

Uganda

Judicature Act

Judicature (Fundamental and Other Human Rights and Freedoms) (Enforcement Procedure) Rules, 2019

Statutory Instrument 31 of 2019

Legislation as at 31 May 2019

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Judicature (Fundamental and Other Human Rights and Freedoms) (Enforcement Procedure) Rules, 2019
(Statutory Instrument 31 of 2019)

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Judicature Act

Judicature (Fundamental and Other Human Rights and Freedoms) (Enforcement Procedure) Rules, 2019

Statutory Instrument 31 of 2019

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Commenced on 31 May 2019

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IN EXERCISE of the powers conferred upon the Rules Committee by section 41(1) of the Judicature Act, these Rules are made this 25th day of January, 2019.

Part I – Preliminary

1. Title

These Rules may be cited as the Judicature (Fundamental and Other Human Rights and Freedoms) (Enforcement Procedure) Rules, 2019.

2. Application

These Rules apply to all courts of Judicature.

3. Objectives

The objectives of these Rules are—

- (a) to promote the right of any person to institute court action where he or she believes that a fundamental right or other human right or freedom under Chapter Four of the Constitution has been violated, or that there is a threat that it is likely to be violated;
- (b) to encourage the development of constitutional and public interest litigation;
- (c) to provide guidance to courts and litigants in the handling of public interest litigation; and
- (d) to promote clarity, uniformity and consistency in the handling of public interest litigation.

4. Interpretation

In these Rules, unless the context otherwise requires—

“**fundamental and other human rights and freedoms**” mean any of the rights provided for in Chapter Four and Article 45 of the Constitution;

“**public interest**” includes the interest of society or any segment of society in promoting human rights, democracy, rule of law and good governance;

“**public interest litigation**” means actions provided for in rule 5(2).

Part II – Institution of actions

5. Actions that may be instituted under these Rules

- (1) The following actions may be instituted under these Rules—
 - (a) where there has been an infringement or threatened infringement of a fundamental right or other human right or freedom;
 - (b) an action under Article 137 of the Constitution;
 - (c) an application for a writ of *habeas corpus*; or
 - (d) an action in public interest.
- (2) A public interest action may be instituted in the following circumstances—
 - (a) where there has been an infringement or threatened infringement of a fundamental or other human right or freedom guaranteed under Chapter Four of the Constitution;
 - (b) in a matter of public importance that promotes human rights, democracy, rule of law and good governance; or
 - (c) where the public interest action constitutes any question as to the interpretation of the Constitution as provided for under article 137 of the Constitution.

6. Who may institute an action

- (1) The following persons may bring an action to court for redress under rule 5—
 - (a) a person acting in his or her own interest;
 - (b) a person acting in the interest of another person;
 - (c) a person acting as a member of, or in the interest of a group or class of persons;
 - (d) a person acting in the public interest; or
 - (e) an association or organisation acting in the interest of its members.
- (2) Under rule 5(1)(d), an action may be brought by any person against a person, government or organisation for redress where another person's rights or the rights of a group of persons have been violated or have been threatened to be violated.

7. Procedure under these Rules

- (1) Every application for an action under these Rules, shall unless specifically provided for to the contrary, be made by motion on notice supported by an affidavit in the form prescribed in the Schedule to these Rules.
- (2) A public interest action under rule 5(1)(d) shall be filed in the Constitutional Court under Article 137 of the Constitution.
- (3) An action filed under Article 137 of the Constitution shall be filed in the form of a petition in accordance with the Constitutions. Court (Petitions and References) Rules, 2005, or by way of reference under Article 137 (5) of the Constitution.
- (4) An application for a writ of *habeas corpus* shall be made in accordance with the Judicature (Habeas Corpus) Rules S.I. 13-6.

8. Details of motion

- (1) A motion for an action under these Rules shall specify the following—
 - (a) the right infringed, or threatened to be infringed;
 - (b) the provision of the Constitution violated, or threatened to be violated;
 - (c) the category of persons affected;
 - (d) the grounds for the application; and
 - (e) the relief or reliefs sought.
- (2) Where a matter relates to the enforcement of individual rights and freedoms, the provisions of subrule (1) of this rule shall apply with such modifications as may be necessary.

Part III – Service of process, procedure and other matters

9. Application of the Civil Procedure Act

Where these Rules do not sufficiently provide for any service of process, procedure or other related matter in an action brought under these Rules, the Civil Procedure Act and the Civil Procedure Rules shall apply with necessary modifications.

10. Expert evidence

In determining an application for public interest litigation, the court may call for expert evidence.

Part IV – Reliefs

11. Reliefs

- (1) The reliefs that may be granted under these Rules are—
 - (a) declaration of rights and freedoms;
 - (b) declaration of invalidity of a law or conduct, to the extent of inconsistency with the Constitution;
 - (c) an injunction or other prohibitory or restitutory order or decree;
 - (d) compensation;
 - (e) damages; and
 - (f) any other relief as the court may deem fit.
- (2) The court shall, in granting any relief under subrule (1), take into consideration—
 - (a) the need to redress a public injury; or
 - (b) the need to enforce a public duty.

12. Revocation of S.I. No. 55 of 2008

The Judicature (Fundamental Rights and Freedoms) (Enforcement Procedure) Rules, 2008 are revoked.

Schedule (Rule 7(1))

The Republic of Uganda

Miscellaneous Cause No. _____ of _____

_____ Applicant(s)

Versus

_____ Respondent(s)

Notice of motion

[State the law under which the application is brought]

TAKE NOTICE that the court will be moved on the _____ day of _____ 20 ____ or as soon as counsel for the applicant can be heard on the applicant's behalf for an order of court for the following relief(s)–

(Specify the relief or reliefs sought under rule 11)

Dated at _____ this _____ day of _____ 20 ____

Signed: _____

Applicant or Advocate for Applicant

GIVEN under my hand and the Seal of this Court this _____ day of _____ 20 ____

Registrar/Magistrate

To: The Respondent or Advocate for the Respondent