

## **RULE 4:70. Summary Proceedings For Collection Of Statutory Penalties**

### **4:70-1. Applicability; Scope**

- **(a) Generally.** Except as otherwise provided by paragraph (b) of this rule, an action to enforce a civil penalty imposed by any statute or ordinance providing for its collection or enforcement by a civil proceeding shall be brought as a summary action in the Law Division pursuant to *R. 4:67* unless the statute requires a plenary action. The complaint may include a count for injunctive or other relief based on the same transaction or series of actions or similar violations as those for which the penalty is sought.
- **(b) Administrative Orders.** If a state administrative agency has assessed a civil penalty after affording the person assessed an opportunity for a hearing pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1 et seq.*, the final order of the agency shall be appealable to the Appellate Division pursuant to *R. 2:2-3(a)(2)*. At the agency's request, the order shall be docketed by the Clerk of the Superior Court on the civil docket pursuant to *R. 4:100* or the civil judgment and order docket, *R. 4:101*, or both, and shall thereafter have the same effect as a docketed judicial judgment or order.

Note: Source -- *R.R. 4:89, 5:2-6(a) (c) (first sentence), 7:13-1, 7:14.* Amended July 14, 1972 to be effective September 5, 1972; former rule redesignated paragraph (a) and paragraph (b) adopted July 24, 1978 to be effective September 11, 1978; paragraph (a) amended July 12, 2002 to be effective September 3, 2002; caption amended, captions added to paragraphs (a) and (b), former text of paragraphs (a) and (b) deleted, and new text for paragraphs (a) and (b) adopted July 28, 2004 to be effective September 1, 2004.

### **4:70-2. Complaint; Verification; Process**

- **(a) Complaint; Verification.** The complaint, which shall be in writing and verified, shall specify (1) the person alleged to have violated the provision of statute for whose violation is imposed a penalty to be enforced in a summary manner; (2) the statute and provision thereof violated; and (3) the time, place and nature of such violation. If the proceeding is instituted by a governmental body or officer, the verification of the complaint may be made on information and belief by any person duly authorized to act on plaintiff's behalf.
- **(b) Process.** The summons, which shall issue on the filing of the complaint, shall be signed and served by any person so authorized by statute or rule, including a law enforcement officer. A warrant may issue in lieu of a summons if authorized by the statute imposing the penalty, in which case the procedures prescribed by *R. 3:2-3* and *R. 3:3-3* shall apply. If the statute imposing the penalty authorizes arrest without a warrant for a violation committed within the view of a law enforcement officer, the officer making the arrest shall follow the procedures prescribed by *R. 3:4-1(a)*. The Administrative Director of the Courts may prescribe forms of complaint, summons, and warrant for proceedings pursuant to this rule.

Note: Source -- *R.R. 7:13-2;* amended July 13, 1994 to be effective September 1, 1994; caption amended, former text redesignated as paragraph (a), caption added to paragraph (a), and new paragraph (b) caption and text adopted July 28, 2004 to be effective September 1, 2004.

### **4:70-3. Hearing; Penalties; Payment**

Except as otherwise provided by *R. 4:71*, the court shall try the action pursuant to *R. 4:67-5* without a jury, unless the statute imposing the penalty otherwise requires, on the return date and without the filing of any other pleadings unless the court otherwise orders. If the court finds that a violation has occurred, it shall enter judgment for plaintiff and impose a penalty as provided by the statute. Unless the statute otherwise requires, the parties may dispose of the charges of the complaint by stipulation, settlement, or consent order, in which case payment of a penalty as so provided shall be considered a prior violation for the purpose of determining subsequent offender status. Payment of all penalties shall be made to the court and shall be

remitted to the Treasurer of the State of New Jersey unless the statute imposing the penalty requires other disposition.

*Note: Source -- R.R. 7:13-3, 7:13-4, 7:13-5, 7:13-6, 7:13-17; caption amended, former paragraphs (a), (b), and (c) deleted, and new text adopted July 28, 2004 to be effective September 1, 2004.*

#### **4:70-4. Commitment**

If the statute imposing the penalty provides for commitment of the defendant upon the failure to pay forthwith the adjudicated or agreed to penalty, the court may direct defendant's commitment to any institution and for such time as the statute authorizes, unless the judgment is sooner paid. The form of the commitment shall be prescribed by the Administrative Director of the Courts.

*Note: Source -- R. 7:13-6A, 7:13-7, 7:13-8, 7:13-9; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraph (a) amended July 22, 1983 to be effective September 12, 1983; paragraph (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended January 5, 1998 to be effective February 1, 1998; caption amended, former paragraphs (a), (b), and (c) deleted, and new text adopted July 28, 2004 to be effective September 1, 2004.*

#### **4:70-5. [deleted July 28, 2004 effective September 1, 2004]**