

**CHAPTER 1600. ACTION FOR DECLARATORY JUDGMENTS**

Rule	
1601.	Action for Declaratory Relief Alone. Jury Trial. Waiver.
1602.	Declaratory Judgment as Ancillary Relief.
1603.	Effective Date. Pending Action.
1604.	Suspension of Acts of Assembly. Abolition of Practice and Procedure Under Repealed Statutes.

**Source**

The provisions of these Rules 1601—1604 adopted December 14, 1979, effective February 1, 1980, 10 Pa.B. 11, unless otherwise noted.

**Rule 1601. Action for Declaratory Relief Alone. Jury Trial. Waiver.**

(a) A plaintiff seeking only declaratory relief shall commence an action by filing a complaint captioned “Action for Declaratory Judgment.” The practice and procedure shall follow, as nearly as may be, the rules governing the civil action.

(b) If the right to trial by jury of disputed issues of fact exists in such an action, it shall be deemed waived unless demanded in the time and manner provided by Rule 1007.1.

**Official Note:** Rule 1601(b) gives no specific guidance on the existence of a right to jury trial. It could not, in the face of Rule 128(f). Section 7539(b) of the Judicial Code provides:

(b) Jury trial.—When a proceeding under this subchapter involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

The existence of a right to jury trial on disputed issues of fact will be a matter of determination in each action where only declaratory relief is sought. If the right is claimed and disputed, the court must determine the question on the basis of the nature of the cause of action, the right to be enforced and the “other civil action” which would be brought to enforce it if declaratory judgment did not exist. The flexible Federal practice under Fed. R. Civ.P. 38, 39 and 57, including the procedure for the jury trial of selected issues, may be helpful. Pa. R.C.P. 1038.3 may also be applicable.

**Source**

The provisions of this Rule 1601 amended December 16, 2004, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (276603).

**Rule 1602. Declaratory Judgment as Ancillary Relief.**

In any civil action, a party may include in the claim for relief a prayer for declaratory relief and the practice and procedure shall follow, as nearly as may be, the rules governing that action.

**Source**

The provisions of this Rule 1602 amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2282; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (276603).

**Rule 1603. Effective Date. Pending Action.**

These rules shall apply to all actions pending on the effective date. If pleadings have heretofore been filed under the original practice, the court may permit the action to proceed upon those pleadings, or may in an appropriate case permit or direct the filing of amended or supplemental pleadings.

**Rule 1604. Suspension of Acts of Assembly. Abolition of Practice and Procedure Under Repealed Statutes.**

After the effective date of these rules,

(a) all Acts or parts of Acts of Assembly inconsistent with these rules are suspended to the extent of such inconsistency; and

(b) —

(1) the practice and procedure provided in all former Acts of Assembly governing declaratory judgments, which have been repealed effective June 27, 1978 and June 27, 1979 by the Judiciary Act Repealer Act (JARA), Act of April 28, 1978, No. 53, and which are now part of the common law of the Commonwealth by virtue of Section 3(b) of JARA, are hereby abolished and shall not continue as part of the common law of the Commonwealth; and

(2) with respect to all Acts of Assembly relating to such practice and procedure, repeal of which will become effective June 27, 1980 as provided by Section 4(b) of JARA, this is a general rule within the meaning of Section 3(b) of JARA and the practice and procedure provided in those Acts of Assembly shall not continue as part of the common law of the Commonwealth.

[Next page is 1650-1.]