



STATUTORY INSTRUMENTS.

S.I. No. 257 of 2020



RULES OF THE SUPERIOR COURTS (ORDERS 105 AND 106) 2020

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We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, and reconstituted pursuant to the provisions of the Courts of Justice Act 1953, section 15, by virtue of the powers conferred upon us by the Courts of Justice Act 1924, section 36, the Courts of Justice Act, 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), the Courts (Supplemental Provisions) Act 1961, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 11th day of December 2019.

Frank Clarke (Chairperson)

George Birmingham

Peter Kelly

Elizabeth Dunne

Brian R. Murray

Deirdre Murphy

Teresa Pilkington

Stuart Gilhooly

Liam Kennedy

James Finn

John Mahon

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

Dated this 26th March 2020

CHARLES FLANAGAN

Minister for Justice and Equality

S.I. No. 257 of 2020

RULES OF THE SUPERIOR COURTS (ORDERS 105 AND 106) 2020

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Orders 105 and 106) 2020, shall come into operation on the 7th day of August 2020.

(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 2020.

2. Any application to the High Court arising from a dispute referred to the Employment Appeals Tribunal prior to the entry into force of these Rules may be commenced, continued and determined before the High Court as if these Rules had not entered into force.

3. The Rules of the Superior Courts are amended by the substitution for Orders 105 and 106 of the respective Orders set out in the Schedule.

Schedule

“Order 105

Appeals and references from the Labour Court

1. In this Order:

“the Act of 1967” means the Redundancy Payments Act 1967;

“the Act of 1977” means the Unfair Dismissals Act 1977;

“the Act of 2015” means the Workplace Relations Act 2015.

2. Every appeal to the Court under:

(i) section 40 of the Act of 1967, or

(ii) section 10A of the Act of 1977, or

(iii) section 46 of the Act of 2015,

shall be brought by originating notice of motion.

3. The originating notice of motion shall be entitled in the matter of the relevant Act, on the application of the person bringing the appeal, and shall state the decision of the Labour Court appealed against and the grounds of appeal.

4. The originating notice of motion shall be served on the Minister for Business, Enterprise and Innovation and on all parties to the decision of the Labour Court.

5. The originating notice of motion shall be issued within the time limit specified for appeals to the Court from the Labour Court in (as the case may be):

(i) section 40 of the Act of 1967, or

(ii) section 10A of the Act of 1977, or

(iii) section 46 of the Act of 2015.

6. Any question referred to the Court by the Labour Court under section 44(6) of the Act of 2015 shall be brought by originating notice of motion, entitled in the matter of the Workplace Relations Act 2015, on the application of the Labour Court. The originating notice of motion shall state concisely the question referred for the decision of the Court and shall be served on all parties to the application to the Labour Court.

7. No costs shall be allowed of any proceedings under this Order unless the Court shall by special order allow such costs.”

“Order 106

**Proceedings under the Employment Equality Acts 1998 and 2004 and the
Workplace Relations Act 2015**

1. In this Order:

“the Act” means the Employment Equality Act 1998;

“the Act of 2004” means the Equality Act 2004;

“the Act of 2015” means the Workplace Relations Act 2015;

“the Director” means the Director General of the Workplace Relations Commission.

2. Any appeal to the High Court on a point of law from a determination on appeal of the Labour Court under section 90(1) of the Act (as substituted by section 46 of, and the Schedule to, the Act of 2004) shall be brought by originating notice of motion.

3. The originating notice of motion referred to in rule 2 shall be entitled in the matter of the Act, on the application of the appellant and shall state the determination of the Labour Court appealed against and the grounds of appeal.

4. In all cases the originating notice of motion referred to in rule 2 shall be served on all parties to the determination of the Labour Court and on the Minister for Business, Enterprise and Innovation.

5. The originating notice of motion referred to in rule 2 shall be issued within 42 days of the date on which the determination of the Labour Court was given.

6. Any question referred to the High Court by the Labour Court pursuant to section 90(2) of the Act (as substituted by section 46 of, and the Schedule to, the Act of 2004) shall be brought by originating notice of motion, entitled in the matter of the Act, on the application of the Labour Court. The originating notice of motion shall state concisely the question referred for the decision of the High Court and shall be served on all parties to the appeal before the Labour Court.

7. (1) An application to the High Court by the Irish Human Rights and Equality Commission for an order pursuant to section 10(5) or section 85(5) of the Act shall be brought by originating notice of motion. The notice of motion shall state the reliefs sought and shall specify the advertisement, discrimination or conduct complained of or the compliance required, as the case may be.

(2) In any case the Court, if satisfied that the delay caused by proceeding by motion on notice under this rule would or might entail irreparable or serious mischief, may make any order ex parte upon such terms as to costs or otherwise

and subject to such undertaking, if any, as the Court may think just; and any party affected by such order may move to set it aside.

8. Notice of the application referred to in rule 7 shall be given to the person against whom relief is sought. If it shall appear to the Court that any person to whom notice has not been given ought to have received such notice, the Court may either dismiss the application or adjourn the hearing thereof in order that such notice may be given upon such terms (if any) as the Court may think fit to impose.

9. Pending the hearing of the application referred to in rule 7, the Court may, if it appears just and proper to do so, make such interim or interlocutory order restraining the publication of the advertisement complained of or restraining the conduct or discrimination complained of or requiring the compliance sought, as the case may be.

10. An application to the High Court for an order under section 97(2)(b) of the Act authorising the publication or disclosure of information furnished to, or otherwise acquired by, the Labour Court, the Director or any other person, by virtue of sections 94 to 96 of the Act, or otherwise in the course, or for the purposes, of any investigation, mediation or hearing under Part VII of the Act shall be brought by originating notice of motion, entitled in the matter of the Act, on the application of the applicant. The notice of motion shall be grounded on an affidavit sworn by or on behalf of the applicant, which shall identify the nature or presumed nature and source of the information in question, the circumstances in which the information in question was furnished, the publication or disclosure sought, and the interest of the applicant in such publication or disclosure. The notice of motion and a copy of the grounding affidavit shall be served on the Labour Court, the Director or the other person to whom the information has been furnished, on the person who furnished the information and on any person to whom it is believed the information relates.

11. An appeal to the Court under section 98(7)(a) of the Act shall be commenced and conducted by originating notice of motion in accordance with Order 84C.

12. (1) Subject to sub-rule (2) of rule 7, the originating notice of motion and a copy of the grounding affidavit and of any exhibits thereto in any application or appeal under this Order shall be served upon each respondent not later than 21 days before the date fixed for the hearing of the motion.

(2) A copy of any affidavit in opposition to an application or appeal made under this Order shall be filed by the respondent within 14 days of the service on the respondent of the applicant's affidavit and the respondent must within such period serve a copy of such affidavit on the applicant.

(3) Save where the Court otherwise directs, the hearing of an appeal or application under this Order shall be by way of affidavit.”

EXPLANATORY NOTE

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

The amendments take account of repeals of statutory provisions and of new provisions under, or inserted by, the Workplace Relations Act 2015. Proceedings previously commenced by special summons will now commence by originating notice of motion. Further, in Order 106, rule 5, the time limit for the bringing of an appeal on a point of law to the High Court from a determination on appeal of the Labour Court under Section 90(1) of the Employment Equality Act 1998 (as substituted by Section 46 of, and the Schedule to, the Act of 2004) is increased to 42 days from 21 days, to align same with the statutory time limits for appeals provided for in the 2015 Act.

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