



STATUTORY INSTRUMENTS

S.I. No. 106 of 2009



DISTRICT COURT (CONSUMER PROTECTION ACT 2007) RULES 2009

(Prn. A9/0431)

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The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961 and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice, Equality and Law Reform, make the following rules of court.

Dated this 8th day of December 2008.

Uinsin Mac Gruairc

Mary C Devins

Thomas E O'Donnell

Brian Sheridan

Roy Pearson

Noel A Doherty

Michelle Johnston

I concur in the making of the following rules of court.

Dated this 27 day of March 2009

DERMOT AHERN

Minister for Justice, Equality and Law Reform

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 3rd April, 2009.*

S.I. No. 106 of 2009

DISTRICT COURT (CONSUMER PROTECTION ACT 2007) RULES 2009

1. These rules may be cited as the District Court (Consumer Protection Act 2007) Rules 2009.

2. These rules shall come into operation on the 24th day of April 2009 and shall be construed together with the District Court Rules 1997 to 2009.

3. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended:

(i) by the substitution for rule 12 of Order 23 of the following:

“12. A written notice served by the accused on the prosecutor under and for the purposes of section 78(2) of the Consumer Protection Act 2007 (No 19 of 2007) in any proceedings which may be determined by the Court shall be in the Form 23.2, Schedule B. A copy of the notice together with proof of service thereof shall be lodged with the Clerk.

13. The provisions of rules 4 to 12 of this Order shall also apply to indictable offences being dealt with summarily.”;

(ii) by the insertion in Order 33 immediately following rule 7 of the following:

“8. (1) An application to the Court by the National Consumer Agency (which, in these Rules, includes, where any function referred to in section 5A(3B) of the Central Bank Act 1942 is exercised, or the context otherwise so admits or requires, the Central Bank and Financial Services Authority of Ireland) for an order under section 81(1) of the Consumer Protection Act 2007 (No 19 of 2007) shall be made to the Court as soon as may be following conviction. The Court may adjourn the application and may direct that the application be determined on oral evidence (and the Court may for that purpose make orders and give directions in relation to the exchange of pleadings or points of claim or defence between the National Consumer Agency and the person convicted).

(2) The provisions of this Order which apply to a compensation order shall apply mutatis mutandis to a judgment to which section 81(6) of the Consumer Protection Act 2007 applies and references in this Order to a compensation order shall, where the context admits or requires, include references to such a judgment.”;

(iii) by the insertion in Order 34 immediately following rule 19 of the following:

“ Under the Consumer Protection Act 2007 (No. 19 of 2007)

20. An application by an authorised officer (for the time being appointed or continued as such in accordance with section 30 of the Consumer Protection Act 2007 (No 19 of 2007) for the issue of a warrant pursuant to section 30(10) of the said Act of 2007 may be made to the Judge of the District Court assigned to the District Court District wherein the premises in respect of which the warrant is sought are situated. Such application shall be by sworn information in writing of such authorised officer in the Form 34.43, Schedule B. A warrant issued on foot of such information shall be in the Form 34.44, Schedule B.”;

(iv) by the insertion in Order 39 immediately following rule 15 of the following:

“16. (1) Any action by a consumer for damages under section 74 of the Consumer Protection Act 2007 (No. 19 of 2007) shall be commenced by the issue and service in accordance with this Order of a civil summons, entitled in the matter of section 74 of the said Act and otherwise in the Form 39.1, Schedule C with such modifications as may be appropriate.

(2) Any consent under section 74(4) of the said Act of 2007 shall be in the Form 39.10, Schedule C but, instead of reciting that it is given pursuant to section 77A of The Courts of Justice Act 1924, shall recite that it is given pursuant to section 74(4) of the said Act of 2007, and shall be lodged with the Clerk either before or at any time during the hearing.”

4. The Forms numbered 23.2, 34.43 and 34.44 in Schedule 1 hereof shall be added to the Forms in Schedule B of the District Court Rules 1997 (S.I. No. 93 of 1997).

SCHEDULE 1

SCHEDULE B
O. 23, r. 12

23.2

CONSUMER PROTECTION ACT 2007, Section 78(2)

NOTICE OF INTENTION TO RELY ON ALLEGATION THAT THE
COMMISSION OF THE OFFENCE (OTHER THAN AN OFFENCE
UNDER SECTION 65(2)) WAS DUE TO RELIANCE ON
INFORMATION SUPPLIED BY ANOTHER PERSON OR TO THE ACT
OR DEFAULT OF ANOTHER PERSON

District Court Area of

District No.

.....Prosecutor

.....Accused

WHEREAS

* the above-named accused is to appear before the District Court on the
day of..... 20... charged that

* proceedings against the above-named accused entitled as above alleging
that.....brought by summons dated
the day of..... 20... are before the District Court on the
day of..... 20...

TAKE NOTICE that the accused in *his/*her/*its defence intends to rely on an
allegation that the commission of the offence was due to reliance on information
supplied by another person or to the act or default of another person and the
information provided identifying or assisting in the identification of that other
person is as follows:

Dated this day of..... 20...

Signed.....
Accused/Solicitor for the accused

To:Prosecutor

At.....

and to: District Court Clerk at.....

*delete where inapplicable

CONSUMER PROTECTION ACT 2007, SECTION 30(10)

INFORMATION FOR SEARCH WARRANT

District Court Area of

District No.

THE INFORMATION of of

Who says on oath—

*I am an authorised officer of the National Consumer Agency, appointed in writing as such in accordance with section 30 of the above-mentioned Act of 2007.

*I am an authorised officer under section 16 of the Consumer Information Act 1978, who held office as such immediately before the commencement of section 37 of the above-mentioned Act of 2007, and continued in office as if appointed in accordance with section 30 of the above-mentioned Act of 2007.

I have reasonable grounds for suspecting that there is information required by an authorised officer under section 30 of the above-mentioned Act of 2007 held on or at a premises, or part of a premises, namely in the said court (area and) district.

*The said premises are a private dwelling and the occupier has not consented to my entry of said premises.

*In the exercise of my powers under section 30 of the above-mentioned Act of 2007, I am prevented from entering the said premises.

The basis for such grounds as aforesaid is as follows:-

And I hereby apply for the issue of a warrant under section 30(10) of the Consumer Protection Act 2007 in respect of the said premises.

Signed.....
Informant

SWORN before me this day of 20....

Signed.....
Judge of the District Court

*delete where inapplicable

CONSUMER PROTECTION ACT 2007, SECTION 30(10)

SEARCH WARRANT

District Court Area of

District No.

WHEREAS from the information on oath and in writing under section 30(10) of the above-mentioned Act of 2007 sworn before me on this day, by.....of.....

*an authorised officer of the National Consumer Agency, appointed in writing as such in accordance with section 30 of the above-mentioned Act of 2007

*an authorised officer under section 16 of the Consumer Information Act 1978, who held office as such immediately before the commencement of section 37 of the above-mentioned Act of 2007, and continued in office as if appointed in accordance with section 30 of the above-mentioned Act of 2007

I AM SATISFIED THAT there are reasonable grounds for suspecting that there is information required by an authorised officer under section 30 of the above-mentioned Act of 2007 held on or at a premises, or part of a premises, namelyin the court (area and) district aforesaid

*I AM SATISFIED THAT the said premises are a private dwelling and the occupier has not consented to the entry of said premises by an authorised officer.

*I AM SATISFIED THAT an authorised officer in the exercise of *his/*her powers under the above-mentioned section is prevented from entering the said premises.

THIS IS TO AUTHORISE, of.....,

*an authorised officer of the National Consumer Agency, appointed in writing as such in accordance with section 30 of the above-mentioned Act of 2007

*an authorised officer under section 16 of the Consumer Information Act 1978, who held office as such immediately before the commencement of section 37 of the above-mentioned Act of 2007, and continued in office as if appointed in accordance with section 30 of the above-mentioned Act of 2007

accompanied by such other authorised officers or members of the Garda Síochána or both as provided for in section 30(9) of the above-mentioned Act of 2007

at any time or times within one month from the date of issuing of this warrant, on production if so requested of this warrant, TO ENTER the premises, namely in the said court (area and) district aforesaid, using reasonable force where necessary, and EXERCISE all or any of the powers conferred on an authorised officer under section 30 of the Consumer Protection Act 2007.

8 [106]

Dated this..... day of 20.....

Signed
Judge of the District Court

Toof

Authorised Officer of the National Consumer Agency

And to: Superintendent/Inspector

Garda Síochána at.....

*delete where inapplicable

EXPLANATORY NOTE

(This does not form part of the Instrument and does not purport to be a legal interpretation)

These Rules facilitate the operation of sections 30 (authorised officers), 74 (consumer's right of action for damages), 78 (defence of due diligence) and 81 (compensation of consumers for loss or damage) of the Consumer Protection Act 2007 by amending Orders 23, 33, 34 and 39 of the District Court Rules 1997.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

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