



STATUTORY INSTRUMENTS.

S.I. No. 11 of 2007



CIRCUIT COURT RULES (MENTAL HEALTH) 2007

(Prn. A7/0015)

CIRCUIT COURT RULES (MENTAL HEALTH) 2007

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, Equality and Law Reform, make the annexed Rules of Court.

Dated this 12th day of December 2006.

Signed: MATTHEW DEERY.
(Chairman of the Circuit Court Rules Committee.)

PATRICK HUNT	FERGAL FOLEY
GERARD J. DOHERTY	NOEL RUBOTHAM
SUSAN RYAN (SECRETARY)	

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

Dated this 16th day of January 2007

Signed: MICHAEL McDOWELL.
Minister for Justice, Equality and Law Reform.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 26th January, 2007.*

S.I. No. 11 of 2007

CIRCUIT COURT RULES (MENTAL HEALTH) 2007

1. These Rules, which may be cited as the Circuit Court Rules (Mental Health) 2007, shall come into operation on the 13th day of February 2007.
2. These Rules shall be construed together with the Circuit Court Rules 2001.
3. The Circuit Court Rules are amended by the insertion immediately following Order 47 of the following—

“Order 47A

Mental Health Act 2001 (No. 25 of 2001)

1. In this Order,

“the Act” means the Mental Health Act 2001 (No. 25 of 2001);

“the Commission” means the Mental Health Commission established by section 32 of the Act, and

“tribunal” shall be construed in accordance with section 48 of the Act.

2. An appeal to the Court under section 19 of the Act shall be commenced by the issue of an originating Notice of Motion (in this rule and rules 3 to 5 referred to as “the Notice of Motion”) in accordance with Form 45 of the Schedule of Forms and which shall have annexed thereto (a) the report of a consultant psychiatrist prepared in accordance with section 17(1)(c) of the Act, and (b) the notice of its decision given by the tribunal to the patient or his or her legal representative under section 18(5) of the Act or a certified copy of same, and shall state the date on which the notice of the tribunal’s decision was received by the patient or by his or her legal representative.

3. The patient shall be the appellant and the tribunal concerned shall be the respondent. Appeals shall be brought in the County where the approved centre concerned is situated or the appellant ordinarily resides. The Notice of Motion shall be signed by or on behalf of the appellant and shall state the Sitting of the Court at which the appeal is to be made.

4. A copy of the Notice of Motion shall be served upon each of the persons referred to in paragraphs (a), (b) and (c) of section 19(6) of the Act no later than 4 days prior to the return date specified in the Notice of Motion by any of the modes specified in section 19(15) of the Act.

5. The Court may at any time direct service of a copy of the Notice of Motion on any other person in accordance with paragraph (d) of section 19(6) of the Act or with section 19(7) of the Act.

6. Where any person who would under section 19(8) of the Act be excluded from the Court during the hearing of an appeal wishes to be present during the hearing of an appeal, it shall be the responsibility of that person to inform the Court of this prior to or at the commencement of the hearing of the appeal, and to apply to the Court for permission to remain in Court for that purpose. The Court, having heard the parties to the appeal, may make such order or give such directions on that person's application as it thinks fit.

7. An application to the Court by the Commission under section 66(4) of the Act shall be commenced by the issue of an originating Notice of Motion (in this rule and rule 9 referred to as "the Notice of Motion") in which the Commission shall be named as the applicant and the person convicted of the offence concerned shall be the respondent. The originating Notice of Motion shall state the grounds on which the application is brought and shall state the date on which the respondent was convicted of the offence concerned (or, where there has been an appeal against the conviction concerned, the date of the final determination of that appeal or of any further appeal (if it is a determination affirming the conviction) or the date of withdrawal of any such appeal). The originating Notice of Motion shall state the Sitting of the Court at which the application is to be made.

8. An application under section 66(4) of the Act shall be brought in the County where the approved centre concerned is situated.

9. A copy of the Notice of Motion under section 66(4) of the Act shall be served upon the defendant no later than 10 days prior to the return date specified in the Notice of Motion by any of the modes in which Civil Bills may be served.

10. (a) An appeal under section 19 of the Act shall be heard upon oral evidence or, in appropriate cases, in such other manner as the Court may determine but nothing in this Rule shall interfere with the admissibility pursuant to section 19(14) of the Act of reports prepared pursuant to section 17 of the Act.

(b) An application under section 66(4) of the Act shall be heard on oral evidence.

11. The Court may make such Order as to costs on any appeal under section 19 of the Act or application under section 66(4) of the Act as may be appropriate, including an Order measuring the costs."

4. The Form annexed hereto shall be inserted in the Schedule of Forms annexed to the Circuit Court Rules as Form 45.

Form 45

AN CHÚIRT CHUARDA
THE CIRCUIT COURT

CIRCUIT

COUNTY OF

IN THE MATTER OF THE MENTAL HEALTH ACT 2001

NOTICE OF APPEAL PURSUANT TO SECTION 19 OF THE MENTAL
HEALTH ACT 2001

BETWEEN

Appellant

and

Mental Health Tribunal

Respondent

TAKE NOTICE that an appeal will be made to the Court sitting at
..... on the..... day of..... or the next opportunity thereafter
against the decision of a Mental Health Tribunal notice of which was received
by the appellant or his/her legal representative on the..... day of.....
(and a copy of which notice is annexed hereto) affirming an admission order/
a renewal order made under section 17 of the Mental Health Act 2001 in
respect of the appellant on the grounds that the appellant is not suffering from
a mental disorder

And the appellant will apply for an order revoking the said admission order/
renewal order

[and insert details of any consequential or supplementary relief sought in the
appeal]

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

Signed.....
Appellant/Solicitor for the Appellant

To: Mental Health Tribunal, Respondent
care of Mental Health Commission
St. Martin's House, Waterloo Road, Dublin 4

And
To: The County Registrar

And to:....., Consultant Psychiatrist (Notice Party)

And to: Clinical director of approved centre at..... (Notice
Party)

EXPLANATORY NOTE

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

These Rules prescribe procedures to facilitate applications and appeals in the Circuit Court under the Mental Health Act 2001 (No. 25 of 2001).

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHAN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
51 FAICHE STIABHNA, BAILE ÁTHA CLIATH,
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