

RULE 24. INTERVENTION

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Permissive Intervention. Upon timely application anyone may be permitted to intervene in an action when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

(d) Intervention by the State. When the constitutionality of an act of the legislature affecting the public interest is drawn in question in any action to which the State of Maine or an officer, agency, or employee thereof is not a party, the plaintiff shall notify the Attorney General, and the court shall permit the State of Maine to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality.

Advisory Committee's Notes

May 1, 2000

Subdivision (d) is changed to put the burden on a plaintiff, rather than the court to notify the Attorney General when constitutionality of a law is challenged.

Explanation of Amendments

November 1, 1966

The amendment to Rule 24(a) was taken from a 1966 amendment to F.R. 24(a). M.R.C.P. 24(a) departed substantially from the original F.R. 24(a) and was intended to preserve the existing Maine law on intervention. The 1966 federal amendment eliminated the difficulties in the federal rule which led to this departure, and Maine has now followed the federal model in its amended form. Instead of making the test for intervention of right whether the would-be intervenor “will either gain or lose by the direct legal effect of the judgment,” the amended rule resorts to the pragmatic consideration of whether the disposition of the action may as a practical matter impair or impede the applicant’s ability to protect his interests. This approach draws upon the 1966 revision of Rule 19 and the reasoning underlying it.

The amendment also specifically provides, as M.R.C.P. 24(a) did not, that intervention is not allowed if the applicant’s interest is adequately represented by existing parties.

The purpose of the amendment to Rule 24(c) was to eliminate an inconsistency with Rule 5(a).

Reporter's Notes

December 1, 1959

This rule is derived from Federal Rule 24 but changes have been made in Rule 24(a)* and the substance of Federal Rule 24(c) has been split between Rule 24(c) and a new Rule 24(d). The reason for the separation is to give emphasis to the right of the State of Maine to intervene when the constitutionality of a statute is questioned in a case to which the State is not a party. This is new to Maine law except in limited circumstances. *See* R.S.1954, Chap. 107, Sec. 48 [now 14 M.R.S.A. § 5963].

[Field, McKusick & Wroth commented: “1966 amendments to both the Maine and federal rules have brought them into substantial uniformity.” 1 Field, McKusick & Wroth, *Maine Civil Practice* at 399 (2d ed. 1970).]

Intervention is a familiar equity procedure. Whitehouse, *Equity Practice* §§ 319-320. The rule is somewhat broader than the general practice as to permissive intervention and is somewhat simpler procedurally.