申請所關乎的法律程序擱置，直至該申請已有裁定或法庭另有指示為止；
- (b) 如尋求任何其他濟助，法庭可在任何時間，在有關的法律程序中批予可在藉令狀開展的訴訟中批予的中期濟助。

4. 申請濟助的延遲 (第 53 號命令第 4 條規則)

- (1) 申請司法覆核的許可，須從速提出，並無論如何均須在申請理由首次出現的日期起計三個月內提出，但如法庭認為有好的理由延展提出該申請的期限，則屬例外。(1988 年第 356 號法律公告)
- (2) 凡所尋求的濟助是就任何判決、命令、定罪判決或其他法律程序作出移審令，則申請理由首次出現的日期，須視為該判決、命令、定罪判決或法律程序的日期。
- (3) 先前各款不損害任何具有限定提出司法覆核申請時限的效力的法定條文。

4A. 批予許可的命令的送達 (第 53 號命令第 4A 條規則)

- (1) 法庭凡批予對司法覆核申請的許可，亦可就管理有關案件作出指示。

Court may adjourn the application for leave until the appeal is determined or the time for appealing has expired.

- (9) If the Court grants leave it may impose such terms as to costs and as to giving security as it thinks fit.
- (10) 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.

4. Delay in applying for relief (O. 53, r. 4)

- (1) An application for leave to apply for judicial review shall be made promptly and in any event within three months from the date when grounds for the application first arose unless the Court considers that there is good reason for extending the period within which the application shall be made. (*L.N. 356 of 1988*)
- (2) Where the relief sought is an order of certiorari in respect of any judgment, order, conviction or other proceeding, the date when grounds for the application first arose shall be taken to be the date of that judgment, order, conviction or proceeding.
- (3) The preceding paragraphs are without prejudice to any statutory provision which has the effect of limiting the time within which an application for judicial review may be made.

4A. Service of order granting leave (O. 53, r. 4A)

- (1) Where leave to make an application for judicial review is granted, the Court may also give directions as to the