



STATUTORY INSTRUMENTS.

S.I. No. 13 of 2018



RULES OF THE SUPERIOR COURTS (MEDIATION) 2018

RULES OF THE SUPERIOR COURTS (MEDIATION) 2018

We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, and reconstituted pursuant to the provisions of the Courts of Justice Act 1953, section 15, by virtue of the powers conferred upon us by the Courts of Justice Act 1924, section 36, the Courts of Justice Act, 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), the Courts (Supplemental Provisions) Act 1961, section 14 and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 2nd day of January, 2018.

Frank Clarke	Deirdre Murphy
Sean Ryan	Conor Dignam
William McKechnie	Stuart Gilhooly
Elizabeth Dunne	Michael Kavanagh
Michael Peart	Mary Cummins
Gerard Hogan	Noel Rubotham
Anthony Barr	John Mahon

I concur in the making of the following Rules of Court.

Dated this 12th day of January, 2018.

CHARLES FLANAGAN,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 19th January, 2018.*

S.I. No. 13 of 2018

RULES OF THE SUPERIOR COURTS (MEDIATION) 2018

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Mediation) 2018, shall come into operation on the 22nd day of January 2018.

(2) These Rules shall be construed together with the Rules of the Superior Courts.

(3) The Rules of the Superior Courts as amended by these Rules may be cited as the Rules of the Superior Courts 1986 to 2018.

2. The Rules of the Superior Courts are amended:

(i) by the insertion in Order 1A, immediately following sub-rule (4) of rule 12, of the following sub-rule:

“(5) The Court may give a direction under section 15 of the Act of its own motion on any occasion on which the personal injuries action is before the Court.”;

(ii) by the substitution for Order 56A of the Order set out in Schedule 1;

(iii) by the substitution for rule 5 of Order 70A of the following rule:

“5. The statutory declaration required under section 20 or as the case may be section 21 of the Guardianship of Infants Act 1964 or under section 5 or, as the case may be, section 6 of the 1989 Act or under section 6, or as the case may be, section 7 of the 1996 Act shall be in Form No. 1 in Appendix KK.”;

(iv) by the substitution for rule 1B of Order 99 of the following rule:

“1B. Notwithstanding sub-rules (3) and (4) of rule 1, the Supreme Court, the Court of Appeal or the High Court,

(i) in considering the awarding of the costs of any appeal or of any action in which the parties have been invited by the Court to consider mediation as a means of attempting to resolve the dispute the subject of the proceedings in accordance with section 16(1) of the Mediation Act 2017, may, where it considers it just, have regard to the matters set out in section 21 of that Act,

(ii) in considering the awarding of the costs of any appeal or of any action may, where it considers it just, have regard to the refusal or failure without good reason of any party to participate in another ADR process referred to in Order 56A, rule 1, where an order has been made in the proceedings under Order 56A, rule 10.”, and

4 [13]

(v) by the insertion of the Appendix set out in Schedule 2 as Appendix KK in substitution for the Schedule to Order 70A.

SCHEDULE 1**“Order 56A****Mediation and other Alternative Dispute Resolution processes****I. Definitions**

1. In this Order:

the “2017 Act” means the Mediation Act 2017;

each of the expressions “mediation”, “mediation settlement” and “mediator” has the same meaning as in section 2 of the 2017 Act;

“another ADR process” means conciliation or such other dispute resolution process as may be approved by the Court, but does not include mediation or arbitration.

II. Mediation

2. An application by a party under section 16(1) of the 2017 Act shall be by motion on notice to the other party or parties and shall be made within the period mentioned in section 16(4) of the 2017 Act. An application under section 16(4) of the 2017 Act to dispense with the requirement for an affidavit may be made ex parte.

3. (1) The Court may issue an invitation to consider mediation mentioned in section 16(1) of the 2017 Act of its own motion in any civil proceedings to which the 2017 Act applies, on any occasion on which such proceedings are before the Court and where, following an invitation by the Court, the parties decide to engage in mediation, the Court may, having heard the parties, make such orders in accordance with section 16(2) of the 2017 Act as it considers appropriate.

(2) An application by a party to civil proceedings under section 19(1) of the 2017 Act for an order adjourning the proceedings shall be by motion on notice to the other party or parties, but need not be grounded upon any affidavit.

4. If all of the parties to civil proceedings (including any third parties) agree at a mediation on the terms of an order to be made, including an order for the final disposition of the proceedings, the Court may make the order.

5. (1) An application under section 11(3) of the 2017 Act to enforce the terms of a mediation settlement shall:

- (a) where the mediation settlement concerns proceedings pending before the Court, be by notice of motion, or
- (b) where there are no proceedings pending before the Court concerning the subject matter of the mediation settlement, be by originating notice of motion,

in either case grounded upon an affidavit sworn by or on behalf of the moving party which shall exhibit and verify the mediation settlement.

(2) Copies of the originating notice of motion or notice of motion, grounding affidavit and any exhibits shall be served on each other party to the mediation settlement and filed not later than 14 days before the date fixed for the hearing of the application.

(3) Each other party to the mediation settlement may serve and file a replying affidavit not later than seven days before the date fixed for the hearing of the application.

6. (1) An application to the Master under Regulation 5(2) of the European Communities (Mediation) Regulations 2011 (S.I. No. 209 of 2011) (in this rule referred to as “the Regulations”) may be made by originating motion ex parte grounded on an affidavit exhibiting the agreement concerned and entitled in the matter of that agreement and in the matter of the Regulations.

(2) Subject to the power conferred on the Master by Regulation 5(5) of the Regulations to require a party who is not an applicant to verify, by affidavit or otherwise, that party’s consent to the application, the affidavit referred to in sub-rule (1) shall exhibit the written consent of each other party to the mediation who is not an applicant.

7. (1) A mediator’s report required by section 17 of the 2017 Act shall be entitled as in the proceedings to which it relates and shall be submitted to the Court by the filing by the mediator of an affidavit verifying and exhibiting the report.

(2) An application under section 17(2) of the 2017 Act for a direction to dispense with the requirement that a copy of the report be given to the parties at least seven days prior to its submission to the Court may be made ex parte.

8. Every statutory declaration required by section 14(2) or, as the case may be, section 15(2) of the 2017 Act shall be filed in the Central Office and a copy served on the defendant.

9. Notwithstanding any other provision of these Rules, if proceedings are referred to mediation, the time for taking any step in the proceedings under any of those Rules shall, unless the Court otherwise orders, be calculated as if time did not run during the period of any adjournment to facilitate the mediation.

III. Other ADR processes

10. (1) The Court, on the application of any of the parties or of its own motion, may, when it considers it appropriate and having regard to all the circumstances of the case, order that proceedings or any issue therein be adjourned for such time as the Court considers just and convenient and—

- (i) invite the parties to use another ADR process to settle or determine the proceedings or issue, or

- (ii) where the parties consent, refer the proceedings or issue to such process,

and may, for the purposes of such invitation or reference, invite the parties to attend such information session on the use of another ADR process, if any, as the Court may specify.

(2) Where the parties decide to use another ADR process, the Court may make an order extending the time for compliance by any party with any provision of these Rules or any order of the Court in the proceedings, and may make such further or other orders or give such directions as the Court considers will facilitate the effective use of that process.

11. An application by a party for an order under rule 10 shall be by motion on notice to the opposing party or parties, or without such motion at any other time when the proceedings are before the Court.

12. Save where the Court for special reason to be recited in the Court's order allows, an application for an order under rule 10 shall not be made later than 28 days before the date on which the proceedings are first listed for hearing."

SCHEDULE 2

Appendix KK

No. 1

Order 70A, rule

THE HIGH COURT

FAMILY LAW

IN THE MATTER OF *THE GUARDIANSHIP OF INFANTS ACT 1964

*THE JUDICIAL SEPARATION AND FAMILY LAW REFORM ACT
1989

*THE FAMILY LAW ACT 1995

BETWEEN/
A.B.

Applicant

and

C.D.

Respondent

STATUTORY DECLARATION

I,, solicitor, of
aged eighteen years and upwards, do solemnly and sincerely declare that:

1. I am the solicitor for the *Applicant/*Respondent in the above-entitled *(intended) proceedings.
2. I have complied with the requirements of *section 20 *section 21 of the Guardianship of Infants Act 1964 *section 5 *section 6 of the Judicial Separation and Family Law Reform Act 1989 *section 6(2) *(and 6(3)) of the Family Law (Divorce) Act 1996 *section 7(2) *(and 7(3)) of the Family Law (Divorce) Act 1996.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed:

Declared before me..... [name in capitals] a *(Judge of the District Court) *(commissioner for oaths/practising solicitor) *(peace commissioner) *(notary public) by the said.....

*[who is personally known to me],

*[who is identified to me by..... who is personally known to me]

*[whose identity has been established to me before the taking of this Declaration by the production to me of

†passport no..... issued on the..... day of..... by the authorities of....., which is an authority recognised by the Irish Government,

†national identity card no..... issued on the..... day of..... by the authorities of..... which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement,

†Aliens Passport no. issued on the..... day of..... by the authorities of..... which is an authority recognised by the Irish Government,

†refugee travel document no..... issued on the..... day of..... by the Minister for Justice and Equality,

† travel document (other than refugee travel document)..... issued on the..... day of..... by the Minister for Justice and Equality,]

at..... this..... day of 20.....

Signed:

*Judge of the District Court *Commissioner for Oaths / *Practising Solicitor /*Peace Commissioner /*Notary Public.

* Delete where inapplicable.

†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

No. 5

THE HIGH COURT

FAMILY LAW

[Insert as appropriate]

IN THE MATTER OF THE JUDICIAL SEPARATION AND FAMILY
LAW REFORM ACT 1989

IN THE MATTER OF THE FAMILY LAW ACT 1995

IN THE MATTER OF THE FAMILY LAW (DIVORCE) ACT 1996

BETWEEN/

A.B.

Applicant

and

C.D.

Respondent

AFFIDAVIT OF MEANS

I,, [insert occupation], of,
aged 18 years and upwards MAKE OATH and say as follows:—

1. I say that I am the Applicant/Respondent [delete as appropriate] in the above entitled proceedings and I make this Affidavit from facts within my own knowledge save where otherwise appears and where so appearing I believe the same to be true.
2. I say that I have set out in the First Schedule hereto all the assets to which I am legally or beneficially entitled and the manner in which such property is held.
3. I say that I have set out in the Second Schedule hereto all income which I receive and the source(s) of such income.
4. I say that I have set out in the Third Schedule hereto all my debts and/or liabilities and the persons to whom such debts and liabilities are due.
5. I say that my weekly outgoings amount to the sum of €.... and I say that the details of such outgoings have been set out in the Fourth Schedule hereto.

6. I say that to the best of my knowledge, information and belief, all pension information known to me relevant to the within proceedings is set out in the Fifth Schedule hereto. [Where information has been obtained from the trustees of the pension scheme concerned under the Pensions Act, 1990, such information should be exhibited and where such information has not been obtained, the Deponent should depose to the reason(s) why such information has not been obtained].

FIRST SCHEDULE

[Here set out in numbered paragraphs all assets whether held in the Applicant/Respondent's sole name or jointly with another, whether held legally or beneficially, the manner in which the assets are held, whether they are subject to a mortgage or other charge or lien and such further and other details as are appropriate].

SECOND SCHEDULE

[Here set out in numbered paragraphs all income from whatever source(s)].

THIRD SCHEDULE

[Here set out in numbered paragraphs all debts and/or liabilities and the persons/institutions to which such debts and/or liabilities are due].

FOURTH SCHEDULE

[Here set out full details of weekly personal outings].

FIFTH SCHEDULE

[Here full details of nature of pension scheme, benefits payable thereunder, normal pensionable age and period of reckonable service should be listed to the best of the Deponent's knowledge, information and belief].

SWORN etc.

No. 6

THE HIGH COURT

FAMILY LAW

[Insert as appropriate]

IN THE MATTER OF THE JUDICIAL SEPARATION AND FAMILY
LAW REFORM ACT 1989

IN THE MATTER OF THE FAMILY LAW ACT 1995

IN THE MATTER OF THE FAMILY LAW (DIVORCE) ACT 1996

BETWEEN/

A.B.

Applicant

and

C.D.

Respondent

AFFIDAVIT OF WELFARE

I,, [insert occupation] of,
aged 18 years and upwards MAKE OATH and say as follows:

1. I say that I am the Applicant/Respondent [Delete as appropriate] in above
entitled proceedings and I make this Affidavit from facts within my own know-
ledge save where otherwise appears and where so appearing I believe the same
to be true.

2. I say and believe that the facts set out in the Schedule hereto are true.

[In circumstances in which the Respondent does not dispute the facts deposed
to by the Applicant in his/her Affidavit of Welfare, the following averment shall
be included, replacing paragraph 2 hereof, and in such circumstances, the Sched-
ule shall not be completed by the Respondent:

2. I say that I am fully in agreement with the facts as averted to by the Applicant
in his/her Affidavit of Welfare sworn herein on the..... day
of..... 20..... and I say and believe that the facts set out in the
Schedule hereto are true].

SCHEDULE

Part I — Details of the children

1. Details of children born to the Applicant and the Respondent or adopted by both the Applicant and the Respondent.

Forenames Surname Date of Birth

2. Details of other children of the family or to which the parents or either of them are in loco parentis

Forenames Surname Date of Birth

Relationship to

Applicant/Respondent

Part II — Arrangements for the children of the family

3. Home details

- (a) The address or addresses at which the children now live.
- (b) Give details of the number of living rooms, bedrooms, etc., at the addresses in (a) above.
- (c) Is the house rented or owned and, if so, name the tenant(s) or owner(s).
- (d) Is the rent or mortgage being regularly paid and, if so, by whom-
- (e) Give the name of all other persons living with the children either on a full-time or part time basis and state their relationship to the children, if any.
- (f) Will there be any change in these arrangements and, if so give details.

Part III — Education and training details

- (a) Give the names of the school, college or place of training attended by each child.
- (b) Do the children have any special educational needs. If so, please specify.
- (c) Is the school, college or place of training fee-paying. If so, give details of how much the fees are per term/year. Are fees regularly paid and, if so, by whom-
- (d) Will there be any change in these circumstances- If so, give details.

Part IV — Childcare details

- (a) Which parent looks after the children from day to day- If responsibility is shared, please give details.
- (b) Give details of work commitments of both parents.
- (c) Does someone look after the children when the parent is not there- If yes, give details.
- (d) Who looks after the children during school holidays-
- (e) Will there be any change in these arrangements- If yes, give details.

Part V — Maintenance

- (a) Does the Applicant/Respondent pay towards the upkeep of the children- If yes, give details. Please specify any other source of maintenance.
- (b) Is the maintenance referred to at (a) above paid under court order- If yes, give details.
- (c) Has maintenance for the children been agreed- If yes, give details.
- (d) If not, will you be applying for a maintenance order from the Court-

Part VI — Details of contact with the children

- (a) Do the children see the Applicant/Respondent- Please give details.
- (b) Do the children stay overnight and/or have holiday visits with the Applicant/Respondent- Please give details.
- (c) Will there be any change to these arrangements- Please give details.

Part VII — Details of health

- (a) Are the children generally in good health- Please give details of any serious disability or chronic illness suffered by any of the children.
- (b) Do the children or any of them have any special health needs- Please give details of the care needed and how it is to be provided.
- (c) Are the Applicant or Respondent generally in good health- If not, please give details.

Part VIII — Details of care and other court proceedings

- (a) Are the children or any of them in the care of a health board or under the supervision of a social worker or probation officer- If so, please specify.
- (b) Are there or have there been any proceedings in any Court involving the children or any of them- If so, please specify. (All relevant court orders relating to the children or any of them should be annexed hereto).

Part IX — Declaration

I, , Applicant/Respondent [delete as appropriate], declare that the information I have given herein is correct and complete to the best of my knowledge.

Signed:

Applicant/Respondent

Witnessed:

Date:

Part X — Agreement of Respondent (where applicable)

I, , Respondent, declare that the information given by the Applicant herein is correct and complete to the best of my knowledge and I agree with the arrangements and proposals contained herein.

Signed:

Respondent

Witnessed:

Date:

No. 7

THE HIGH COURT

FAMILY LAW

[Insert as appropriate]

IN THE MATTER OF THE JUDICIAL SEPARATION AND FAMILY
LAW REFORM ACT 1989

IN THE MATTER OF THE FAMILY LAW ACT 1995

IN THE MATTER OF THE FAMILY LAW (DIVORCE) ACT 1996

BETWEEN/
A.B.

Applicant

and

C.D.

Respondent

NOTICE TO TRUSTEES

TAKE NOTICE that relief has been claimed by the Applicant/Respondent in the above entitled proceedings pursuant to section(s) 12 and/or 13 of the Family Law Act 1995 or section 17 of the Family Law (Divorce) Act 1996 or section 8B of the Family Law (Maintenance of Spouses) Act 1976 and in particular in relation to [here insert details of pension in respect of which relief is claimed].

AND FURTHER TAKE NOTICE that any representations to be made to the Court pursuant to section 12(18) or section 13(2) of the 1995 Act or section 17(18) of the 1996 Act may be made by way of Affidavit of Representation to be filed and served on all parties herein within 28 days of the date of service of this Notice upon you.

Dated the..... day of 20.....

Signed

Solicitors for the Applicant/Respondent

To: The Chief Registrar

and

To: The Trustees of the pension scheme concerned

and

To: Applicant/Respondent [or solicitors where appropriate]

No. 8

O. 70A

r. 29

THE HIGH COURT

FAMILY LAW

In the matter of the Act 19..... (as the case may be)

And in the matter of section 40(5), Civil Liability and Courts Act 2004

Between

A.B.

the Applicant

and

C.D.

the Respondent

Request for Court's permission to be accompanied by a person at the hearing of proceedings

1. Name of party applying to be accompanied at hearing *Applicant/Respondent

2. Name and address of person who it is proposed will accompany the * Applicant/Respondent.....

3. Relationship or connection of person referred to in paragraph 2 to * Applicant/Respondent (e.g. parent, brother/sister/ family friend etc)

4. *have/*have not previously obtained the permission of the Court to be accompanied in these proceedings. (If permission has previously been granted, give details of the person who was permitted to accompany you)

Dated: 20....

Signed:

Applicant/Respondent

EXPLANATORY NOTE:

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

These rules amend Orders 1A, 56A, 70A and 99 to facilitate the operation of the Mediation Act, 2017.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€4.06



Wt. (B33266). 285. 1/18. Essentra. Gr 30-15.