



**PRACTICE DIRECTIONS IN
RESPECT OF PREROGATIVE
WRITS INVOLVING
CHIEFS/CHIEFTAINCY ISSUES**

2024



COMPENDIUM OF PRACTICE DIRECTIONS &
ADMINISTRATIVE GUIDELINES IN GHANA
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I. Long Title

A DIRECTION to provide for effective and efficient disposal of cases filed in the High Court with regard to judicial review applications in respect of chieftaincy issues and matters involving chiefs.

II. Citation

This Practice Direction may be cited as Practice Directions in Respect of Prerogative Writs Involving Chiefs/Chieftaincy Issues 2024.

III. Preamble

Whereas the Chieftaincy institution together with its Traditional Councils as established by customary law and practices in Ghana, is guaranteed by the 1992 Constitution¹;

Whereas the Chieftaincy Tribunals constituted by the Judicial Committees of the National House of Chiefs, the Regional Houses of Chiefs and the Traditional Councils, have exclusive jurisdiction to hear and determine causes or matters affecting chieftaincy clearly spelt out in *Section 29 of the Chieftaincy Act, 2008 [Act 759]* as follows:

“(1) Subject to this Act, a Traditional Council has exclusive jurisdiction

to hear and determine a cause or matter affecting chieftaincy which arises within its area, not being one to which the Asantehene or a paramount chief is a party.

(2) The jurisdiction of a Traditional Council shall be exercised by a

Judicial Committee comprising three or five members appointed by the

Council from their members.

¹ *Article 270(1) of the 1992 Constitution reinforces this concept.*

3) *A person aggrieved by a judgment or an order given or more by a Traditional Council in a cause or matter affecting chieftaincy may appeal to the relevant Regional House as of right against the judgment or order."*

-Taking cognizance of the fact that the phrase, "*a cause or matter affecting chieftaincy*" has received judicial pronouncements in a legion of cases to mean principally, disputes and or questions relating to selection, nomination, installation or deposition of a chief². - - Noting further that notwithstanding the law that the Judicial Committees have exclusive jurisdiction in chieftaincy matters, the High Court has supervisory jurisdiction over chieftaincy tribunals. It is thus provided in **S. 43 of Act 759**:

"43. Despite a provision of this Act, the High Court has supervisory jurisdiction over an adjudicating chieftaincy body established by or under this Act."

-Whereas the supervisory jurisdiction of the High Court is enshrined in **Article 141 of the 1992 Constitution** as follows:

"141. The High Court shall have supervisory jurisdiction over all lower courts and any lower adjudicating authority, and may, in the exercise of that jurisdiction, issue orders and directions for the purpose of enforcing or securing the enforcement of its supervisory powers."

-Whereas, those prerogative orders contained in **Article 141** have been judicially held to be the mechanism whereby administrative law principles are applied³.

² *Amonoo v Central Region House of Chiefs (2003-2005) 1 GLR 577.*

³ In *R v High Court, Accra; Exparte CHRAJ [2003-2004] SCGLR 312 @ 342* the law was stated:

I hereby direct that until the Rules of Court Committee make specific Rules, judicial review applications in respect of chieftaincy issues and matters involving chiefs shall be governed as follows:

1. APPLICATION:

This Direction shall apply to judicial review applications pending or to be initiated before any High Court in Ghana.

2. DUTIES OF PARTIES

(1) Having regard to the law that the High Court has only supervisory jurisdiction over the adjudicating chieftaincy tribunals, the procedural requirements outlined in **Order 55 of the High Court [Civil Procedure] Rules, 2004 [CI 47]** shall be strictly complied with by parties to an application for judicial review.

(2) The conventional writs of certiorari, mandamus, prohibitions etc. as enshrined in **Article 141** are issued in the supreme interest of justice to prevent illegalities, failure of justice, ensure fairness and facilitate the expeditious trial of cases⁴.

(3) Cases that are appropriate for application for judicial review are classified as:

- i) an order in the nature of mandamus;
- ii) prohibition;
- iii) certiorari; and
- iv) quo warranto.

(4) Other cases include:

- a) an injunction restraining a person from acting in any public office in which the persons is not entitled to act; or
- b) any other injunction. **Order 55 r 1 of CI 47.**

"..... whether it (CHRAJ) is an adjudicating body or not, is irrelevant to the jurisdiction of the High Court to exercise judicial review over it. It is not a precondition at common law to the deployment of the prerogative writs and orders that the subject of these processes be an adjudicating body. These orders are the mechanism whereby administrative law principles are applied. Article 141 merely confirms this pre-existing common law power....."

⁴ As articulated in *Exparte Electoral Commission [2005-06] SCGLR 514 [Holding 1]*.

(5) Additionally, the High Court may make, on the hearing of an application for judicial review, a declaratory order as well as an order for the payment of damages.

3. TIME FOR MAKING APPLICATION:

An application for judicial review shall be made not later than six months from the date of the occurrence of the event giving cause for the application. In other words, time starts running from the date the cause of action accrued. Accordingly, an application for judicial review shall be made within 6 months from that date of the incident complained of. **rule 3 of Order 55, CI 47.**

4. MODE OF APPLICATION:

The application is by an originating motion supported by an affidavit verifying:

- i) the facts and the grounds on which the application is premised;
- ii) setting out the full name, description and address for service of applicant;
- iii) the relief sought; the full name, description and address of the respondent [the person directly affected by the application]. **Order 55 r 4 of CI 47**

5. NOTICE OF APPLICATION:

The following are the procedural steps the parties shall take:

1. An applicant shall serve notice of the application on all parties directly affected by it.
2. A person served with the application may within 7 days after service, file his affidavit in response if he intends to oppose the application.
3. An applicant shall not rely on any grounds not set out in his affidavit supporting the application.