

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS

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IN GENERAL

Rule 1501. Scope of Chapter.

(a) *General rule.*—Except as otherwise prescribed by paragraphs (b) and (c) of this rule, this chapter applies to judicial review in:

- (1) Appeals from an administrative agency (within the meaning of Section 9 of Article V of the Constitution of Pennsylvania) to an appellate court or pursuant to 42 Pa.C.S. § 763(b).
- (2) Appeals to an appellate court pursuant to 2 Pa.C.S. § 702 or 42 Pa.C.S. § 5105.

(3) Original jurisdiction actions heretofore cognizable in an appellate court by actions in the nature of equity, replevin, mandamus or *quo warranto* or for declaratory judgment, or upon writs of *certiorari* or prohibition.

(4) Appeals under Section 17(d) of Article II of the Constitution of Pennsylvania.

(5) Appeals pursuant to Supreme Court general rule, such as those authorized by 42 Pa.C.S. § 725(2)—(5).

(b) *Appeals governed by other provisions of rules.*—This chapter does not apply to any appeal within the scope of:

(1) Chapter 9.

(2) Chapter 11.

(3) Chapter 13, except that the provisions of this chapter and ancillary provisions of these rules applicable to practice and procedure on petition for review shall be applicable after permission to appeal has been granted from a determination which, if final, would be subject to judicial review pursuant to this chapter.

(4) Chapter 16.

(5) Pa.R.A.P. 1941.

(c) *Unsuspected statutory procedures.*—This chapter does not apply to any appeal pursuant to the following statutory provisions, which are not suspended by these rules:

(1) 15 Pa.C.S. § 137 (Court to pass upon rejection of documents by Department of State).

(2) The Pennsylvania Election Code, Act of June 3, 1937, PL. 1333, as amended, 25 P.S. §§ 2600—3591.

(d) *Jurisdiction of courts unaffected.*—This chapter does not enlarge or otherwise modify the jurisdiction and powers of the Commonwealth Court or any other court.

Official Note: This chapter applies to appeals of administrative agency action, original jurisdiction actions cognizable in an appellate court in the nature of actions in equity, replevin, mandamus or *quo warranto* or for declaratory judgment, or upon writs of *certiorari* or prohibition, and appeals of other actions as enumerated in paragraph (a). The document that initiates the case under Chapter 15 is called a petition for review. Judicial review of all other government unit actions or inactions not otherwise permitted under Chapters 9, 11, 13, or 15 is available under Chapter 16; the document that initiates the case under Chapter 16 is called a petition for specialized review. The “residuary” initiating document function previously assigned to Chapter 15 is now assigned to Chapter 16.

Source

The provisions of this Rule 1501 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended December 10, 2012, effective in 60 days, 42 Pa.B. 7813; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (381041) to (381042) and (365255).

Rule 1502. Exclusive Procedure.

The appeal and the original jurisdiction actions of equity, replevin, mandamus, and *quo warranto*, the action for a declaratory judgment, and the writs of *certiorari* and prohibition are replaced by the petition for review.

It should be noted that a petition for review in the nature of mandamus or prohibition will lie against a trial court (which is a “government unit”), since such relief is not available under the rules cited in Pa.R.A.P. 1501(b).

See 42 Pa.C.S. § 708(e), which provides as follows:

(e) *Single form of action.*—Where pursuant to general rules review of a determination of a government unit may be had by a petition for a review or another single form of action embracing the appeal and actions in the nature of equity, mandamus, prohibition, *quo warranto*, or otherwise, the jurisdiction of the appellate court shall not be limited by the provisions of 1 Pa.C.S. § 1504 (relating to statutory remedy preferred over common law), but such provisions to the extent applicable shall limit the relief available.

Source

The provisions of this Rule 1502 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (365256) to (365257).

Rule 1503. Improvident Appeals or Original Jurisdiction Actions.

If a filing should be labeled a petition for review, but is not, this alone shall not be a ground for dismissal. The filing shall be regarded and acted upon as a petition for review and as if filed at the time the improvident filing was made. The court may require that the filing be clarified by amendment or be supplemented.

Official Note: Based on 42 Pa.C.S. § 708 (improvident administrative appeals and other matters).

Source

The provisions of this Rule 1503 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial page (365257).

Rule 1504. Improvident Petitions for Review.

If a filing in a court is labeled as a petition for review but the proper mode of relief is an original jurisdiction action in equity, replevin, mandamus or *quo warranto*, or a petition for a declaratory judgment or for a writ of certiorari or prohibition, this alone shall not be a ground for dismissal. The filing shall be

regarded and acted upon as a complaint or other proper process and as if filed at the time the improvident filing was made. The court may require that the filing be clarified by amendment.

Official Note: Based on 42 Pa.C.S. § 102 (definitions) (which includes petition for review proceedings within the statutory definition of “appeal”) and 42 Pa.C.S. § 708(b) (appeals). When the moving party files a clarifying amendment, the amendment will operate to specify that one form of action which the party elects to proceed on.

Source

The provisions of this Rule 1504 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial page (365257).

PETITION FOR REVIEW

Rule 1511. Manner of Obtaining Judicial Review of Governmental Determinations.

Review under this chapter shall be obtained by filing a petition for review with the prothonotary of the appellate court within the time allowed by Pa.R.A.P. 1512. Failure of a petitioner for review to take any step other than the timely filing of a petition for review does not affect the validity of the review proceeding, but is grounds only for such action as the appellate court deems appropriate, which may include dismissal of the review proceeding.

Source

The provisions of this Rule 1511 amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial page (365258).

Rule 1512. Time for Petitioning for Review.

(a) *Appeals authorized by law.*—Except as otherwise prescribed by paragraph (b) of this rule:

(1) A petition for review of a quasijudicial order, or an order appealable under 42 Pa.C.S. § 763(b) (awards of arbitrators) or under any other provision of law, shall be filed with the prothonotary of the appellate court within 30 days after the entry of the order.

(2) If a timely petition for review of such an order is filed by a party, any other party may file a cross-petition for review within 14 days of the date on which the first petition for review was served, or within the time otherwise prescribed by subparagraph (a)(1) of this rule, whichever period last expires.

(b) *Special appellate provisions.*—A petition for review of:

(1) A determination of the Department of Community and Economic Development in any matter arising under 53 Pa.C.S. §§ 8001—8285 shall be

filed within 15 days after entry of the order or the date the determination is deemed to have been made, when no order has been entered.

(2) A determination governed by Pa.R.A.P. 1571 (determinations of the Board of Finance and Revenue) shall be filed within the appropriate period therein specified.

(3) A determination of a Commonwealth agency under 62 Pa.C.S. § 1711.1(g) shall be filed within 15 days of the mailing date of a final determination denying a protest.

(c) *Original jurisdiction actions.*—A petition for review of a determination of a government unit within the scope of Chapter 15 but not within the scope of paragraphs (a) or (b) of this rule may be filed with the prothonotary of the appellate court within the time, if any, limited by law.

Official Note: The note to Pa.R.A.P. 903 (time for appeal) addresses the development of the standard 30-day appeal period. Pa.R.A.P. 102 defines a “quasijudicial order” as “an order of a government unit, made after notice and opportunity for hearing, which is by law reviewable solely upon the record made before the government unit, and not upon a record made in whole or in part before the reviewing court.”

Paragraph (c) relates to matters addressed to the original jurisdiction of an appellate court. For example, equitable matters are governed by existing principles of laches, etc. Other matters, such as petitions for review raising issues formerly cognizable by action in mandamus or *quo warranto*, etc., are governed by the time limits, if any, applicable under the prior procedure. *See generally* 42 Pa.C.S. §§ 1702 (regarding the Supreme Court’s rulemaking procedures), 1722(c) (Time limitations), 5501—5574 (Limitations of time).

Source

The provisions of this Rule 1512 amended December 29, 1977, effective January 29, 1978, 8 Pa.B. 133; amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended October 18, 2002, effective December 2, 2002, 32 Pa.B. 5402; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended September 30, 2004, effective immediately, 34 Pa.B. 5677; amended April 9, 2012, effective in 30 days, 42 Pa.B. 2269; amended December 10, 2012, effective in 60 days, 42 Pa.B. 7813; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (365258) and (389957).

Rule 1513. Petition for Review.

(a) *Caption and parties on appeal.*—In an appellate jurisdiction petition for review, the aggrieved party or person shall be named as the petitioner. Unless the government unit is disinterested, the government unit and no one else shall be named as the respondent. If the government unit is disinterested, all real parties in interest shall be named as respondents and the disinterested government unit shall be identified in parentheses after the respondents in the caption.

(b) *Caption and parties in original jurisdiction actions.*—The government unit and any other indispensable party shall be named as respondents. Where a public act or duty is required to be performed by a government unit, it is sufficient to name the government unit, and not its individual members, as respondent.

(c) *Form.*—Any petition for review shall be divided into consecutively numbered paragraphs. Each paragraph shall contain, as nearly as possible, a single allegation of fact or other statement.

(d) *Content of appellate jurisdiction petition for review.*—An appellate jurisdiction petition for review shall contain the following:

- (1) a statement of the basis for the jurisdiction of the court;
- (2) the name of the party or person seeking review;
- (3) the name of the government unit that made the order or other determination sought to be reviewed;
- (4) reference to the order or other determination sought to be reviewed, including the date the order or other determination was entered;
- (5) a general statement of the objections to the order or other determination, but the omission of an issue from the statement shall not be the basis for a finding of waiver if the court is able to address the issue based on the certified record;
- (6) a short statement of the relief sought;
- (7) a copy of the order or other determination to be reviewed, which shall be attached to the petition for review as an exhibit; and
- (8) the certificate of compliance required by Pa.R.A.P. 127.

No notice to plead or verification is necessary.

Where there were other parties to the proceedings conducted by the government unit, and such parties are not named in the caption of the petition for review, the petition for review shall also contain a notice to participate, which shall provide substantially as follows:

If you intend to participate in this proceeding in the (Supreme, Superior, or Commonwealth, as appropriate) Court, you must serve and file a notice of intervention under Pa.R.A.P. 1531 within 30 days.

(e) *Content of original jurisdiction petition for review.*—A petition for review addressed to an appellate court's original jurisdiction shall contain the following:

- (1) a statement of the basis for the jurisdiction of the court;
- (2) the name of the person or party seeking relief;
- (3) the name of the government unit whose action or inaction is in issue and any other indispensable party;
- (4) a general statement of the material facts upon which the cause of action is based;
- (5) a short statement of the relief sought;
- (6) a notice to plead and verification either by oath or affirmation or by verified statement; and
- (7) the certificate of compliance required by Pa.R.A.P. 127.

(f) *Alternative objections.*—Objections to a determination of a government unit and the related relief sought may be stated in the alternative, and relief of several different types may be requested.

Official Note: Paragraphs (a) and (b) reflect the provisions of Pa.R.A.P. 501, Pa.R.A.P. 503, 2 Pa.C.S. § 702 (Appeals), and Pa.R.C.P. 1094 (regarding parties defendant in mandamus actions).

Government units that are usually disinterested in appellate jurisdiction petitions for review of their determinations include:

- the Board of Claims,
- the Department of Education (with regard to teacher tenure appeals from local school districts pursuant to 24 P.S. § 11-1132),
- the Environmental Hearing Board,
- the Office of Open Records,
- the State Charter School Appeal Board,
- the State Civil Service Commission, and
- the Workers' Compensation Appeal Board.

Pa.R.A.P. 1513(a) was amended in 2020 to require that the caption of a petition for review from a determination of a disinterested government unit identify the government unit. Thus, the caption of a petition for review from a determination of a government unit listed above should be in the following form:

John Doe,
Petitioner
v.
Jane Smith (name of disinterested government unit),
Respondent

The provision for joinder of indispensable parties in original jurisdiction actions reflects the last sentence of 42 Pa.C.S. § 761(c), providing for the implementation of ancillary jurisdiction of the Commonwealth Court by general rule.

Paragraphs (d) and (e) reflect the differences in proceeding in a court's original and appellate jurisdiction, while preserving the need for sufficient specificity to permit the conversion of an appellate document to an original jurisdiction pleading and vice versa should such action be necessary to assure proper judicial disposition. Where it is not readily apparent whether a "determination" under Pa.R.A.P. 1501 is reviewable in the court's appellate or original jurisdiction, compliance with the requirements of both paragraphs (d) and (e) is appropriate.

The 2014 amendments to Pa.R.A.P. 1513(d) relating to the general statement of objections in an appellate jurisdiction petition for review are intended to preclude a finding of waiver if the court is able, based on the certified record, to address an issue not within the issues stated in the petition for review but included in the statement of questions involved and argued in a brief. The amendment neither expands the scope of issues that may be addressed in an appellate jurisdiction petition for review beyond those permitted in Pa.R.A.P. 1551(a) nor affects Pa.R.A.P. 2116's requirement that "[n]o question will be considered unless it is stated in the statement of questions involved [in appellant's brief] or is fairly suggested thereby."

Source

The provisions of this Rule 1513 amended through April 26, 1982, effective September 12, 1982, 12 Pa.B. 1536; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended April 15, 2011, effective in 30 days, 41 Pa.B. 1991; amended December 2, 2014, effective in 30 days, 44 Pa.B. 7828; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (389957) to (389959).

Rule 1514. Filing and Service of the Petition for Review.

(a) *Filing with the prothonotary.*—The petition for review, with proof of the service that is required by paragraph (c) of this rule, shall be filed with the prothonotary of the appellate court in person or by first class, express, or priority United States Postal Service mail.

If the petition for review is filed by first class, express, or priority United States Postal Service mail, the petition shall be deemed received by the prothonotary for the purposes of Pa.R.A.P. 121(a) on the date deposited in the United States mail, as shown on a United States Postal Service Form 3817, Certificate of Mailing, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service and shall show the docket number of the matter in the government unit, and shall be either enclosed with the petition or separately mailed to the prothonotary.

Upon actual receipt of the petition for review, the prothonotary shall immediately:

- (1) stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this paragraph, shall constitute the date of filing;
- (2) assign a docket number to the petition for review; and
- (3) give written notice of the docket number assignment in person or by first class mail to the government unit that made the determination sought to be reviewed, to the petitioner, and to the other persons named in the proof of service accompanying the petition.

(b) *Fee.*—The petitioner, upon filing the petition for review, shall pay any fees therefor as set by law or general rule.

(c) *Service.*—A copy of the petition for review shall be served by the petitioner in person or by certified mail on both the government unit that made the determination sought to be reviewed and the Attorney General of Pennsylvania. Where there is more than one respondent, the petitioner shall separately serve each one. All other parties before the government unit that made the determination sought to be reviewed shall be served as prescribed by Pa.R.A.P. 121(b).

(d) *Entry of appearance.*—Upon the filing of the petition for review, the prothonotary shall note on the docket as counsel for the petitioner the name of counsel, if any, set forth in or endorsed upon the petition for review, and, as counsel for other parties, counsel, if any, named in the proof of service. The prothonotary shall, upon *praecipe* of any such counsel for other parties, filed within 30 days after filing of the petition, strike off or correct the record of appearances. Thereafter a counsel's appearance for a party may not be withdrawn without leave of court, unless another lawyer has entered or simultaneously enters an appearance for the party.

Official Note: See the Official Note to Pa.R.A.P. 1112 (appeals by allowance) for an explanation of the procedure when Form 3817 or other similar United States Postal Service form from which the date of deposit can be verified is used.

The petition for review must be served on the government unit that made the determination in question.

Service on the Attorney General shall be made at: Strawberry Square, Harrisburg, PA 17120.

With respect to appearances by new counsel following the initial docketing of appearances pursuant to paragraph (d) of this rule, please note the requirements of Pa.R.A.P. 120.

Source

The provisions of this Rule 1514 amended through December 16, 1983, effective December 16, 1983, 13 Pa.B. 3998; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503; amended March 15, 2004, effective 60 days after adoption, 34 Pa.B. 1670; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (389959) to (389961).

Rule 1515. (Rescinded).

Official Note: Pa.R.A.P. 1515 formerly provided for an answer to a petition for review addressed to an appellate court's original jurisdiction. Answers to such petitions are now discussed in Pa.R.A.P. 1516.

Source

The provisions of this Rule 1515 amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503; rescinded July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial page (389961).

Rule 1516. Other Pleadings Allowed.

(a) *Appellate jurisdiction petitions for review.*—No answer or other pleading to an appellate jurisdiction petition for review is authorized, unless the petition for review is filed pursuant to Pa.R.A.P. 3321 (appeals from Legislative Reapportionment Commission). Where an answer is authorized, the time for filing an answer shall be as stated in Pa.R.A.P. 123(b), and the answer shall contain the certificate of compliance required by Pa.R.A.P. 127.

(b) *Original jurisdiction petitions for review.*—Where an action is commenced by filing a petition for review addressed to the appellate court's original jurisdiction, the pleadings are limited to the petition for review, an answer thereto, a reply if the answer contains new matter or a counterclaim, a counter-reply if the reply to a counterclaim contains new matter, preliminary objections, and answers thereto. A pleading shall contain the certificate of compliance required by Pa.R.A.P. 127. Every pleading filed after an original jurisdiction petition for review shall be filed within 30 days after service of the preceding pleading, but no pleading need be filed unless the preceding pleading is endorsed with a notice to plead.

Official Note: With regard to original jurisdiction proceedings, practice is patterned after Pa.R.C.P. 1017(a) (Pleadings Allowed) and 1026 (Time for Filing, Notice to Plead). The ten additional days in which to file a subsequent pleading are in recognition of the time required for agency coordination where the Commonwealth is a party.

Source

The provisions of this Rule 1516 amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended February 27, 1980, 10 Pa.B. 1038, effective as set forth at 10 Pa.B. 1038; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended December 10, 2012, effective in 60 days, 42 Pa.B. 7813; amended June 4, 2013, effective July 4, 2013, 43 Pa.B. 3327; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (389961) to (389962).

Rule 1517. Applicable Rules of Pleading.

Unless otherwise prescribed by these rules, the practice and procedure under this chapter relating to pleadings in original jurisdiction petition for review practice shall be in accordance with the appropriate Pennsylvania Rules of Civil Procedure, so far as they may be applied.

Source

The provisions of this Rule 1517 amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended December 10, 2012, effective in 60 days, 42 Pa.B. 7813; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial page (389962).

Rule 1518. [Rescinded].

Source

The provisions of this Rule 1518 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740. Immediately preceding text appears at serial pages (39596) and (39597).

Rule 1519. [Rescinded].

Source

The provisions of this Rule 1519 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740. Immediately preceding text appears at serial pages (39597) to (39599).

Rule 1531. Intervention.

(a) *Appellate jurisdiction petition for review proceedings.* A party to a proceeding before a government unit that resulted in a quasijudicial order may intervene as of right in a proceeding under this chapter relating to such order by filing a notice of intervention (with proof of service on all parties to the matter) with the prothonotary of the appellate court within 30 days after notice of the filing of the petition for review. The notice of intervention may be in substantially the following form:

NOTICE OF INTERVENTION

Notice is hereby given that A.B., a party below, hereby intervenes in this matter.

(s) _____

(Address and telephone number)

After 30 days after notice of filing of an appellate petition for review, permission to intervene may be sought by application pursuant to Pa.R.A.P. 123.

(b) *Original jurisdiction petition for review proceedings.* A person not named as a respondent in an original jurisdiction petition for review who desires to intervene in a proceeding under this chapter, may seek leave to intervene by filing an application for leave to intervene (with proof of service on all parties to the matter) with the prothonotary of the court. The application shall contain a concise statement of the interest of the applicant and the grounds upon which intervention is sought.

Official Note: A nonparty may file a brief as of right under Pa.R.A.P. 531 (participation by *amicus curiae*) and, therefore, intervention is not necessary in order to participate in the appellate court where the petition for review is filed. However, except as provided in Pa.R.A.P. 521(b) (status of Attorney General) and Pa.R.A.P. 522(b) (status of Court Administrator), the mere filing of a brief does not confer party status. Where, for example, a nonparty to a petition for review proceeding in the Commonwealth Court desires to be in a position to seek further review in the Supreme Court of Pennsylvania or the Supreme Court of the United States of an order of the Commonwealth Court disposing of the petition for review, the nonparty should intervene or seek leave to intervene in the Commonwealth Court at the outset, because under Pa.R.A.P. 501, party status is a prerequisite to the right to further review.

Source

The provisions of this Rule 1531 amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (389962) to (389963).

Rule 1532. Special and Summary Relief.

(a) *Special relief.*—At any time after the filing of a petition for review, the court may, on application, order the seizure of property, dispose of seized property, issue a preliminary or special injunction, appoint a temporary receiver, or grant other interim or special relief required in the interest of justice and consistent with the usages and principles of law.

(b) *Summary relief.*—At any time after the filing of a petition for review in an appellate or original jurisdiction matter, the court may on application enter judgment if the right of the applicant thereto is clear.

Official Note: Paragraph (a) provides examples of specific types of interim relief that may be sought using the procedures set forth in Pa.R.A.P. 123. Thus, multiple forms of relief, including those in the alternative, may be combined in the same application, even though separate

actions might otherwise be necessary under the Pennsylvania Rules of Civil Procedure. *Compare* Pa.R.A.P. 106 (original jurisdiction matters) with 42 Pa.C.S. § 708(e) (single form of action).

Paragraph (b) authorizes immediate disposition of a petition for review, similar to the type of relief envisioned by the Pennsylvania Rules of Civil Procedure regarding judgment on the pleadings and peremptory and summary judgment. However, such relief may be requested before the pleadings are closed where the right of the applicant is clear.

Source

The provisions of this Rule 1532 adopted May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740, amended April 26, 1982, effective September 12, 1982, 12 Pa.B. 1536; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (389963) to (389964).

Rule 1541. Certification of the Record.

Upon notice from the appellate court of the filing of a petition for review addressed to the appellate jurisdiction of an appellate court, the government unit shall prepare and transmit the record as provided by Chapter 19.

Source

The provisions of this Rule 1541 amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended December 10, 2012, effective in 60 days, 42 Pa.B. 7813; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial page (389964).

Rule 1542. Evidentiary Hearing.

In any matter addressed to the appellate court's original jurisdiction where it appears that a genuine issue as to a material fact has been raised by the pleadings, depositions, answers to interrogatories, stipulations of fact, admissions on file, and supporting verified statements, if any, the court on its own motion or on application of any party shall, after notice to the parties, hold an evidentiary hearing for the development of the record.

Official Note: In view of Pa.R.A.P. 106 (original jurisdiction matters) and Pa.R.A.P. 1532 (special and summary relief), motions for judgment on the pleadings, Pa.R.C.P. 1034, summary relief and summary judgment, Pa.R.C.P. 1035.1—1035.5, will be available where a petition for review invoking the appellate court's original jurisdiction has been filed. The procedure under this rule is intended to be flexible, although it remains subject to the control of the appellate court either by rule of court adopted pursuant to Pa.R.A.P. 104(a)(3) or by order.

Source

The provisions of this Rule 1542 amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (389964) to (389965).

Rule 1543. (Rescinded).**Source**

The provisions of this Rule 1543 rescinded July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial page (389965).

Rule 1551. Scope of Review.

(a) *Appellate jurisdiction petitions for review.*—Review of quasijudicial orders shall be conducted by the court on the record made before the government unit. Only questions raised before the government unit shall be heard or considered, except:

- (1) Questions involving the validity of a statute.
- (2) Questions involving the jurisdiction of the government unit over the subject matter of the adjudication.
- (3) Questions that the court is satisfied the petitioner could not by the exercise of due diligence have raised before the government unit. If, upon hearing before the court, the court is satisfied that any such additional question within the scope of this paragraph should be raised, it shall remand the record to the government unit for further consideration of the additional question.

The court may in any case remand the record to the government unit for further proceedings if the court deems them necessary.

(b) *Original jurisdiction petitions for review.*—The court shall hear and decide original jurisdiction petitions for review in accordance with law. This chapter is not intended to modify, enlarge, or abridge the rights of any party to an original jurisdiction petition for review.

Source

The provisions of this Rule 1551 amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (389965) to (389966).

Rule 1561. Disposition of Petition for Review.

(a) *Appellate jurisdiction petitions for review.*—The court may affirm, modify, vacate, set aside, or reverse any order brought before it for review, and it may remand the matter and direct the entry of such appropriate order, or require such further proceedings as may be just under the circumstances.

(b) *Original jurisdiction petitions for review.*—Where the petition for review raises questions that formerly were determinable in an action in equity, replevin, mandamus, or *quo warranto*, or for a declaratory judgment or upon a petition for a writ of *certiorari* or prohibition, or in another similar plenary action or proceeding, the court may grant the relief heretofore available in any such plenary action or proceeding.

(c) *Money damages.*—Money damages arising out of tort or contract claims may not be granted under this chapter (except on review of determinations of the

Board of Claims or similar agencies), but relief granted under paragraph (b) of this rule may include any damages to which the petitioner is entitled which are claimed in the petition, which are ancillary to the matter, and which may be granted by a court.

Official Note: Paragraph (a) is based on 42 Pa.C.S. § 706 (disposition of appeals).

Paragraph (b) is based on 42 Pa.C.S. § 708(e) (single form of action), which provides that 1 Pa.C.S. § 1504 (statutory remedy preferred over common law) does not limit the jurisdiction of a court over a petition for review proceeding, but to the extent applicable limits the relief available, and 42 Pa.C.S. § 5105(d)(2) (scope of appeal). Under 42 Pa.C.S. § 102, statutory references to “appeal” include proceedings on petition for review. The paragraph is intended to make clear that the petition for review is a generic pleading that will permit the court to consider simultaneously all aspects of the controversy.

Paragraph (c) is intended to make clear that the petition for review does not encompass trespass or assumpsit actions, but that an appeal may reach tort or contract matters adjudicated by a government unit as contemplated by Section 2(h) of the Judiciary Act Repealer Act, 42 P.S. § 20002(h). As to ancillary statutory damages, *see* 42 Pa.C.S. § 8303 (action for performance of a duty required by law).

Source

The provisions of this Rule 1561 amended December 29, 1977, effective January 29, 1978, 8 Pa.B. 133; amended December 30, 1978, 8 Pa.B. 3802; amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended May 15, 2007, effective immediately, 37 Pa.B. 2492; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (389966) to (389967).

REVIEW OF DETERMINATIONS OF THE BOARD OF FINANCE AND REVENUE

Rule 1571. Determinations of the Board of Finance and Revenue.

(a) *General rule.*—Review of a determination of the Board of Finance and Revenue shall be governed by this chapter and ancillary provisions of these rules, except as otherwise prescribed by this rule.

(b) *Time for petitioning for review.*—A petition for review of a determination of the Board of Finance and Revenue shall be filed:

- (1) Within 30 days after entry of an order of the Board which does not expressly state that it is interlocutory in nature.
- (2) Within 30 days after entry of an order of the Board adopting a determination by the Department of Revenue or other government unit made at the direction of the Board respecting any matter pending before the Board.
- (3) Where the Board is required by statute to act finally on any matter pending before it within a specified period after the matter is filed with the Board and has not done so, at any time between:
 - (i) the expiration of such specified period; and
 - (ii) 30 days after service of actual notice by the Board stating that it has failed to act within such period.

(c) *Form.*—The petition for review shall contain:

- (1) a statement of the basis for the jurisdiction of the court;
- (2) the name of the party seeking review;
- (3) a statement that the Board of Finance and Revenue made the determination sought to be reviewed;
- (4) reference to the order or other determination sought to be reviewed; and a general statement of the objections to the order or other determination.

The petition for review need not be verified and shall not contain or have endorsed upon it notice to plead. A petition for review of a taxpayer or similar party shall name the “Commonwealth of Pennsylvania” as respondent and a petition for review filed by the Commonwealth of Pennsylvania shall name all real parties in interest before the Board as respondents. The petition for review shall contain the certificate of compliance required by Pa.R.A.P. 127.

(d) *Service.*—In the case of a petition for review filed by a taxpayer or similar party, the petitioner shall serve a copy of the petition on the Board of Finance and Revenue and on the Attorney General in accordance with Pa.R.A.P. 1514(c). All other parties before the Board shall be served as prescribed by Pa.R.A.P. 121(b) (service of all papers required).

(e) *Answer.*—An answer may not be filed to a petition for review of a determination of the Board of Finance and Revenue. The Commonwealth may raise any question on review, even if no cross-petition for review has been filed by it, and may introduce any facts in support of its position so long as it provides the petitioner with written notice 20 days prior to trial of its intention of raising new questions or presenting new facts.

(f) *Record.*—No record shall be certified to the court by the Board of Finance and Revenue. After the filing of the petition for review, the parties shall take appropriate steps to prepare and file a stipulation of such facts as may be agreed to and to identify the issues of fact, if any, which remain to be tried. *See* Pa.R.A.P. 1542 (evidentiary hearing).

(g) *Oral argument.*—Except as otherwise ordered by the court on its own motion or on application of any party, after the record is closed, the matter may be listed for argument before or submission to the court.

(h) *Scope of review.*—Pa.R.A.P. 1551(a) (appellate jurisdiction petitions for review) shall be applicable to review of a determination of the Board of Finance and Revenue except that:

- (1) A question will be heard and considered by the court if it was raised at any stage of the proceedings below and thereafter preserved.
- (2) To the extent provided by the applicable law, the questions raised by the petition for review shall be determined on the record made before the court. *See* paragraph (f) of this rule.

(i) *Exceptions.*—Any party may file exceptions to an initial determination by the court under this rule within 30 days after the entry of the order to which exception is taken. Such timely exceptions shall have the effect, for the purposes

of Pa.R.A.P. 1701(b)(3) (authority of a trial court or other government unit after appeal), of an order expressly granting reconsideration of the determination previously entered by the court. Issues not raised on exceptions are waived and cannot be raised on appeal.

Official Note: Paragraph (b) represents an exercise of the power conferred by 42 Pa.C.S. § 5105(a) (right to appellate review) to define final orders by general rule. The following statutes expressly require the Board of Finance and Revenue to act within six months in certain cases:

Section 1103 of The Fiscal Code, Act of April 9, 1929 (P.L. 343), 72 P.S. § 1103.

Section 2005 (malt beverage tax) of The Tax Reform Code of 1971, Act of March 4, 1971 (P.L. 6), 72 P.S. § 9005.

The following statute requires the Board of Finance and Revenue to act within twelve months in certain tax refund matters:

Section 3003.5 of the Tax Reform Code of 1971, Act of March 4, 1971 (P.L. 6), 72 P.S. § 10003.5.

The following statutes are covered by Section 1103 of The Fiscal Code:

Sections 809 (various insurance taxes) and 1001 (miscellaneous settlements, for example, under Section 212 of The Insurance Department Act of 1921, Act of May 17, 1921 (P.L. 789), 40 P.S. § 50) of the Fiscal Code, Act of April 9, 1929 (P.L. 343), 72 P.S. §§ 809 and 1001.

Section 6 of the Co-operative Agricultural Association Corporate Net Income Tax Act, Act of May 23, 1945 (P.L. 893), 72 P.S. §§ 3420-21 *et seq.*

Sections 407 (corporate net income tax), 603 (capital stock—franchise tax), 702 (bank and trust company shares tax), 802 (title insurance companies shares tax), 904 (insurance premiums tax), 1102 (gross receipts tax), 1111-C (realty transfer tax), and 1503 (mutual thrift institutions tax) of the Tax Reform Code of 1971, Act of March 4, 1971 (P.L. 6), 72 P.S. §§ 7407, 7603, 7702, 7802, 7904, 8102, 8111-C, and 8503.

75 Pa.C.S. § 9616(f) (motor carriers road tax).

The basis of jurisdiction of the court under this rule will ordinarily be 42 Pa.C.S. § 763 (direct appeals from government agencies). Paragraph (c) is not intended to change the practice in connection with the review of orders of the Board of Finance and Revenue insofar as the amount of detail in the pleadings is concerned. What is required is that the petitioner raise in the petition for review every legal issue that the petitioner wishes the court to consider. The legal issues raised need only be specific enough to apprise the respondent of the legal issues being contested (for example, “valuation,” “manufacturing,” “sale for resale,” etc.). *See generally House of Pasta, Inc. v. Commonwealth*, 390 A.2d 341 (Pa. Cmwlth. 1978).

Paragraph (e) is based on Section 1104(e) of The Fiscal Code, which was suspended absolutely by these rules, and subsequently repealed.

Paragraph (f) is based on 2 Pa.C.S. § 501(b)(1) and 2 Pa.C.S. § 701(b)(1), which exclude tax matters from the on-the-record review requirements of 2 Pa.C.S. § 704.

Paragraph (h) is based on Section 1104(d) of The Fiscal Code, which was suspended absolutely by these rules and subsequently repealed, and is intended as a continuation of the prior law, except, of course, that the separate specification of objections has been abolished by these rules.

Paragraph (i) is intended to make clear that the failure to file exceptions will result in waiver by a petitioner of any issues previously presented to the Commonwealth Court.

See also Pa.R.A.P. 1782 (security on review in tax matters).

Source

The provisions of this Rule 1571 adopted May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3862; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (389967) to (389970).

Cross References

This rule cited in 61 Pa. Code § 703.45 (relating to appeal rights).

Rule 1573. (Reserved).

Official Note: Pa.R.A.P. 1573 formerly provided review of orders in which the court finds an assertion of double jeopardy frivolous. The substance of the rule is now found in Pa.R.A.P. 1311.

Source

The provisions of this Rule 1573 adopted June 4, 2013, effective July 4, 2013, 43 Pa.B. 3327; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; reserved January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (389970) to (389972).

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