



STATUTORY INSTRUMENTS.

S.I. No. 506 of 2016



DISTRICT COURT (HOUSING) RULES 2016

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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, and of all other powers enabling them in this behalf, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court.

Dated this 25th day of July 2016.

Rosemary Horgan, Chairperson
Mary C Devins
Conal Gibbons
Roy Pearson
Noel A Doherty
Michelle Johnston

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

Dated this 29th day of September 2016.

FRANCES FITZGERALD,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 7th October, 2016.*

S.I. No. 506 of 2016

DISTRICT COURT (HOUSING) RULES 2016

1. (1) These Rules, which shall come into operation on the 21st day of October 2016, may be cited as the District Court (Housing) Rules 2016.

(2) These Rules shall be construed together with the District Court Rules 1997 (S.I. No. 93 of 1997) and all other District Court Rules.

(3) The District Court Rules as amended by these Rules may be cited as the District Court Rules 1997 to 2016.

2. The District Court Rules are amended by the substitution for Order 99A of the Order set out in Schedule 1.

3. (1) The forms numbered 99A.15 and 99A.16 in Schedule 2 shall be added to the forms in Schedule C to the District Court Rules 1997 (S.I. No. 93 of 1997) immediately following Form 99A.14.

Schedule 1

“ORDER 99A

PROCEDURE UNDER:

- HOUSING (MISCELLANEOUS PROVISIONS) ACT 1997
- HOUSING (MISCELLANEOUS PROVISIONS) ACT 2014

I. GENERAL

Definitions and requirement to identify where respondent is a child

1. (1) In this Order—

the “1997 Act” means the Housing (Miscellaneous Provisions) Act 1997;

the “2014 Act” means the Housing (Miscellaneous Provisions) Act 2014;

“dwelling” has the meaning assigned to it by section 6 of the 2014 Act;

“house” has the meaning assigned to it by the Housing (Miscellaneous Provisions) Act 1992;

“site” has the meaning assigned to it by the Housing (Traveller Accommodation) Act 1998.

(2) Where applicable in any proceedings to which this Order applies, the applicant shall expressly indicate on the face of the Form by which the application is made that a respondent in any such application is or is believed to be under the age of 18 years.

II. PROCEEDINGS UNDER 1997 ACT

Venue

2. Subject to the provisions of section 10(2) of the 1997 Act, proceedings under the 1997 Act may be brought, heard and determined before a sitting of the District Court for the court area where there is situate the house or site in relation to which an application under section 3, 3A, 4 or 9 of the 1997 Act is being made.

Proceedings may be heard otherwise than in public

3. Proceedings under section 3, 3A, 4 or 9 of the 1997 Act may be heard otherwise than in public.

Excluding Orders

4. (1) An application to the Court under section 3 of the 1997 Act for an excluding order shall be preceded by the issue and service of a notice in the Form 99A.1, Schedule C.

(2) The order of the Court granting the application shall be in the Form 99A.2, Schedule C.

(3) Where an excluding order is made by the Court in accordance with the provisions of section 12(12)(a) of the 2014 Act on foot of a possession application under section 12 of that Act, the order shall be in the Form 99A.2, Schedule C, with any necessary modifications.

Site Excluding Orders

5. (1) An application to the court under section 3A of the 1997 Act for a site excluding order shall be preceded by the issue and service of a notice in the Form 99A.3, Schedule C.

(2) The order of the Court granting the application shall be in the Form 99A.4, Schedule C.

Interim Excluding Orders/Site Excluding Orders

6. (1) An application for an interim excluding order or interim site excluding order made under the terms of section 4 of the 1997 Act on the occasion of the making of an application for an excluding order or site excluding order or between the making of an application for an excluding order or site excluding order and its determination shall be grounded on the information on oath and in writing of the applicant in the Form 99A.5, Schedule C or on an affidavit sworn by the applicant incorporating the matter in that Form.

(2) The order of the Court shall be in the Form 99A.6, Schedule C.

(3) An application for confirmation under section 4(3)(d) of the 1997 Act of an interim excluding order or interim site excluding order made *ex parte* under the terms of section 4(3) of that Act shall be preceded by the issue and service on the respondent by the applicant at least 2 days before the date fixed for such application of a notice in the Form 99A.14, Schedule C. The applicant shall also serve on the respondent the documents referred to in section 4(3)(c)(ii) of the 1997 Act.

(4) Where, on such application, the interim excluding order or interim site excluding order is confirmed, such confirmation shall be indorsed upon the order and signed by the Judge.

Vary Excluding/ Site Excluding/ Interim Excluding/Site Excluding Orders

7. (1) An application to the Court under

- (a) section 3(5) of the 1997 Act to vary an excluding order,
- (b) section 3(5) of the 1997 Act as applied by section 4(2) of the 1997 Act to vary an interim excluding order,
- (c) section 3A(5) of the 1997 Act to vary a site excluding order, or
- (d) section 3(5) of the 1997 Act as applied by section 4(2) and section 3A(9) of the 1997 Act to vary an interim excluding order,

shall be preceded by the issue and service of a notice in the Form 99A.7.

(2) The order of the Court granting the application shall be in the Form 99A.8.

Discharge Excluding Site Excluding or Interim Excluding/Site Excluding Orders

8. (1) An application to the Court under section 9(1) of the 1997 Act to discharge an excluding order, site excluding order, interim excluding order or interim site excluding order shall be preceded by the issue and service of a notice in the Form 99A.9, Schedule C.

(2) The order of the Court granting the application shall be in the Form 99A.10, Schedule C.

Service and lodgment of notices

9. (1) A notice under this Part shall be served upon the respondent in the manner provided by section 2(1)(a) of the 1997 Act, at least 21 days before the date for hearing of the application.

(2) A copy of the notice together with a statutory declaration as to service thereof shall be lodged with the Clerk at least four days before the date for hearing the application.

Clerk to supply copies of order

10. Where the Court makes, varies or discharges an excluding order, site excluding order, interim excluding order or interim site excluding order, the Clerk shall give or send a certified copy of the order in question as soon as practicable to—

- (a) the applicant concerned,
- (b) the respondent,
- (c) the housing authority in whose functional area the house, site or dwelling in respect of which the application for the order was made is situate, and the Health Service Executive

by ordinary prepaid post and

- (d) the member of the Garda Síochána in charge of the Garda Síochána Station for the area in which the house, site or dwelling in relation to which the application for the order was made is situate by prepaid registered post.

Clerk to notify Gardai when Interim Excluding/Site Excluding orders ceases to have effect.

11. Where an interim excluding order or interim site excluding order has been made and the application for an excluding order or site excluding order has been determined, the Clerk shall send notice in the Form 99A.11, Schedule C, that the interim excluding order or interim site excluding order has ceased to

have effect, by prepaid registered post to the member of the Garda Síochána referred to in rule 10.

Effect of appeal from orders

12. (1) Notwithstanding the provisions of Order 25, rule 9(4) and Order 101 and that an appellant has entered into a recognisance for appeal,

- (a) an appeal from an excluding order or a site excluding order shall, if the court that made the order or the court to which the appeal is brought so determines (but not otherwise), stay the operation of the order on such terms (if any) as may be imposed by the court making the determination;
 - (b) an appeal from an interim excluding order or interim site excluding order shall not stay the operation of the order.
- (2) (a) An application to the District Court to stay the operation of an excluding order or site excluding order under section 8 of the 1997 Act may be made following the service and lodgment of a notice of appeal and lodgment of the recognisance of appeal and when made otherwise than upon the occasion of the making of that order shall be preceded by the issue of a notice in the Form 99A.12, Schedule C, which shall be served upon the respondent to the application two days before the hearing of the application.
- (b) Where the Court grants a stay on the operation of an excluding order or site excluding order under this rule, the order granting such stay shall be in the Form 99A.13, Schedule C. Where the Clerk has supplied the copies of the orders as directed by rule 10, the Clerk shall also send a copy of the order granting the stay, to the persons referred to, and in the manner directed, by rule 10.

III. PROCEEDINGS UNDER 2014 ACT

Venue

13. Subject to the provisions of section 12(15), section 13(12) or, as the case may be, section 17(11) of the 2014 Act, proceedings under the 2014 Act may be brought, heard and determined before a sitting of the District Court for the court area where there is situate the dwelling in relation to which an application under section 12, 13, 16 or 17 of the 2014 Act is being made.

Proceedings may be heard otherwise than in public

14. Proceedings under section 12, 13, or 17 of the 2014 Act may be heard otherwise than in public, in accordance with the provisions of section 12(11), section 13(10) or, as the case may be, section 17(9) of the 2014 Act.

Possession application

15. (1) A possession application by a housing authority to the Court under section 12, section 13 or, as the case may be, section 17, of the 2014 Act shall be preceded by the issue and service of a notice in the Form 99A.15, Schedule C.

(2) Where the application is grounded on the information on oath and in writing of the applicant it shall be in the Form 99A.5, Schedule C, with such modifications as are necessary and sworn before a Commissioner for Oaths, Practising Solicitor, Peace Commissioner or Notary or on an affidavit sworn on behalf of the applicant.

Application to Court in respect of terminated tenancy

16. An application to the Court under section 16 of the 2014 Act shall be preceded by the issue and service upon the housing authority concerned of a notice in the Form 99A.16, Schedule C.

Service and lodgment of notices

17. (1) Save where the 2014 Act otherwise provides, a notice under this Part and information sworn, if any, shall be served in accordance with Order 41 at least 10 working days before the date for hearing of the application.

(2) A copy of the notice and information sworn, if any, together with a statutory declaration as to service thereof shall be lodged with the Clerk at least four days before the date for hearing the application.”

Schedule 2

Schedule C
O.99A, r. 15

No. 99A.15

AN CHUIRT DUICHE

THE DISTRICT COURT

HOUSING (MISCELLANEOUS PROVISIONS) ACT 2014

Section *12 *13 *17

APPLICATION FOR A POSSESSION ORDER

District Court Area of

District No.

.....of.....Applicant

.....of.....Respondent

TAKE NOTICE that application will be made to the District Court to be held at.....on the....day of.....20....., at.....a.m./p.m. by the applicant housing authority for a possession order under section *12 *13 *17 of the above-mentioned Act of 2014 in respect of a dwelling of which the respondent is a *tenant/* person in occupation, namely *in court area and district aforesaid.

*The grounds of the application are
(Set out the grounds in accordance with the relevant section of the Housing (Miscellaneous Provisions) Act 2014)

*The grounds for this possession application are provided by *information on oath

*affidavit of an officer or employee of the applicant housing authority duly authorised to give that information, and a copy of which is served herewith.

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

.....
*Applicant/*Solicitor for Applicant

To.....of.....
Respondent

To District Court Clerk at.....

* Delete where inapplicable

No. 99A.16

AN CHUIRT DUICHE

THE DISTRICT COURT

HOUSING (MISCELLANEOUS PROVISIONS) ACT 2014

Section 16

APPLICATION IN RESPECT OF A TENANCY TERMINATED UNDER
SECTION 15

District Court Area of

District No.

.....of.....Applicant

.....of.....Respondent

TAKE NOTICE that application will be made to the District Court to be held at.....on the....day of.....20....., at.....a.m./p.m. by the applicant, who was, immediately before the termination of a tenancy, the tenant of the respondent housing authority of a dwelling at.....*(in the court *(area and) district aforesaid) to which section 15 of the above-mentioned Act relates, and who is aggrieved by the termination of that tenancy, for an order under section 16 of the above-mentioned Act.

The grounds of the application are that the respondent housing authority—

*failed to comply with any provision of subsections (1) and (2) of section 15 of the said Act,

*did not have reasonable grounds for finding *that the dwelling was unoccupied by the applicant’s household *that the applicant’s household did not intend to occupy the dwelling as its normal place of residence

*was in error in finding that the applicant’s household did not intend to occupy the dwelling as its normal place of residence, and that the applicant had reasonable cause, by reason of illness or otherwise, for failing to notify the housing authority of *his *her household’s intention to so occupy it.

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

.....
*Applicant/*Solicitor for Applicant

To.....of....., Respondent

To District Court Clerk at.....

* Delete where inapplicable

EXPLANATORY NOTE

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

These rules amend Order 99A of the District Court Rules and prescribe forms to facilitate applications to the District Court pursuant to the Housing (Miscellaneous Provisions) 2014.

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.

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