



STATUTORY INSTRUMENTS.

S.I. No. 18 of 2016



CIRCUIT COURT RULES (CHILDREN AND FAMILY
RELATIONSHIPS ACT 2015) 2016

CIRCUIT COURT RULES (CHILDREN AND FAMILY
RELATIONSHIPS ACT 2015) 2016

We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act 1936, 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 20 day of October 2015.

(Signed): Raymond Groarke
(Chairman of the Circuit Court Rules Committee)

Alison Lindsay
Sarah Berkeley
Dervla Browne
David Dodd
Fiona Duffy Coady
Keith Walsh
Ronan Boylan
Mairead Ahern
Rita Considine
Noel Rubotham

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

Dated this 17th day of January 2016.

Signed: FRANCES FITZGERALD,
MINISTER FOR JUSTICE AND EQUALITY.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 19th January, 2016.*

S.I. No. 18 of 2016

CIRCUIT COURT RULES (CHILDREN AND FAMILY
RELATIONSHIPS ACT 2015) 2016

1. (1) These Rules, which may be cited as the Circuit Court Rules (Children And Family Relationships Act 2015) 2016, shall come into operation on the 18th day of January 2016.

(2) These Rules shall be construed together with the Circuit Court Rules 2001 to 2016.

(3) The Circuit Court Rules as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2016.

2. The Circuit Court Rules are amended:

(i) by the substitution for rule 1 of Order 59 of the following rule:

“Rule 1 — Appointment of guardian

1. (1) Every application under this rule shall be brought in the County where the applicant or the child to whom the application relates ordinarily resides or carries on any profession, business or occupation.

(2) All applications to the Court pursuant to section 6A, section 6C, section 6E(3), section 6F(1) section 7(4), section 8(1), section 8(2), section 8(4) or section 8(5) (and where there are no existing proceedings in the Court concerning the guardianship of the relevant child, section 8(6)) of the Guardianship of Infants Act 1964 shall be brought by the issue, out of the Office, of an originating Notice of Motion which shall be dated and shall bear the name, address and description of the applicant and shall be signed by his solicitor, if any, or if none, by himself.

(3) On the issue of an originating Notice of Motion, a copy thereof shall be filed and the County Registrar shall thereupon enter the same and cause the same to be listed on the return date mentioned therein. A copy of the Originating Notice of Motion shall be served on the other parent and on any other guardian of the child. In the case of an application by a person to whom section 6C(2)(b) of the Guardianship of Infants Act 1964 applies, a copy of the Originating Notice of Motion shall also be served upon the Child and Family Agency. In the case of an application under section 6E(3) of the Guardianship of Infants Act 1964 a copy of the Originating Notice of Motion and any written nomination shall be served on each person mentioned in section 6E(4) of that Act.

(4) On the return date, the Judge may give such directions as to the hearing of the application as may to him seem appropriate in the circumstances of the case.

(5) Any further application in proceedings begun in accordance with sub-rule (2), including any application under section 6E(9) of the Guardianship of Infants Act 1964 in a case where an order has been made under section 6E(5) of that Act, shall be made by the issue and service of a Notice of Motion. A copy of the Notice of Motion shall be served on every person served with a copy of the Originating Notice of Motion by which the proceedings were begun, and on any other person required under the Guardianship of Infants Act 1964 or directed by the Court to be served.

(6) Every application under this rule shall be heard on oral evidence. Where the applicant's parentage of the child to whom any application relates is disputed, it will be necessary for the applicant to produce a certified copy of the entry in the Register maintained under the Civil Registration Act 2004, showing that the applicant is registered as a parent of the child to whom the application relates.

(7) Subject to any provision of statute and to any order of the Court made in accordance with Order 59, rule 6, every application under this rule shall be heard otherwise than in public.”;

(ii) by the insertion in rule 1 of Order 59A immediately following the definition of “cohabitation proceedings” of the following definition:

“ “dependent child” and “dependent child of the civil partners” each has the same meaning as in section 2 of the Act, and”;

(iii) by the substitution for paragraph (e) of sub-rule (2) of rule 4 of Order 59A of the following paragraph:

“(e) full particulars of every dependent child of the civil partners, stating whether and if so what provision has been made for each and any such dependent child;”;

(iv) by the substitution for paragraph (e) of sub-rule (3) of rule 4 of Order 59A of the following paragraph:

“(e) full particulars of every dependent child of the civil partners, stating whether and if so what provision has been made for each and any such dependent child;”;

(v) by the substitution for paragraph (e) of sub-rule (7) of rule 4 of Order 59A of the following paragraph:

“(e) the rights of any person other than the civil partners concerned which may be affected by the relief sought, including a person with whom either civil partner is registered in a new civil partnership or to whom either civil partner is married, or any dependent child of the civil partners.”;

- (vi) by the substitution for paragraph (d) of sub-rule (9) of rule 4 of Order 59A of the following paragraph:

“(d) full particulars of every dependent child of the civil partners, stating whether and if so what provision has been made for each and any such dependent child;”;

- (vii) by the substitution for rule 6 of Order 59A of the following rule:

“6. On the issuing of a Civil Partnership Civil Bill or Cohabitation Civil Bill a copy thereof shall be filed, together with an Affidavit of Means, and, in all cases where there is a dependent child of the civil partners, an Affidavit of Welfare (in the form set out in Form 37B of the Schedule of Forms, with the necessary modifications) in the intended action sworn by the Applicant in compliance with rules 17 and 18 and the County Registrar shall thereupon enter same.”;

- (viii) by the substitution for sub-rule (1) of rule 7 of Order 59A of the following sub-rule:

“7. (1) All Civil Partnership Civil Bills and all Cohabitation Civil Bills shall be served. In any case in which financial relief is sought, a copy of the Affidavit of Means in compliance with rules 17 and 18 in the form set out in Form 51 of the Schedule of Forms or such modification thereof as may be appropriate shall be served with the Civil Bill. In all cases where there is a dependent child of the civil partners, a copy of the Affidavit of Welfare shall be served with the Civil Bill. Where relief pursuant to section 121 of the Act or section 187 of the Act is sought, notice thereof in accordance with Form 51A of the Schedule of Forms shall also be served on the trustees of the pension scheme in question in accordance with Order 11, rule 17, and an Affidavit of such service sworn and filed within 14 days of service of the Civil Bill. All other pleadings in proceedings begun in accordance with this rule may be served in accordance with Order 11, rule 17 and shall be deemed to have been served on the second day after the day of posting.”;

- (ix) by the substitution for sub-rule (1) of rule 9 of Order 59A of the following sub-rule:

“9. (1) A Respondent shall at the same time as entering an Appearance, or within 10 clear days from the date of service of

the Appearance, or such further time as may be agreed between the parties or allowed by the Court, file and serve a Defence, together with an Affidavit of Means (where required) and, in all cases where there is a dependent child of the civil partners, an Affidavit of Welfare (in the form set out in Form 37B of the Schedule of Forms, with the necessary modifications) in compliance with rules 17 and 18, on the Applicant, or the Applicant's Solicitor, if any, and on the County Registrar in the form set out in Form 51 or such modification thereof as may be appropriate. Where relief pursuant to section 121 or section 187 of the Act is sought by way of Counterclaim, notice thereof in accordance with Form 51A of the Schedule of Forms shall also be served on the trustees of the pension scheme in question and an Affidavit of such service sworn and filed within seven days of service of the Defence and Counterclaim.”;

- (x) by the substitution for sub-rule (3) of rule 9 of Order 59A of the following sub-rule:

“(3) Whether or not a Defence is filed and served in any proceedings, the Respondent shall, where appropriate, in any event be obliged to file and serve an Affidavit of Means and an Affidavit of Welfare within 20 days after the service of the Civil Partnership Civil Bill or, as the case may be, the Cohabitation Civil Bill, upon him/her.”, and

- (xi) by the deletion from the Schedule of Forms of Forms 37E and 37F.

EXPLANATORY NOTE

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

These rules amend the Circuit Court Rules by amending Orders 59 and 59A and by the deletion of Forms 37E and 37F to facilitate the operation of the Children and Family Relationships Act 2015.

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