

**S T A T U T O R Y   I N S T R U M E N T S**

**2019 No. 32.**

**THE JUDICATURE (JUDICIAL REVIEW) (AMENDMENT)  
RULES, 2019.**

**ARRANGEMENT OF RULES**

*Rule*

1. Title.
2. Amendment of the Judicature (Judicial Review) Rules, 2009.
3. Amendment of rule 2 of the principal Rules.
4. Insertion of rule 3A in the principal Rules.
5. Insertion of rules 7A and 7B in the principal Rules.

# STATUTORY INSTRUMENTS

2019 No. 32.

## **The Judicature (Judicial Review) (Amendment) Rules, 2019.**

*(Under sections 41 and 42 of the Judicature Act, Cap. 13)*

IN EXERCISE of the powers conferred upon the Rules Committee and the Chief Justice by sections 41 and 42 of the Judicature Act, these Rules are made this 25th day of January, 2019.

### **1. Title.**

These Rules may be cited as the Judicature (Judicial Review) (Amendment) Rules, 2019.

### **2. Amendment of the Judicature (Judicial Review) Rules, 2009, S.I. 11 of 2009.**

The Judicature (Judicial Review) Rules, 2009, in these Rules referred to as the principal Rules, are amended by inserting immediately after rule 1 the following rule—

#### **“1A. Objectives.**

The objectives of these Rules are—

- (a) to ensure that individuals receive fair treatment by the authorities to which they have been subjected;
- (b) to ensure that public powers are exercised in accordance with the basic standards of legality, fairness and rationality and that the opinion of an individual judge, is not construed as that of the authority;
- (c) to ensure clarity, consistency and uniformity in the handling of applications for judicial review; and
- (d) to ensure adherence to the constitutional right to a fair trial and expeditious hearing.”

### **3. Amendment of rule 2 of the principal Rules.**

The principal Rules are amended in rule 2 by inserting in their appropriate alphabetical order, the following definitions—

“certiorari” means an order by court to quash a decision which is ultravires;

“declaration” means a pronouncement by court on the legal position of a party, after considering the evidence and applying the law and that evidence to an existing legal situation;

“judicial review” means the process by which the High Court exercises its supervisory jurisdiction over the proceedings and decisions of subordinate courts, tribunals and other bodies or persons who carry out quasi – judicial functions or who are charged with the performance of public acts and duties;

“mandamus” means a court order issued to compel performance by public officers of statutory duties imposed on them;

“prohibition” means an order issued by court to forbid some act or decision which would be ultra vires;

“public body” includes—

- (a) the Government, any department, services or undertaking of the Government;
- (b) the East African Community, its institutions and corporations;
- (c) the Cabinet, Parliament, any court;
- (d) District Administration, a District Council, any district committee of a district council, a local council and any committee of a local council;
- (e) any corporation, committee, board, commission or similar body whether corporate or incorporate established by an Act of Parliament for the purposes of any written law relating to the public health or public undertakings of public utility, education or for promotion of sports, literature, science, arts or any other purpose for the benefit of the public or any section of the public or any section of the public to administer funds or property belonging to or granted by the Government or the East African Community, its institutions or its corporations or money raised

by public subscription or its corporations or money raised by public subscription, rates, taxes, cess or charges in pursuance of any written law;

- (f) a political party, a trade union, a society registered under the Cooperative Societies Act and any council, board, committee or society established by an Act of Parliament for the benefit, regulation and control of any profession and non-governmental organisations.”

#### **4. Insertion of rule 3A in the principal Rules.**

The principal Rules are amended by inserting immediately after rule 3 the following new rule—

##### **“3A. Application for judicial review.**

Any person who has a direct or sufficient interest in a matter may apply for judicial review.”

#### **5. Insertion of rules 7A and 7B in the principal Rules.**

The principal Rules are amended by inserting immediately after rule 7 the following new rules—

##### **“7A. Factors to consider in handling applications for judicial review.**

(1) The court shall, in considering an application for judicial review, satisfy itself of the following—

- (a) that the application is amenable for judicial review;
- (b) that the aggrieved person has exhausted the existing remedies available within the public body or under the law; and
- (c) that the matter involves an administrative public body or official.

(2) The court shall grant an order for judicial review where it is satisfied that the decision making body or officer did not follow due process in reaching a decision and that, as a result, there was unfair and unjust treatment.

##### **“7B. Time for disposal.**

An application for judicial review shall be disposed of within ninety days from the date of filing the application.”

BART.M. KATUREEBE,  
*Chief Justice and Chairperson, Rules Committee.*