



STATUTORY INSTRUMENTS.

S.I. No. 151 of 2012

CIRCUIT COURT RULES (ENFORCEMENT OF CERTAIN DECISIONS
OF RIGHTS COMMISSIONERS AND DETERMINATIONS OF THE
LABOUR COURT OR EMPLOYMENT APPEALS TRIBUNAL) 2012

(Prn. A12/0791)

CIRCUIT COURT RULES (ENFORCEMENT OF CERTAIN DECISIONS
OF RIGHTS COMMISSIONERS AND DETERMINATIONS OF THE
LABOUR COURT OR EMPLOYMENT APPEALS TRIBUNAL) 2012

We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act 1936, and section 12 of the Courts of Justice Act 1947, by virtue of the powers conferred on us by section 66 of the Courts of Justice Act 1924 and section 70 of the Courts of Justice Act 1936, (as applied by section 48 of the Courts (Supplemental Provisions) Act 1961) and section 27 of the Courts (Supplemental Provisions) Act 1961, and of all other powers enabling us in this behalf, do hereby, with the concurrence of the Minister for Justice and Equality, make the annexed Rules of Court.

Dated this 31st day of May 2011.

(Signed): Matthew Deery
(Chairman of the Circuit Court Rules Committee)

Alison Lindsay
Ronan Boylan
Noel Rubotham
Susan Ryan

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

Dated this 9th day of May 2012.

Signed: ALAN SHATTER,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in "Iris
Oifigiúil" of 18th May, 2012*

S.I. No. 151 of 2012

CIRCUIT COURT RULES (ENFORCEMENT OF CERTAIN DECISIONS OF RIGHTS COMMISSIONERS AND DETERMINATIONS OF THE LABOUR COURT OR EMPLOYMENT APPEALS TRIBUNAL) 2012

1. (1) These Rules, which shall come into operation on the 6th day of June 2012, may be cited as the Circuit Court Rules (Enforcement of Certain Decisions of Rights Commissioners and Determinations of the Labour Court or Employment Appeals Tribunal) 2012.

(2) These Rules shall be construed together with the Circuit Court Rules.

(3) The Circuit Court Rules as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2012.

2. Order 57 of the Circuit Court Rules is amended by the insertion immediately following Rule 11 of the following rule:

“Rule 12 — Applications for enforcement by the Court of certain decisions of rights commissioners and determinations of the Labour Court or Employment Appeals Tribunal

12. (1) In this Rule:

the “Act of 1994” means the Terms of Employment (Information) Act 1994 (No. 5 of 1994);

“application” means an application to the Court under a relevant enforcement provision by:

- (a) an employee (or in the case of an employee who is aged under 18 years, a parent or guardian of the employee, with his or her consent), or
- (b) a trade union of which the employee is a member, with his or her consent, or
- (c) a Minister, where so authorised by and in accordance with the relevant enforcement provision concerned,

by way of claim for an order directing a party to carry out a decision or determination in accordance with its terms;

“decision” means a decision of a rights commissioner which may be the subject of an application to the Court under a relevant enforcement provision for an order directing an employer or other person to carry out the decision in accordance with its terms;

“determination” means a determination of the Labour Court or, as the case may be, the Employment Appeals Tribunal which may be the subject of an application to the Court under a relevant enforcement provision for an

order directing an employer or other person to carry out the determination in accordance with its terms;

“enactment” has the same meaning as in section 2 of the Interpretation Act 2005 (No. 23 of 2005);

“relevant enforcement provision” means any provision of an enactment, including the provisions of section 9 of the Act of 1994 as applied by any other enactment, which empowers the Court, without hearing an employer or other party in default or any evidence (other than as to the default or other failure concerned) to make an order directing an employer or other party in default to carry out a decision of a rights commissioner or a determination of the Labour Court or Employment Appeals Tribunal in accordance with its terms.

(2) An application shall be made by way of Motion on Notice in accordance with Form 36L of the Schedule of Forms, with such amendments as are appropriate. The Notice of Motion shall be entitled in the matter of the relevant enforcement provision concerned and shall set out the grounds upon which the applicant relies for the reliefs sought. The Notice of Motion shall also have annexed the original decision or determination concerned or a certified copy of same, certified by the applicant employee or on behalf of the applicant trade union or Minister as being a true copy of the decision received from the rights commissioner or, as the case may be, of the determination received from the Labour Court or the Employment Appeals Tribunal and shall state the date on which the decision or, as the case may be, the determination was communicated to the applicant.

(3) An application shall be brought in the County where the employer concerned ordinarily resides, carries on any profession, carries on any trade, carries on any business or carries on any occupation, as the enactment under which the application is brought may permit.

(4) Copies of the Notice of Motion, any grounding Affidavit and any exhibits thereto shall be served on the employer concerned and delivered to the rights commissioner concerned or, as the case may be, to the Labour Court or Employment Appeals Tribunal no later than 10 days prior to the return date specified in the Notice of Motion.

(5) Save by special leave of the Court, all applications shall be heard upon oral evidence or as may be determined by the Court.

(6) The Court may make such Order as to costs as may be appropriate including an Order measuring the costs.

3. The Form annexed hereto shall be inserted in the Schedule of Forms annexed to the Circuit Court Rules immediately following Form 36K as Form 36L.

FORM 36L

AN CHÚIRT CHUARDA
THE CIRCUIT COURT

CIRCUIT

COUNTY OF

IN THE MATTER OF [*here specify the relevant enforcement provision concerned*]

NOTICE OF MOTION FOR RELIEF

BETWEEN

Applicant

AND

Respondent

Take notice that application will be made to the Court on the _____ day of _____ 20____ or the next opportunity thereafter for the following reliefs:

[Here insert details of the relief sought by way of enforcement.]

And further take notice that the said application will be grounded upon:

1. *[Here insert the grounds upon which the applicant relies for the reliefs sought, to include all facts relevant to the alleged failure to carry out the decision or determination concerned in accordance with its terms; whether or not an appeal has been brought from the decision or determination concerned and, if no such appeal has been brought, that the time for appeal has elapsed and, if such appeal has been brought, the date upon which Notice of Appeal was given and evidence of abandonment thereof.]*
2. *[Here insert the basis of the Court's jurisdiction]*
3. *[Here insert the name, address and description of the applicant]*
4. *[Insert the date on which the decision of the rights commissioner or, as the case may be, the determination of the Labour Court or of the Employment Appeals Tribunal was communicated to the applicant]*
5. *[The original decision of the rights commissioner or original determination of the Labour Court or of the Employment Appeals Tribunal or a copy of same, certified by the applicant as being a true copy of the decision received from the rights commissioner or, as the case may be, the determination received from the Labour Court or the Employment Appeals Tribunal and sought to be enforced must be annexed to this Notice of Motion.]*

Dated the day of 20.

Signed.....

Applicant /Solicitor for the Applicant

To:.....

The Respondent/Solicitor for the Respondent

And

To:, rights commissioner/the Labour Court/ the Employment Appeals Tribunal

And

To: The County Registrar

EXPLANATORY NOTE

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

These Rules amend Order 57 of the Circuit Court Rules to provide for a standard form of procedure for applications under provisions of various enactments for enforcement of certain decisions of Rights Commissioners and certain determinations of the Employment Appeals Tribunal or the Labour Court, for which provision is not already included in the Rules.

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,
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nó trí aon díoltóir leabhar.

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