

PRACTICE DIRECTION 12A – HUMAN RIGHTS ACT 1998

This practice direction supplements Part 12 of the Court of Protection Rules 2017

Procedure for making claim

1. A claim made pursuant to rule 12.1 in relation to the Human Rights Act 1998 ('the 1998 Act') should be included in the application form using Form COP1. If the claim forms part of a response by a person served with or notified of the application, it should be included in the acknowledgment of service using Form COP5.
2. If the claim in relation to the 1998 Act is made during the course of proceedings, it should be made by filing an application notice using Form COP9.
3. If the claim is raised in an appeal, the claim should be filed with the appellant's or the respondent's notice as appropriate, using Form COP35 or COP36.

Notice to the Crown

4. Where notice is served on the Crown in accordance with rule 12.1(2), notice of the claim must be served by the person making the claim on the person named in the list published under section 17 of the Crown Proceedings Act 1947.
5. The notice must be in the form directed by the court and will normally include the directions given by the court. The notice must also be served by the person making the claim on all the parties. The applicant must provide the Crown with a copy of the document in which the claim in relation to the 1998 Act is raised (for example, the application form).
6. The court may ask the parties to assist in the preparation of the notice.

Joining of the Crown

7. Unless the court orders otherwise, the Minister or other person permitted by the 1998 Act to be joined as a party must, if he or she wishes to be joined, file an application to be joined using Form COP10. (Section 5(2) of the 1998 Act entitles the Crown to be joined to proceedings where the court is considering whether to make a declaration of incompatibility, provided notice is given in accordance with rules of court. The Minister or other person will be regarded as having sufficient interest for the purpose of rule 9.15(1).)

8 Where the Minister has nominated a person to be joined as a party (as permitted by section 5(2) (a) of the 1998 Act) that person must (unless the court orders otherwise) file an application to be joined using Form COP10, which must also be accompanied by the Minister's written nomination.

(Paragraph 2(b) of Practice Direction 3A deals with allocation of an application for a declaration of incompatibility under section 4 of the Human Rights Act 1998.)