



STATUTORY INSTRUMENTS.

S.I. No. 348 of 2011



RULES OF THE SUPERIOR COURTS (CIVIL PARTNERSHIP AND
COHABITATION) 2011

(Prn. A11/1180)

S.I. No. 348 of 2011

RULES OF THE SUPERIOR COURTS (CIVIL PARTNERSHIP AND
COHABITATION) 2011

We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, by virtue of the powers conferred upon us by the Courts of Justice Act 1924, section 36, and the Courts of Justice Act 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), and 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 15th day of December, 2010.

Nicholas Kearns

Joseph Finnegan

John Edwards

Paul McGarry

Sasha Gayer

Patrick Groarke

Patrick O'Connor

Mary Cummins

Noel Rubotham

Geraldine Manners

I concur in the making of the following Rules of Court,
dated this 3rd day of July, 2011.

ALAN SHATTER,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 8th July, 2011.*

S.I. No. 348 of 2011

RULES OF THE SUPERIOR COURTS (CIVIL PARTNERSHIP AND
COHABITATION) 2011

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Civil Partnership and Cohabitation) 2011, shall come into operation on the 31st day of July 2011.

(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 2011.

2. The Rules of the Superior Courts are amended:

(i) by the insertion immediately following Order 70A of the Order set out in Schedule 1,

(ii) by the insertion of the words “or, as the case may be, the surviving civil partner” immediately following the words “surviving spouse” in each of paragraphs (a) and (b) of sub-rule (1) of rule 5 of Order 79 and in each of paragraphs (a) and (b) of sub-rule (1) of rule 6 of Order 80, and

(iii) by the insertion immediately following Appendix HH of the Appendix set out in Schedule 2.

Schedule 1

“Order 70B

Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

I. Preliminary

1. In this Order:

the “Act” means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

the “Act of 2004” means the Civil Registration Act 2004;

“civil partnership law proceedings” has the same meaning as in section 139 of the Act;

“cohabitation proceedings” means proceedings under Part 15 of the Act;

reference to registration of a civil partnership includes, in the case of a civil partnership recognised by virtue of section 5 of the Act, registration of a legal relationship as referred to in that section.

II. Civil partnership law proceedings

Commencement of civil partnership law proceedings

2. (1) Civil partnership law proceedings for any one or more of the following reliefs shall be commenced by special summons, which shall be a civil partnership summons:

- (a) an order under section 4(1) of the Act including where such relief is sought by virtue of an order made under section 5 of the Act;
- (b) an order on an application by a civil partner to have a conveyance declared void, under section 28 of the Act, or for relief under section 34 of the Act;
- (c) an order under section 29(1) of the Act dispensing with the consent of a civil partner required under section 28 of the Act or an order under section 29(4) of the Act to give the consent required under section 28 of the Act on behalf of a civil partner;
- (d) relief under section 30(1) of the Act or section 30(2) of the Act;
- (e) a maintenance order under section 45 of the Act;
- (f) an order on an application by a civil partner or a child of a deceased person who was a civil partner before death under section 106 of the

Act determining a question arising between civil partners as to the title to or possession of property;

- (g) a decree of nullity of civil partnership under section 107 of the Act;
- (h) a decree of dissolution in respect of a civil partnership under section 110 of the Act;
- (i) an order for provision out of the estate of a deceased civil partner under section 127 of the Act;
- (j) an order directing the sale of property under section 128 of the Act;
- (k) subject to rule 15, an order setting aside a disposition under section 137 of the Act;
- (l) relief between civil partners under the Partition Act 1868 and the Partition Act 1876, where the fact that they are civil partners of each other is of relevance to the proceedings.

(2) The following civil partnership law proceedings shall be commenced by originating notice of motion:

- (a) an application to the Court pursuant to section 48 of the Act, which shall be grounded on the affidavits of both civil partners, to one of which is exhibited the agreement concerned, and in which each civil partner verifies that he or she has taken, or has the opportunity to take, independent legal advice in relation to the agreement, provided that where relief under section 48 of the Act is sought in addition to other relief under the Act, such relief may be sought in any special summons, without the necessity to bring an originating motion separately;
- (b) an application to the Court pursuant to section 127(7) of the Act by the personal representative of a deceased civil partner for leave to distribute the estate.

(3) All civil partnership law proceedings shall be entitled:

“THE HIGH COURT
CIVIL PARTNERSHIP

In the matter of section of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (or as the case may be)

Between/

A.B., Applicant
and
C.D., Respondent”

(4) The endorsement of claim shall be entitled “Special Endorsement of Claim” and shall state specifically, with all necessary particulars, the relief sought and each section of the Act under which the relief is sought and the grounds upon which it is sought.

3. (1) Civil partnership law proceedings for relief under the Domestic Violence Acts 1996 to 2002 (as amended by Part 9 of the Act) which have been instituted and maintained in the High Court pursuant to Article 34.3.1 of the Constitution shall be brought, heard and determined in accordance with Order 70A, with such modifications as are necessary.

(2) An application to the Court pursuant to section 59B(2) of the Act of 2004 (as inserted by section 16 of the Act) shall be commenced by originating notice of motion, which shall be grounded on the affidavit of one or both intending civil partners setting out and proving the reasons for the exemption sought from the requirement of section 59B(1)(a) and why the exemption is in the interests of the intending civil partners.

Verification of claim

4. (1) In any proceedings pursuant to rule 2(1), an affidavit verifying the proceedings or in reply thereto (in this rule, the “affidavit”) shall contain one or more the particulars set out in this rule, where applicable.

(2) In the case of an application for a decree of dissolution of a civil partnership, the affidavit shall include:

- (a) the date and place of the registration of the civil partnership of the parties;
- (b) the length of time the parties have lived apart and the address of each of the parties during that time, where known;
- (c) the age of the civil partners, the duration of their civil partnership and the length of time during which the civil partners lived with each other after registration of their civil partnership;
- (d) any physical or mental disability of either of the civil partners;
- (e) full particulars of any children of the applicant or respondent or to whom either of the civil partners owes an obligation of support and stating whether and if so what provision has been made for each and any such child;
- (f) whether any possibility of a reconciliation between the applicant and respondent exists and if so on what basis the same might take place;
- (g) details of any previous civil partnership law relief sought and/or obtained and details of any previous separation agreement entered into between the parties (and where appropriate, a certified copy of

any relevant Court order and/or agreement should be exhibited to the affidavit);

- (h) details of any previous matrimonial or family law relief obtained by either of the parties (and where appropriate a certified copy of any relevant Court order and/or agreement should be exhibited to the affidavit);
- (i) where each party is domiciled at the date of the application commencing the proceeding or where each party has been ordinarily resident for the year preceding the date of such application;
- (j) details of the shared home(s) and/or other residences of the parties including, if relevant, details of any former shared homes/residences which should include details of the manner of occupation and ownership thereof;
- (k) where reference is made in the civil partnership summons to any immovable property, whether it is registered or unregistered land and a description of the lands/premises so referred to;
- (l) any other matter which is relevant for the purposes of section 129(2) of the Act.

(3) In the case of an application for a decree of nullity under section 107 of the Act, the affidavit shall include such of the particulars mentioned in sub-rule (2) as are appropriate and:

- (a) particulars of the grounds set out in section 107 of the Act on which such a decree might be granted and of each of the facts alleged to support such grounds;
- (b) where the application involves an allegation that either or both of the parties was unable to give informed consent, the attestation to that effect mentioned in section 107(c)(iv) of the Act shall in the first instance be given by the consultant psychiatrist by affidavit, and where any such attestation is disputed by the opposing party then, without prejudice to the right of that party to cross-examine and/or to adduce expert evidence, application may be made to the Master for the appointment of a psychiatric inspector in respect of the party concerned;
- (c) in any other appropriate case, the Master may appoint a medical and/or psychiatric inspector in respect of either party.

(4) In the case of an application for relief under section 4 of the Act, the affidavit shall include such of the particulars mentioned in sub-rule (2) as are appropriate and:

- (a) the nature of the applicant's reason for seeking the relief sought under section 4 of the Act;

- (b) full details of the registration of the civil partnership and/or dissolution of the civil partnership in respect of which the declaration is sought including the date and place of the registration and/or the dissolution of the civil partnership (and, where appropriate, a certified copy of the civil partnership registration form and/ or decree of dissolution should be exhibited to the affidavit);
 - (c) where a declaration is sought under section 4 by virtue of an order made under section 5 of the Act, a certified copy of the instrument of registration or of dissolution, with, where appropriate, an authenticated translation thereof, should be exhibited to the affidavit;
 - (d) particulars of any previous or pending proceeding in relation to any civil partnership concerned or relating to the civil partnership or matrimonial status of a party to the civil partnership concerned;
 - (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 child of either civil partner or to whom either of the civil partners owes an obligation of support.
- (5) In the case of an application for relief under section 106 of the Act, the affidavit shall include such of the particulars mentioned in sub-rule (2) as are appropriate and:
- (a) the description, nature and extent of the money or other property to which the application relates;
 - (b) the state of knowledge of the applicant civil partner or deceased parent in relation to the possession or control of the money or other property to which the application relates at all relevant times;
 - (c) the nature and extent of the interest being claimed by the applicant in the money or other property to which the application relates and the basis upon which such claim is made;
 - (d) the nature and extent of any claim for relief being made and the basis upon which any such claim is made;
 - (e) particulars of any relevant payment or disposition made by the respondent civil partner or deceased parent civil partner;
 - (f) 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 child of either civil partner or to whom either of the civil partners owes an obligation of support.

(6) In the case of an application for provision out of the estate of a deceased civil partner under section 127 of the Act, the affidavit shall include such of the particulars mentioned in sub-rule (2) as are appropriate and:

- (a) the date and place of the registration of the civil partnership and of any dissolution of the civil partnership (and, where appropriate, a certified copy of the civil partnership registration form and/ or decree of dissolution should be exhibited to the affidavit);
- (b) details of any previous civil partnership law reliefs obtained by the applicant and in particular any lump sum maintenance orders, financial compensation orders and property adjustment orders;
- (c) details of any benefit received from or on behalf of the deceased civil partner whether by way of agreement or otherwise and details of any benefits accruing to the applicant under the terms of the will of the deceased civil partner or otherwise;
- (d) the date of death of the deceased civil partner, the date upon which representation was first granted in respect of the estate of the said civil partner and, if applicable, the date upon which notice of death of the deceased civil partner was given to the applicant under section 127(7) of the Act and the date upon which the applicant notified the personal representative of an intention to apply for relief pursuant to section 127(8) of the Act;
- (e) the civil partnership or marital status of the deceased civil partner at the date of death and the civil partnership or marital status of the applicant at the date of the application and whether the applicant has entered another civil partnership or a marriage since the dissolution of the civil partnership between the applicant and the deceased civil partner;
- (f) details of the dependants of the deceased civil partner at the date of death, of the dependants of the applicant at the date of the application, and of any other interested persons;
- (g) An averment as to whether any order has previously been made under section 127(11) of the Act;
- (h) details of the value of the estate of the deceased civil partner where known.

(7) In the case of an application for relief between civil partners under the Partition Act 1868 and the Partition Act 1876, where the fact that they are civil partners of each other is of relevance to the proceedings, the affidavit shall include such of the particulars mentioned in sub-rule (2) as are appropriate and:

- (a) the description, nature and extent of the money or other property to which the application relates;

- (b) the nature and extent of any claim for relief being made and the basis upon which any such claim is made;
- (c) 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 child of either civil partner or to whom either of the civil partners owes an obligation of support.

Affidavit of Means

5. (1) Without prejudice to:

- (a) the right of any party to seek particulars of any matter from the other party to any proceeding, or
- (b) the right of any party to apply to the Court for an order of discovery, or
- (c) the jurisdiction of the Court under section 142 of the Act,

in any case where financial relief under the Act is sought each party shall file and serve an Affidavit of Means in the proceeding.

(2) The Affidavit of Means shall be in Form No. 1 in Appendix II.

(3) An Affidavit of Means of the applicant shall be served with the verifying affidavit grounding the proceeding and the Affidavit of Means of any respondent or any other party shall be served with the replying affidavit in the proceeding unless otherwise ordered by the Master or the Court. Subsequent to the service of an Affidavit of Means either party may request the other party to vouch all or any of the items referred to therein within 21 days of the said request.

(4) In the event of a party failing properly to comply with the provisions in relation to the filing and serving of an Affidavit of Means or failing properly to vouch the matters set out therein, the Court may, on application by notice of motion, grant an order for discovery and/or make any such order as the Court deems appropriate and necessary, including an order that such party shall not be entitled to pursue or defend as appropriate such claim for any ancillary relief under the Act save as permitted by the Court and upon such terms as the Court may determine are appropriate or the Court may adjourn the proceeding for a specified period of time to enable compliance with any such previous request or order of the Court.

Interim, interlocutory, ancillary or consequential relief

6. (1) An application to the Court for any interim or interlocutory relief, including for any of the following reliefs, shall be by notice of motion to the Court:

- (a) an order under section 30 or section 34 of the Act;
- (b) an order under section 46 of the Act discharging or varying a maintenance order;
- (c) an interim maintenance order under section 47 of the Act;
- (d) an order under section 50(3) of the Act to discharge a direction for the transmission of maintenance payments;
- (e) an order under section 52 of the Act to secure a maintenance order;
- (f) an order under section 53(2) of the Act for an attachment of earnings order;
- (g) a determination under section 58 of the Act;
- (h) an order under section 60 of the Act discharging or varying an attachment of earnings order;
- (i) a safety order, a barring order, an interim barring order or a protection order under the Domestic Violence Acts 1996 and 2002, as amended by Part 9 of the Act, or an order under section 30 or section 34 of the Act pending application for a decree of dissolution;
- (j) an order under section 116 of the Act requiring a civil partner to make periodical payments or lump sum payments for support pending application for a decree of dissolution.

(2) An application to the Court for any subsequent ancillary or consequential relief after a decree of dissolution has been made, including for any of the following reliefs, shall be by notice of motion to the Court:

- (a) an order under section 117 of the Act requiring a civil partner to make and/or secure periodical payments or lump sum payments for support and/or an attachment of earnings order in respect of any such payments following the making of a decree of dissolution;
- (b) a property adjustment order under section 118 of the Act following the making of a decree of dissolution;
- (c) an ancillary order under section 119 of the Act following the making of a decree of dissolution;
- (d) a financial compensation order under section 120 of the Act following the making of a decree of dissolution;
- (e) a pension adjustment order under section 121 of the Act following the making of a decree of dissolution;
- (f) an order under section 127(11) of the Act;

(g) subject to rule 14, an order under section 131(2) of the Act discharging or varying an order mentioned in section 131(1) of the Act.

(3) An application for the appointment of a medical and/or psychiatric inspector in respect of a party shall be by motion on notice and on the hearing of the motion, the Master may, on such terms as he considers appropriate, appoint a suitably qualified person to examine a party and to report to the Court on such matters as are directed.

(4) A copy of the notice of motion under sub-rule (1), (2) or (3) shall be served upon the other party or parties to the proceeding 14 clear days before the return date and shall, where appropriate, be grounded upon the affidavit of the moving party.

(5) An application to which sub-rule (1) applies may be made ex parte to the Court in any case in which interim relief of an urgent and immediate nature is required by the applicant and the Court may in any case, where it is satisfied that it is appropriate, grant such relief or make such order as appears proper in the circumstances.

(6) A statement as to earnings for the purposes of paragraph (a) or paragraph (b) of section 56(1) of the Act shall be in Form No. 2 or 3 as appropriate in Appendix II. Such a statement by a maintenance debtor shall be verified on affidavit or on oath at the hearing of the application. Such a statement by an employer need not be verified on affidavit unless so required by the maintenance creditor.

(7) Any application to which this rule applies shall be heard on affidavit unless the Court otherwise directs. Where any oral evidence is heard by the Court in the course of any application ex parte, a note of such evidence shall be prepared by the applicant or the applicant's solicitor and approved by the Court and shall be served upon the respondent forthwith together with a copy of the order made, if any, unless otherwise directed by the Court.

(8) An application by an interested civil partner for an adjournment of proceedings against another civil partner under section 32 of the Act or for relief under section 33 of the Act shall be by motion in the proceedings against the other civil partner on notice to each of the parties to those proceedings seeking to be joined to those proceedings (if the applicant has not been served with a third party notice in those proceedings) and specifying any order sought under section 32 or section 33 of the Act.

Notice to Trustees

7. (1) An applicant who seeks an order under the Act affecting a pension in any way shall give notice to the trustees of the pension scheme concerned in the Form No. 4 in Appendix II informing them of the application.

(2) A calculation provided by such trustees in accordance with section 126(2) of the Act shall be certified by a person duly authorised in that behalf by the

trustees, but need not be verified on affidavit unless so required by one of the parties.

(3) The trustees may, if they consider it necessary, file an Affidavit of Representations.

Motion for Directions

8. (1) An applicant or respondent may, at any stage, bring a motion for directions to the Court:

- (a) where there are any dependent children of either civil partner who are sui juris and whose welfare or position is or is likely to be affected by the determination of the proceeding or of any issue in the proceedings;
- (b) where an order is sought concerning the sale of any property in respect of which any other party has or may have an interest;
- (c) where an order of any type is sought which will affect the rules of a pension scheme or require non-compliance therewith; or
- (d) where an application is brought seeking provision out of the estate of a deceased civil partner,

or where the Court in any other case directs.

(2) The notice of motion for directions shall be grounded upon the affidavit of the moving party which shall, in particular, identify the party or person whose interests are or are likely to be affected by the determination of the proceeding or any issue in the proceeding and who ought to be put on notice of the said proceeding and given an opportunity of being heard.

(3) The Court may, upon such motion or of its own motion, make such order or give such direction pursuant to section 141 of the Act as appears appropriate and may, where any order affecting the rules of a pension scheme is sought, direct that further notice be given to the trustees of such pension scheme in accordance with the Form No. 4 in Appendix II or in such variation thereof as the Court may direct, as appropriate.

(4) Save where the Court shall otherwise direct, a notice party who wishes to make representations to the Court shall make such representations by affidavit which shall be filed and served on all parties to the proceeding within 28 days of service upon them of the notice of application for relief or within such further time as the Court may direct.

9. The Court may, at any stage, direct that the parties to any proceeding exchange pleadings in relation to all or any of the issues arising in the proceeding between the parties or between the parties or any of them and any third party on such terms as appears appropriate and may give such directions in relation to the matter as appear necessary.

Hearing

10. (1) Save where the Court otherwise directs, the hearing of any interim or interlocutory application brought under the Act shall be on the affidavits of the parties subject to the right of the parties to seek to cross examine the opposing party on their affidavit. Any party may serve a notice to cross examine in relation to the deponent of any affidavit served on him.

(2) Save where the court otherwise directs the hearing of any application under the Act shall be on the oral evidence of the parties.

(3) Where relief is sought by the applicant or the respondent pursuant to section 121 of the Act (or under section 48 of the Act where the agreement involves a pension adjustment), any evidence of the actuarial value of the benefit under the scheme considered necessary in addition to the calculation supplied under section 126(2) of the Act shall be by affidavit filed on behalf of the applicant or respondent as the case may be. Such affidavit on behalf of a moving party shall be sworn and served on all parties to the proceeding and filed at least 28 days in advance of the hearing and subject to the right to serve notice of cross examination in relation to the affidavit. When one of the parties has adduced evidence of the actuarial value of the benefit by such affidavit which the other party intends to dispute, he shall do so by affidavit which shall be filed at least 14 days in advance of the hearing, subject to the right to serve notice of cross examination in relation to same.

11. Where any relief is sought which has not been specifically claimed, the Court may adjourn the proceedings to allow such amendments to the civil partnership summons as may be necessary and upon such terms and conditions as it seems fit.

12. An application to remit or transfer civil partnership law proceedings pending before the Court to the Circuit Court or the District Court under section 25 of The Courts of Justice Act 1924 and section 11 of the Courts of Justice Act 1936 may be made by motion on notice at any time after an appearance has been entered.

13. In any civil partnership law proceeding which has been transferred to the High Court pursuant to section 140(5) or section 140(7) of the Act, the applicant and the respondent shall each within fourteen days from the making of the order or such further time as the Master may allow, file in the Central Office an affidavit or supplemental affidavits as shall appear necessary to conform to the requirements of this Order as if the proceeding had commenced in the High Court, together with certified copy of the order transferring the same and the proceeding shall thereupon be listed for hearing.

14. An application under section 131 of the Act shall be made to the Court by motion in the proceeding on notice to the party concerned and shall be supported by an affidavit verifying the same and shall set out fully how, when and in what respect circumstances have changed or what new evidence exists as

a result of which the Court should vary or discharge or otherwise modify in any respect an order to which the section applies.

15. Where civil partnership law proceedings seeking other relief are in being between the parties, an application under section 137 of the Act may, at any time, be made to the Court by motion on notice in the proceeding to the party concerned and shall be supported by an affidavit verifying the facts alleged in relation to the disposition complained of and shall specify the relief claimed and the way in which the disposition is said to be intended to defeat the relief claimed or to affect it in any way and the Court may make such order upon such motion as appears proper in the circumstances and may, if necessary, adjourn the motion in order to give notice of the application to any party affected by the disposition complained of or the disposal of the property concerned.

III. Cohabitation proceedings

Commencement of cohabitation proceedings

16. (1) Proceedings under Part 15 of the Act, including any proceedings transferred to the High Court under section 196(6) of the Act, shall be known as “cohabitation proceedings” and this rule and rules 17 to 19 inclusive shall apply to all such proceedings.

(2) Cohabitation proceedings for any one or more orders under sections 174, 175, 187 and 194 of the Act shall be commenced by special summons, which shall be a cohabitation summons.

(3) All cohabitation proceedings shall be entitled:

“THE HIGH COURT

COHABITATION

In the matter of section of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (or as the case may be)

Between/

A.B., Applicant

and

C.D., Respondent”

(4) The endorsement of claim shall be entitled “Special Endorsement of Claim” and shall state specifically, with all necessary particulars, the relief sought and each section of the Act under which the relief is sought and the grounds upon which it is sought.

(5) The provisions of rule 5 and rules 7-14 inclusive shall apply *mutatis mutandis* in cohabitation proceedings and in particular shall apply in such proceedings as if reference in any of those rules to a “civil partner” were reference to a “cohabitant” and as if the reference in any of those rules to a provision of the Act mentioned in column (1) of the table to this sub-rule were a reference to the provision of the Act in column (2) of that table immediately opposite.

Column (1)	Column (2)
Provision of the Act in civil partnership law proceedings	Corresponding provision of the Act in cohabitation proceedings
section 56(1)	section 179(1)
section 121	section 187
section 126(2)	section 192
section 131	section 173(6)
section 140(5)	section 196(6)
section 142	section 197

Verification of claim

17. (1) In any proceedings pursuant to rule 16(2), an affidavit verifying the proceedings or in reply thereto (in this rule, the “affidavit”) shall contain one or more of the particulars set out in this rule, where applicable.

(2) In any such proceedings, the affidavit shall include:

- (a) particulars of the duration of the relationship between the parties and of the duration of their cohabitation;
- (b) particulars of the basis on which the parties live or lived together;
- (c) the degree of financial dependence of either party on the other and any agreements in respect of their finances;
- (d) particulars of the degree and nature of any financial arrangements between the parties including any joint purchase of an estate or interest in land or joint acquisition of personal property;
- (e) whether there are one or more dependent children of either or both parties;
- (f) whether one of the parties cares for and supports any child of the other;
- (g) the degree to which the parties present themselves to others as a couple;
- (h) any physical or mental disability of either of the parties;

- (i) full particulars of any children of the applicant or respondent and of any child of a previous relationship of either party and stating whether and if so what provision has been made for each and any such child;
- (j) details of any previous matrimonial, family law or civil partnership law relief obtained by either of the parties (and where appropriate a certified copy of any relevant Court order and/or agreement should be exhibited to with the affidavit);
- (k) where each party is domiciled at the date of the application commencing the proceeding or where each party has been ordinarily resident for the year preceding the date of such application;
- (l) details of the place(s) where the parties have lived together during their relationship;
- (m) where reference is made in the cohabitation summons to any immovable property, whether it is registered or unregistered land and a description of the lands/premises so referred to;
- (n) any other matter which is relevant for the purposes of section 173(3) of the Act.

(3) In the case of an application for provision out of the estate of a deceased cohabitant under section 194 of the Act, the affidavit shall include such of the particulars mentioned in sub-rule (2) as are appropriate and:

- (a) details of any previous cohabitation reliefs obtained by the applicant;
- (b) details of any benefit received from or on behalf of the deceased cohabitant whether by way of agreement or otherwise and details of any benefits accruing to the applicant under the terms of the will of the deceased cohabitant or otherwise;
- (c) the date of death of the deceased cohabitant, the date upon which representation was first granted in respect of the estate of the said cohabitant and the date upon which the applicant notified the personal representative of an intention to apply for relief pursuant to section 194(6) of the Act;
- (d) the civil partnership or marital status of the deceased cohabitant at the date of death and the civil partnership or marital status of the applicant at the date of the application;
- (e) details of the dependants of the deceased cohabitant at the date of death, of the dependants of the applicant at the date of the application, and of any other interested persons;
- (f) an averment as to whether any order has previously been made under section 173(7) of the Act;

- (g) details of the value of the estate of the deceased cohabitant where known.

Interim, interlocutory, ancillary or consequential relief

18. (1) An application to the Court in cohabitation proceedings for any interim or interlocutory relief, including for any of the following reliefs, shall be by notice of motion to the Court:

- (a) subject to rule 21, an order under section 173(6) of the Act discharging or varying an order under section 175 or section 187 of the Act, or suspending or reviving any provision of such an order;
- (b) an order under section 175(2) of the Act;
- (c) an order under section 175(3) of the Act to secure a maintenance order;
- (d) an order under section 176 of the Act for an attachment of earnings order;
- (e) an order under section 183 of the Act discharging or varying an attachment of earnings order.

(2) A copy of the notice of motion under sub-rule (1) shall be served upon the other party or parties to the proceeding 14 clear days before the return date and shall, where appropriate, be grounded upon the affidavit of the moving party.

(3) An application to which sub-rule (1) applies may be made ex parte to the Court in any case in which interim relief of an urgent and immediate nature is required by the applicant and the Court may in any case, where it is satisfied that it is appropriate, grant such relief or make such order as appears proper in the circumstances.

(4) A statement as to earnings for the purposes of paragraph (a) or (b) of section 179(1) or section 179(1) of the Act shall be in Form No. 2 or 3 as appropriate in Appendix II. Such a statement by a maintenance debtor shall be verified on affidavit or on oath at the hearing of the application. Such a statement by an employer need not be verified on affidavit unless so required by the maintenance creditor.

(5) Any application to which this rule applies shall be heard on affidavit unless the Court otherwise directs. Where any oral evidence is heard by the Court in the course of any application ex parte, a note of such evidence shall be prepared by the applicant or the applicant's solicitor and approved by the Court and shall be served upon the respondent forthwith together with a copy of the order made, if any, unless otherwise directed by the Court.

19. An application under section 173(6) of the Act shall be made to the Court by motion in the proceeding on notice to the party concerned and shall be

supported by an affidavit verifying the same and shall set out fully how, when and in what respect circumstances have changed or what new evidence exists as a result of which the Court should vary or discharge or otherwise modify in any respect an order to which section 173(6) of the Act applies.

IV. Miscellaneous

20. The provisions of Order 49, rules 1, 2, 3 and 6 shall apply to any proceeding commenced under rule 2 or rule 16.

21. Any respondent in civil partnership law proceedings or cohabitation proceedings may counterclaim by way of a replying affidavit and such affidavit shall clearly set out the relief claimed and the grounds upon which it is claimed in like manner as if he were an applicant and subject to the provisions of this Order.

22. In all cases in which the Registrar of the Court is required to serve or lodge a copy of an order upon or with any person or persons or body such service or lodgement may be effected by the service of a certified copy of the said order by registered post upon the said person or persons or body.

23. The provision of Order 119 rules 2 and 3 shall not apply to any cause, action or proceeding under this Order.”

Schedule 2

Appendix II

FORM No. 1

O. 70B, rr, 5, 16(5)

THE HIGH COURT

CIVIL PARTNERSHIP

[or, as the case may be, COHABITATION]

IN THE MATTER OF SECTION OF THE CIVIL PARTNERSHIP
AND CERTAIN RIGHTS AND OBLIGATIONS OF COHABITANTS
ACT 2010

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 all the assets, property and financial resources to which I am legally or beneficially entitled and the manner in which such assets, property and financial resources are held.

3. I say that I have set out in the Second Schedule all income which I receive, including any income or benefits to which I am entitled by or under statute, and the source(s) of such income, and details of my current employment and employment prospects.

4. I say that I have set out in the Third Schedule all my debts, liabilities, financial obligations and financial responsibilities and, where relevant, the persons to whom such debts and liabilities are due.

5. I say that details of my regular outgoings have been set out in the Fourth Schedule.

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. [*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, property and financial resources whether held in the applicant's/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 the deponent's income including any income or benefits to which the deponent is entitled by or under statute, and the source(s) of all such income, and details of the deponent's current employment, if any, and future employment prospects*].

THIRD SCHEDULE

[*Here set out in numbered paragraphs all debts, liabilities, obligations and responsibilities of the deponent and, where relevant, the person to whom each such debt, liability, financial obligation or financial responsibility is due*].

FOURTH SCHEDULE

[*Here set out full details of regular 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.

THE HIGH COURT
CIVIL PARTNERSHIP

[or, as the case may be, COHABITATION]

IN THE MATTER OF PARAGRAPH (a) OF SECTION *56(1) **179(1)
OF THE CIVIL PARTNERSHIP AND CERTAIN RIGHTS AND
OBLIGATIONS OF COHABITANTS ACT 2010

BETWEEN/

A.B.

Applicant /Maintenance Creditor

and

C.D.

Respondent /Maintenance Debtor

STATEMENT AS TO EARNINGS

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

1. I am the respondent /maintenance debtor [*delete as appropriate*] in the above entitled proceedings.
2. I have set out in the First Schedule the name and address of every employer by whom I am employed, together with particulars enabling each such employer to identify me, and particulars of my earnings and expected earnings from each such employment and other sources, my resources and needs.

FIRST SCHEDULE

†Name and address of Employer(s).....
(or trustee of a pension scheme under.....
which the maintenance debtor is.....
receiving periodical pension benefits).....
Commencement date.....
Nature of work.....
Place of Work.....
Weekly earnings.....
Expected changes to weekly earnings.....

Employee/contractor identification
number/code (if any).....
P.P.S. number.....

‡Income from any other sources
Nature of income.....
Source.....
Identification/account number/code (if any).....
Weekly income.....

‡Financial resources
Nature of resource.....
Location (e.g. bank account)
Gross value

Needs
[Here set out full details of regular personal outings].

Dated: 20

Signed _____

*For civil partnership law proceedings

**For cohabitation proceedings

†Repeat for each separate employer, pension provider, or for income as self-employed

‡ Repeat for each separate income source or, as the case may be, resource

FORM No. 3

O. 70B, rr, 6(6), 16(5)

THE HIGH COURT

CIVIL PARTNERSHIP

[or, as the case may be, COHABITATION]

IN THE MATTER OF PARAGRAPH (a) OF SECTION *56(1) **179(1)
OF THE CIVIL PARTNERSHIP AND CERTAIN RIGHTS AND
OBLIGATIONS OF COHABITANTS ACT 2010

BETWEEN/

A.B.

Applicant /Maintenance Creditor

and

C.D.

Respondent /Maintenance Debtor

STATEMENT AS TO EARNINGS

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

1. I am the employer of the maintenance debtor in the above entitled proceedings (or a trustee of a pension scheme under which the maintenance debtor is receiving periodical pension benefits).

2. I certify the following particulars of the maintenance debtor:

FIRST SCHEDULE

Name and address of Employer(s).....
(or trustees).....
Commencement date.....
Nature of work.....
Place of Work.....
Weekly earnings.....
Expected changes to weekly earnings.....
Employee/contractor identification number/code (if any)
of the maintenance debtor.....
P.P.S. number of the maintenance
debtor.....

Dated: 20

Signed _____

*For civil partnership law proceedings

**For cohabitation proceedings

THE HIGH COURT
CIVIL PARTNERSHIP
[or, as the case may be, COHABITATION]

IN THE MATTER OF SECTION OF THE CIVIL PARTNERSHIP
AND CERTAIN RIGHTS AND OBLIGATIONS OF COHABITANTS
ACT 2010

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 the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 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 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

†a request will be made to the court for you to provide the calculations referred to in section *126(2) **section 192 of the said Act.

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

Signed:.....

Solicitors for the Applicant/Respondent

To: The Trustees of the pension scheme concerned

and

To: Applicant/Respondent [*or solicitors where appropriate*]

†Delete where inapplicable

*For civil partnership law proceedings

**For cohabitation proceedings

EXPLANATORY NOTE

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

These rules insert a new Order 70B in the Rules of the Superior Courts, to prescribe the procedure in respect of civil partnership law proceedings, as defined in section 139 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, and proceedings under Part 15 of that Act ("cohabitation proceedings"), and make amendments to the rules concerning priorities of entitlement to a grant of letters of administration intestate in consequence of amendments to the Succession Act 1965 effected by the 2010 Act.

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,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
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