



STATUTORY INSTRUMENTS.

S.I. No. 222 of 2019



CIRCUIT COURT RULES (DATA PROTECTION ACTIONS) 2019

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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, the European Communities (Rules of Court) Regulations 1972 (S.I. No. 320 of 1972) 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 27th day of November, 2018.

Raymond Groarke (Chairman of the Circuit Court Rules Committee)

Jacqueline Linnane

Sarah Berkeley

Fiona Duffy Coady

Keith Walsh

Rita Considine

Noel Rubotham

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

Dated this 17th day of May 2019.

Signed: CHARLES FLANAGAN

MINISTER FOR JUSTICE AND EQUALITY

S.I. No. 222 of 2019

CIRCUIT COURT RULES (DATA PROTECTION ACTIONS) 2019

1. (1) These Rules, which may be cited as the Circuit Court Rules (Data Protection Actions) 2019, shall come into operation on the 19th day of June 2019.

(2) These Rules shall be construed together with the Circuit Court Rules 2001 to 2019.

(3) The Circuit Court Rules 2001 to 2019 as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2019.

2. (1) Proceedings under the Data Protection Act 1998 commenced before the Circuit Court but not completed on the date on which section 8 of the Data Protection Act 2018 came into operation may, subject to the provisions of the Data Protection Act 2018, be continued and determined as if these Rules had not come into operation.

(2) Proceedings arising from a right of action to which section 8 of the Data Protection Act 2018 applies may, subject to the provisions of the Data Protection Act 2018, be brought, continued and determined as if these Rules had not come into operation.

3. The Circuit Court Rules are amended:

(i) by the substitution for sub-rule (2) of rule 1 of Order 64C, of the following sub-rule:

“(2) Where any enactment provides for an appeal to be made to the Court or to a judge of the Court from:

- (i) a decision or determination made, or
- (ii) a direction given, or
- (iii) a requirement specified in a notice issued

by a person or body (other than the District Court), authorised by any enactment to make such decision or determination, to give such direction or, as the case may be, to impose or notify such requirement (in this Order referred to as “the relevant authority”), and provision for the procedure applicable is not made either by the enactment concerned or by another Order, the procedure set out in this Order shall apply, subject to any requirement of the relevant enactment.”, and

(ii) by the substitution for Order 60 of the Order set out in the Schedule.

Schedule

“Order 60 Data protection

1. In this Order:

the “2018 Act” means the Data Protection Act 2018 (No. 7 of 2018);

the “Commission” has the meaning assigned to it by section 10 of the 2018 Act;

“data protection action” has the meaning assigned to it by section 117 or, as the case may be, section 128, of the 2018 Act;

“Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

each of the expressions “controller”, “data subject” and “processor” has the same meaning as in the Data Protection Regulation or Part 5 of the 2018 Act as the context requires.

2. A data protection action shall be brought in the County in which—

(a) the controller or processor against whom the data protection action is taken has

an establishment, or

(b) the data subject has his or her habitual residence.

3.(1) Where a data protection action or an appeal under section 150 of the Act is brought on behalf of a data subject by a not-for-profit body, organisation or association to which section 117(7) of the 2018 Act applies that has been mandated by the data subject to do so, the Civil Bill or other originating document shall -

(i) include a statement to that effect, and

(ii) confirm that the plaintiff satisfies each relevant requirement of Article 80 of the Data Protection Regulation

(2) Where a data protection action is brought on behalf of a data subject by a body, organisation or association to which section 120(2) of the 2018 Act applies that has been mandated by the data subject to do so, the Civil Bill or other originating document shall -

(i) include a statement to that effect, and

(ii) confirm that the plaintiff satisfies each paragraph of section 120(2) of the 2018 Act.

(3) The Court may, of its own motion or on the application of another party to proceedings to which this rule applies, direct the provision to it of such additional information as is necessary in order to confirm that the plaintiff is such a body, organisation or association by way of further particulars or an affidavit.

4.(1) All applications to the Circuit Court under section 138(4) of the 2018 Act shall be brought in accordance with Order 64B and shall be brought in the County in which the person to whom the application relates ordinarily resides or, where that person has exercised his or her option under section 155 of the 2018 Act, in Dublin.

(2) All applications to the Circuit Court under section 143(1) of the 2018 Act shall be brought in accordance with Order 64B and shall be brought in the County in which the controller or processor concerned has an establishment or, where the controller or processor concerned has exercised his, her or its option under section 155 of the 2018 Act, in Dublin.

(3) All applications to the Circuit Court under section 150(7) of the 2018 Act shall be brought in accordance with Order 64B and shall be brought in the County in which the complainant resides or, where the complainant has exercised his or her option under section 150(10) of the 2018 Act, in Dublin.

(4) All applications to the Circuit Court under paragraph 5 of Schedule 3 to the 2018 Act shall be brought in accordance with Order 64B and shall be brought in the County in which the person to whom the application relates ordinarily resides or, where that person has exercised his or her option under section 155 of the 2018 Act, in Dublin.

- 5.(1) All appeals to the Circuit Court under section 142 of the 2018 Act shall be brought in accordance with Order 64C and shall be brought in the County in which the appellant controller or processor has an establishment or, where the controller or processor concerned has exercised his, her or its option under section 155 of the 2018 Act, in Dublin.

- (2) All appeals to the Circuit Court under section 150(1) or, as the case may be, section 150(5) of the 2018 Act shall be brought in accordance with Order 64C and shall be brought in the County in which the appellant controller or processor has an establishment, or as the case may be, in which the appellant data subject resides, or where the appellant has exercised his, her or its option under section 150(10) of the 2018 Act, in Dublin.”

EXPLANATORY NOTE

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

These Rules amend Order 64C and substitute a new Order 60 of the Circuit Court Rules to facilitate the operation of the Data Protection Act 2018.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
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