

## SCHEDULE 1

### RSC ORDER 98

#### LOCAL GOVERNMENT FINANCE ACT 1982(1), PART III

##### **Interpretation**

**Rule 1** In this Order “the Act” means the Local Government Finance Act 1982 and a section referred to by number means the section so numbered in that Act.

##### **Application by auditor for declaration**

**Rule 2.**—(1) Any application for a declaration under section 19 (1) of the Act that an item of account is contrary to law shall be made by claim form.

(2) The claim form shall be served on the body to whose accounts the application relates and on any person against whom an order is sought under section 19 (2).

(3) Not later than seven days after filing the claim form in the Crown Office in accordance with Order 57, rule 2, the applicant shall file in that office a witness statement or affidavit stating the facts on which he intends to rely at the hearing of the application.

(4) The claim shall be entered for hearing within six weeks after the claim form has been filed in the Crown Office but, unless the Court otherwise directs, the application shall not be heard sooner than 28 days after service of the claim form.

##### **Appeal against decision of auditor**

**Rule 3.**—(1) A claim form by which an appeal is brought under section 19 (4) or section 20 (3) against the decision of an auditor shall be served on—

- (a) the auditor who for the time being has responsibility for the audit of the accounts of the body in relation to whom the appeal relates;
- (b) that body; and
- (c) in the case of an appeal against a decision not to certify under section 20 (1) that a sum or amount is due from another person, that person.

(2) Order 55, rules 4 (2) and 5, shall apply to the appeal with the modification that the period of 28 days mentioned in the said rule 4 (2) shall be calculated from the day on which the appellant received the auditor’s statement of the reasons for his decision pursuant to a requirement under section 19 (4) or section 20 (2).

(3) Not later than seven days after filing the claim form in the Crown Office in accordance with Order 57, rule 2, the appellant must file in that office a witness statement or affidavit stating—

- (a) the reasons stated by the auditor for his decision;
- (b) the date on which he received the auditor’s statement;
- (c) the facts on which he intends to rely at the hearing of the appeal;
- (d) in the case of a decision not to apply for a declaration, such facts within the appellant’s knowledge as will enable the Court to consider whether to exercise the powers conferred on it by section 19 (2).

*Status: This is the original version (as it was originally made).*

### **General provisions**

**Rule 4.**—(1) Any proceedings in which the jurisdiction conferred on the High Court by section 19 or section 20 of the Act is invoked shall be assigned to the Queen’s Bench Division and be heard by a single judge, unless the Court directs that the matter shall be heard by a Divisional Court; and the Court may, at any stage direct that any officer or member of the body to whose accounts the application of appeal relates be joined as a respondent.

(2) Except in so far as the Court directs that the evidence on any such application or appeal shall be given orally, it shall be given by witness statement or affidavit.

(3) The applicant or appellant must forthwith after filing any witness statement or affidavit under rule 2 (3) or 3 (3) serve a copy thereof on every respondent and any person intending to oppose the application or appeal must, not less than four days before the hearing, serve on the applicant or appellant a copy of any witness statement or affidavit filed by him in opposition to the motion.

(4) Except by permission of the Court, no witness statement or affidavit may be used at the hearing unless a copy thereof was served in accordance with paragraph (3).