



STATUTORY INSTRUMENTS.

S.I. No. 499 of 2017



CIRCUIT COURT RULES (JURISDICTION) 2017

CIRCUIT COURT RULES (JURISDICTION) 2017

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), 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 28 day of February 2017.

(Signed): Raymond Groarke

(Chairman of the Circuit Court Rules Committee)

Jacqueline Linnane

Sarah Berkeley

David Dodd

Fiona Duffy

Keith Walsh

Mairead Ahern

Rita Considine

Noel Rubotham

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

Dated this 15th day November of 2017.

Signed: CHARLES FLANAGAN,

MINISTER FOR JUSTICE AND EQUALITY.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 21st November, 2017.*

S.I. No. 499 of 2017

CIRCUIT COURT RULES (JURISDICTION) 2017

1. (1) These Rules, which may be cited as the Circuit Court Rules (Jurisdiction) 2017, shall come into operation on the 8th day December of 2017.

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

(3) The Circuit Court Rules 2001 to 2016 as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2017.

2. The Circuit Court Rules are amended by the substitution therein for rule 2 of Order 5 of the following rule:

“2. Civil Bill Ejectments on the title and Civil Bills issued for the purpose of establishing questions of title to land, other than ejectments for overholding or for non-payment of rent, shall be headed "Title Jurisdiction" and shall contain, as the case may be, (a) a statement that the market value (within the meaning of section 2(1) of the Courts (Supplemental Provisions) Act 1961) of the land does not exceed €3,000,000 or (b) such statement of the rent as shall show jurisdiction. At the hearing of any such case the plaintiff may be required to produce a map of the land.”

3. The Forms 2D, 2G, 2R and 54 in the Schedule shall be substituted for the forms bearing the like numbers respectively set out in the Schedule to the Circuit Court Rules.

Schedule

FORM 2D
AN CHÚIRT CHUARDA
THE CIRCUIT COURT

CIRCUIT

COUNTY OF

EJECTMENT CIVIL BILL — TITLE JURISDICTION OR PERMISSIVE
OCCUPANT

BETWEEN

.....Plaintiff

AND

.....Defendant

You are hereby required within 10 days after the service of this Civil Bill upon you to enter or cause to be entered with the County Registrar, at his Office at, an Appearance to answer the claim of of, the Plaintiff herein for possession of.....

[Title jurisdiction insert: the market value of which does not exceed €3,000,000

Permissive occupant insert: occupied by you as (servant, caretaker or permissive occupant, as the case may be)].

And take notice that unless you do enter an Appearance you will be held to have admitted the said claim and application may be made to the Court in your absence for an order for immediate possession.

And further take notice that, if you intend to defend the proceeding on any grounds, you must not only enter an Appearance, but also, within ten days after Appearance, deliver a statement in writing showing the nature and grounds of your Defence.

The Appearance may be entered by posting same to the said Office and by giving copies thereof to the Plaintiff or his solicitor by post and the Defence may be delivered by posting same to the Plaintiff or his solicitor.

Dated theday of

Signed.....
Plaintiff/Solicitors for the Plaintiff

To:.....
The Defendant/Solicitor for the Defendant

INDORSEMENT OF CLAIM (title jurisdiction)

The Plaintiff's claim is for recovery of possession of the lands of situate at which are the property of the Plaintiff and possession of which the Defendant wrongfully withholds;

and for the costs of the proceeding.

.....
Plaintiff/Solicitors for the Plaintiff

INDORSEMENT OF CLAIM (permissive occupant)

The Plaintiff's claim is for recovery of possession of situate at and occupied by the Defendant since whereof possession was demanded on but has been withheld;

and for the costs of the proceeding.

.....
Plaintiff/Solicitors for the Plaintiff

FORM 2G
AN CHÚIRT CHUARDA
THE CIRCUIT COURT

CIRCUIT

COUNTY OF

TESTAMENTARY CIVIL BILL

BETWEEN

.....Plaintiff

AND

.....Defendant

You are hereby required within ten days after the service of this Civil Bill upon you to enter or cause to be entered with the County Registrar, at his Office at, an Appearance to answer the claim of of, the Plaintiff herein.

And take notice that unless you do enter an Appearance, you will be held to have admitted the said claim, and the Plaintiff may proceed therein and judgment may be given against you in your absence without further notice.

And further take notice that, if you intend to defend the proceeding on any grounds, you must not only enter an Appearance, but also, within ten days after Appearance, deliver a statement in writing showing the nature and grounds of your Defence.

The Appearance may be entered by posting same to the said Office and by giving copies thereof to the Plaintiff or his Solicitor by post and the Defence may be delivered by posting same to the Plaintiff or his Solicitor.

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

Signed
Plaintiff/Solicitors for the Plaintiff

To :.....
The Defendant/Solicitor for the Defendant

INDORSEMENT OF CLAIM

1. X.Y., late of in the County of (description) died on the day of having made his last Will whereby he appointed the Defendant executor of the said Will.

2. Probate of the said Will was on the day of granted to the Defendant.

3. The Plaintiff's claim is as (show interest) for the revocation of the said Grant of Probate upon the grounds following:

or

The Plaintiff's claim is for the grant of letters of administration of the estate of of in the County of who died on the day of, intestate.

or

The Plaintiff's claim is for the revocation of Probate/Letters of Administration granted forth of Probate Registry on in the matter of the estate of in the County of

4. The value of the estate of the said deceased at the time of the death of the deceased in so far as it consists of personal estate does not exceed [INSERT DETAILS OF MONETARY BASIS OF JURISDICTION] and in so far as it consists of real estate does not exceed €3,000,000.

.....
Plaintiff/Solicitors for the Plaintiff

FORM 2R

AN CHÚIRT CHUARDA
THE CIRCUIT COURT

CIRCUIT

COUNTY OF

BETWEEN

.....Plaintiff

AND

.....Defendant

CIVIL BILL FOR *[POSSESSION] *[ORDER AUTHORISING SALE
UNDER SECTION 100(3) OF THE LAND AND CONVEYANCING LAW
REFORM ACT 2009] *[WELL-CHARGING RELIEF]

To of in the County of the Defendant

This Civil Bill is to require you to attend before the County Registrar at Court no. on 20.... at.....am/pm. for the hearing of this Civil Bill issued on..... 20.... by/on behalf of..... of....., the Plaintiff.

The Plaintiff’s claim against you is set out in the section of this Civil Bill headed “Special Indorsement of Claim”.

If you wish to attend and to be heard, you should, within ten days after the service of this Civil Bill on you—

1. detach and complete the two forms (headed “Entry of Appearance”) attached to this Summons,
2. give or send by post one of those forms to the Circuit Court Office at

and

3. give or send by post the other form to the Plaintiff or to the Solicitor for the Plaintiff at the address set out in the Entry of Appearance.

If you intend to defend the proceeding on any grounds, as well as entering an appearance as indicated above you must, not later than four days before the date mentioned above for the hearing of this Civil Bill—

1. set out in a sworn statement (a “replying affidavit”) the nature and grounds of your defence to the claim,
2. file the replying affidavit in the Circuit Court Office above mentioned and
3. give or send by post a copy of the replying affidavit to the *[Plaintiff]*[Plaintiff’s Solicitor].

PLEASE NOTE that unless you file an Appearance with the County Registrar and file the replying affidavit as set out above, you will be held to have admitted the said claim, and the Plaintiff may proceed with the claim against you and judgment may be given against you in your absence without further notice.

SPECIAL INDORSEMENT OF CLAIM

[Insert the relief claimed specifically and with all necessary particulars, the grounds thereof and the basis upon which jurisdiction is claimed, including a statement that the market value of the mortgaged property does not exceed €3,000,000, and a statement that the property is located within the Circuit.]

*These proceedings are commenced in the Circuit Court pursuant to section 101(5) of the Land and Conveyancing Law Reform Act 2009 as they include an application under section 97(2) or section 100(3) of the Land and Conveyancing Law Reform Act 2009 concerning property which is subject to a housing loan mortgage created on or after 1 December 2009 *and section 2 of the Land and Conveyancing Law Reform Act 2013 applies to the proceedings as they are proceedings brought by a mortgagee seeking an order for possession of land to which the mortgage relates and which land is the principal private residence of—

- (a) the mortgagor of the land concerned, or
- (b) a person without whose consent a conveyance of that land would be void by reason of—
 - (i) the Family Home Protection Act 1976, or
 - (ii) the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

*These proceedings are commenced in the Circuit Court pursuant to section 3 of the Land and Conveyancing Law Reform Act 2013 as they are proceedings brought by a mortgagee seeking an order for possession of land which is the principal private residence of—

- (a) the mortgagor of the land concerned, or
- (b) a person without whose consent a conveyance of that land would be void by reason of—
 - (i) the Family Home Protection Act 1976, or
 - (ii) the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,

and the mortgage concerned was created prior to 1 December 2009.

The plaintiff will rely at the hearing of this Civil Bill on the following affidavit(s):

1. Affidavit of.....

10 [499]

2. etc.

Copies of the above affidavit(s) and exhibit(s) are served herewith.

N.B. This Civil Bill is to be served not less than 21 days before the return day mentioned above (exclusive of the day of service).

Dated: 20....

Signed:

Plaintiff/Solicitor for the Plaintiff

To:

Defendant/ Solicitor for the Defendant

And To: The County Registrar

*delete where inapplicable

AN CHÚIRT CHUARDA
THE CIRCUIT COURT

CIRCUIT

COUNTY OF

ENTRY OF APPEARANCE

BETWEEN

.....Plaintiff

AND

.....Defendant

1. To the County Registrar at I request you will enter an Appearance herein on behalf of the Defendant to the Civil Bill served upon * him *her on.....

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

Signed of [*insert address*]
Defendant/Solicitors for the Defendant

2. To the Plaintiff/Solicitor for the Plaintiff The Appearance mentioned above was this day lodged by hand (sent by post) and the said Defendant intends to defend this proceeding.

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

Signed..... of [*insert address*]
Defendant/Solicitors for the Defendant

AN CHÚIRT CHUARDA
THE CIRCUIT COURT

CIRCUIT

COUNTY OF

ENTRY OF APPEARANCE

BETWEEN

.....Plaintiff

AND

.....Defendant

1. To the County Registrar at..... I request you will enter an Appearance herein on behalf of the Defendant to the Civil Bill served upon * him *her on.....

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

Signed of [*insert address*]
Defendant/Solicitors for the Defendant

2. To the Plaintiff/Solicitor for the Plaintiff The Appearance mentioned above was this day lodged by hand (sent by post) and the said Defendant intends to defend this proceeding.

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

Signed..... of [*insert address*]
Defendant/Solicitors for the Defendant

FORM 54
AN CHÚIRT CHUARDA
THE CIRCUIT COURT

CIRCUIT

COUNTY OF

BETWEEN

.....Plaintiff

AND

.....Defendant

AFFIDAVIT IN SUPPORT OF CIVIL BILL FOR *[POSSESSION] *
[ORDER AUTHORISING SALE UNDER SECTION 100(3) OF THE
LAND AND CONVEYANCING LAW REFORM ACT 2009] *[WELL-
CHARGING RELIEF]

I, [Insert name of Deponent], [Insert occupation of Deponent],
..... of [Insert address of Deponent] being aged 18 years and
upwards MAKE OATH and say as follows:

1. I am *[the (*state capacity*) of the plaintiff] *[the plaintiff] in the above entitled
proceedings. 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.

A — Verification of factual matter in Civil Bill

2. I beg to refer to the Civil Bill herein. I say that such of the statements therein
as relate to the acts and deeds of the plaintiff are true and correct and such of
the statements therein as relate to the acts and deeds of any other person or
persons I believe to be true.

B — Details of property

[Set out precise particulars of the property to which the proceedings relate,
including any premises on the land, and the full address of the property. In the
case of registered land, the county and folio number should be specified. Exhibit
any relevant document, including where relevant any document or copy certified
by a member of the staff of the Property Registration Authority (e.g. certified
copy folio); evidence as to whether or not the property is a family home within
the meaning of section 2 of the Family Home Protection Act 1976 or a shared
home within the meaning of section 27 of the Civil Partnership and Certain
Rights and Obligations of Cohabitants Act 2010].

C — Details of occupancy/possession

[Set out particulars of the occupancy of the property to which the proceedings
relate, including the names of the known occupants; whether the property is
occupied by the defendant borrower and/or other persons as a principal dwelling

or otherwise. Where the property is occupied by the borrower or a person(s) other than the borrower on a leasehold or tenancy basis, set out the identity of the tenant(s) where known, whether the tenancy is for commercial purposes or is residential, the terms where known of any tenancy. In the case of a leasehold or tenancy consent by the plaintiff which would have been required by law, specify whether such consent had been given by the plaintiff. Where the applicant has recovered possession of the property, please confirm the circumstances in which possession was obtained (e.g. under order of court or by consent). Exhibit any relevant document.]

D — Details of security

[Set out precise particulars of the security on which the plaintiff relies, including the date on which the security was provided, amount secured and any relevant registration of the security, specifying in particular whether the security is by way of registered charge; mortgage by deed or other unregistered security; security by way of equitable deposit; enforceable agreement to create a mortgage, etc and the nature and extent of the legal or equitable estate or interest of the defendant secured. Where relevant (see B above) specify whether any consent for the purposes of section 3 of the Family Home Protection Act 1976 or section 28 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 had been obtained to the giving of the security. Exhibit any relevant document (e.g. deed of mortgage).]

E — Details of loan agreement or other advance relied upon

[Set out precise particulars of the loan agreement (e.g. facility letter) on which the plaintiff relies, exhibiting same if in writing and not previously exhibited; and if not in writing, set out particulars of the agreement.]

F — Details of arrears or default or other matter on which plaintiff relies as entitling the plaintiff to the relief sought

[Set out precise particulars of arrears alleged to be owed or other default alleged by the defendant, or other matter on which the plaintiff relies as entitling the plaintiff to the relief sought, explaining by reference to any written agreement or otherwise precisely how it is alleged the act or default of the defendant or other matter relied upon entitles the plaintiff to the relief claimed. Set out and if in writing exhibit all relevant communications passing between the plaintiff (and/or its agents) and the defendant (and/or his or her agents) in relation to same, including letters of demand relied upon and up to date statement of mortgage arrears.]

G — Application of regulatory code

[Where the agreement for security on foot of which the proceedings have been commenced, or any loan agreement to which it applies, is or was at the material time or times one to which a code drawn up by the Central Bank of Ireland in accordance with section 117 of the Central Bank Act 1989 applies:

(a) identify the code concerned, and

(b) provide (whether in this affidavit or in a supplemental affidavit) such information as would enable the Court to evaluate the extent to which the plaintiff has, in relation to any relevant provision of the code, been in compliance.]

H — Other relevant information

[Set out all other evidence on which the plaintiff relies in support of its application for relief and all other information relevant to the application and where same is contained in any document, exhibit such document.]

[insert appropriate paragraph number] I accordingly pray for the relief set out in the Civil Bill herein.

SWORN etc.

*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 the Circuit Court rules by the substitution of rule 2 of Order 5 of, and the substitution of forms 2D, 2G 2R and 54 in the Schedule of Forms to those Rules, to facilitate the operation of the provisions of the Courts Act 2016, which change the basis on which the limited jurisdiction of the Circuit Court in relation to proceedings concerning land is exercised.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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