



STATUTORY INSTRUMENTS.

S.I. No. 132 of 2009



CIRCUIT COURT RULES (SERVICE) 2009

(Prn. A9/0492)

CIRCUIT COURT RULES (SERVICE) 2009

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) 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 11 day of November 2008.

(Signed): Matthew Deery

(Chairman of the Circuit Court Rules Committee)

Tony Hunt

Gerard J. Doherty

Joe Deane

Susan Ryan

Patricia Casey

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

Dated this 3rd day of April 2009.

Signed: DERMOT AHERN

MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 14th April, 2009.*

S.I. No. 132 of 2009

CIRCUIT COURT RULES (SERVICE) 2009

1. These Rules, which may be cited as the Circuit Court Rules (Service) 2009, shall come into operation on the 3rd day of April 2009.
2. These Rules shall be construed together with the Circuit Court Rules 2001 to 2009.
3. The Circuit Court Rules are amended by the substitution for Order 11 of the Order set out in Schedule 1.
4. Each of the provisions of the Circuit Court Rules set out in the first column of Schedule 2 is amended in the manner set out in the second column of that Schedule opposite the reference to it.
5. The Form 1B in Schedule 3 shall be substituted for the Form bearing the like number in the Schedule of Forms annexed to the Circuit Court Rules. The Form 1C in Schedule 3 shall be added to the Schedule of Forms annexed to the Circuit Court Rules.

Schedule 1

ORDER 11

ISSUE OF CIVIL BILLS

SERVICE OF DOCUMENTS

Issue of Civil Bills

1. Save as otherwise provided in these Rules, every Civil Bill shall be signed and presented in duplicate to be issued out of the Office of the Court in a County having jurisdiction pursuant to these Rules (hereinafter referred to as “the Office”). The Civil Bill which is stamped, sealed and issued in the manner hereinafter set out shall be the original Civil Bill. The duplicate thereof shall be filed in the Office.
2. The Civil Bill shall, before issue thereof for service, be stamped in the appropriate amount, if any, as prescribed by law and, where stamping is required by law, if not so stamped, the Civil Bill and the duplicate Civil Bill shall have no effect or force.
3. The Civil Bill shall be presented to the Office, sealed, marked with the record number by the proper officer and shall thereupon be deemed to be issued and shall thereafter be entered in the cause book in date and numerical order of issue. At the time of issuing, the proper officer shall mark upon the duplicate Civil Bill the date of issue, full details in relation to stamping and the record number assigned to the Civil Bill. No Civil Bill shall be served until it shall have been so issued. In presenting such Civil Bill together with the duplicate thereof

to the Office for issuing, such presentation may be by post or in person. Where the Civil Bill has been presented by post, the proper officer shall return the Civil Bill to the Plaintiff or the Plaintiff's solicitor, as appropriate, by ordinary pre-paid post.

4. No Civil Bill for service out of the jurisdiction, or of which notice is to be given out of the jurisdiction, shall be issued without the leave of the Court or of the County Registrar, save in accordance with the provisions of Orders 13 and 14.

Service of Civil Bills and other originating documents

5. In accordance with section 7 of the Courts Act 1964, the service of a Civil Bill or of any other document by which proceedings in the Court are instituted may be effected by

(a) the sending of a copy of the Civil Bill or other originating document by registered prepaid post in an envelope addressed to the person to be served at his last known residence or place of business in the State and the document may be posted by the person on whose behalf it purports to be issued or a person authorised by him in that behalf;

(b) personal service (by a Summons Server or other person) upon the person to be served, or upon another person referred to in rule 6 on behalf of the person to be served.

6. Personal service of a Civil Bill or other originating document upon the defendant may be effected by delivering a copy of the Civil Bill or other originating document to the defendant personally wherever he is to be found within the jurisdiction. Where it appears by affidavit that the defendant is personally within the jurisdiction and that due and reasonable diligence has been exercised in endeavouring to effect personal service, service of the Civil Bill or other originating document may be effected by delivering a copy thereof at the defendant's place of residence within the jurisdiction to the husband or wife of the defendant or to some relative of the defendant over the age of sixteen years and apparently resident there or at the defendant's place of business or employment or office within the jurisdiction to some employee of the defendant over the age of sixteen years.

7. After he has effected service, the person serving a Civil Bill or other originating document shall indorse his name upon the original, stating also the day of the week and date upon which, and in the manner in which, and place where, such service was effected, and the person, whether husband or wife or relative or employee, upon whom the Civil Bill or other originating document was served.

8. Service in accordance with these Rules shall be authenticated by affidavit or statutory declaration by the person serving same. The affidavit or statutory declaration of service of a Civil Bill or other originating document shall be sworn or declared within a reasonable time of service having been effected and, if service was effected by registered post, not earlier than ten days after the date

of posting. Such affidavit or statutory declaration may be indorsed on the original Civil Bill or other originating document.

9. Where personal service is alleged to have been effected, but the person who has effected service does not know of his own knowledge that the person served is the person named, he may make the affidavit or statutory declaration referred to in the preceding Rule, stating therein that same is true to the best of his knowledge and belief, but in any such case, the Judge may on his own initiative or on the application of any person who is alleged to be affected by the said service require such further evidence thereof as he may think right.

10. Service of a Civil Bill or other originating document on a Solicitor shall be sufficient, provided that he shall at the time of service indorse on the original Civil Bill or other originating document his acceptance of service thereof and his undertaking to enter an appearance thereto.

Substituted service

11. Whenever an order for substituted service or for the substitution for service of notice by advertisement is made in accordance with section 7(5)(a) of the Courts Act 1964 or otherwise, a copy of that order shall be served with the Civil Bill, or the terms of that order stated in such notice. Every such order shall state the time within which the defendant may enter an appearance or comply with the requirements of such order.

12. Every application to the Court or the County Registrar for an order for substituted or other service, or for the substitution of notice for service, shall be supported by an affidavit setting forth the grounds upon which the application is made.

13. In any case, the Judge or the County Registrar may declare the service actually effected sufficient.

Service on particular defendants

14. When an infant is a defendant to an action, service on his parent or guardian, or if none, then upon the person with whom the infant resides or under whose care he is shall, unless the Judge or the County Registrar otherwise orders, be deemed good service on the infant; provided that the Judge may order that service made or to be made on the infant shall be deemed good service.

15. When a person of unsound mind whether or not so found by inquisition is a defendant to an action, service on the Committee of that person, or upon the person with whom the person of unsound mind resides, or under whose care he is, shall, unless the Judge or the County Registrar orders otherwise, be deemed good service on the defendant.

Service of other documents

16. In accordance with section 7 of the Courts Act 1964, all notices of motion and other notices, orders of the Court (where service is required) and witness

summonses shall be served in the same manner as a Civil Bill or other originating document.

17. Any document, as to which no mode of service is prescribed by statute or these Rules, may be served by delivering the same to the party or person on whom it is to be served personally, or by delivering the same at the residence or place of business of such person, or by sending the same by pre-paid post, addressed to such party or person at his last known residence or place of business.

18. Where a party or person acts by a Solicitor, any document required to be delivered to or served upon such party may be delivered to or served upon that Solicitor, except in cases where by these Rules personal service upon the party or person is required. Service of any such document upon that Solicitor, or delivery of the same at his office or to his Document Exchange, or sending the same to him by pre-paid post to such office shall be deemed to be good service upon the party or person for whom such Solicitor acts as upon the day when the same is so delivered or served, or upon which in the ordinary course of post it would be delivered.

19. The delivery or service of any notice for the purposes of section 8 or section 17 of the Civil Liability and Courts Act 2004 shall be in the manner prescribed in section 4 of that Act.

Proof of service

20. A person who has effected service of a document in accordance with this Order shall, within four days after service, return the original document properly indorsed as prescribed by these Rules to the Solicitor or other person from whom the same was received.

21. The endorsement of service and the statutory declaration for the service of Civil Bills or other originating document, as provided by section 7(6)(a) of the Courts Act 1964, shall be in the form set out at Form 1B of the Schedule of Forms. Personal service or service by registered post of a Civil Bill or other originating document, may be endorsed on the Civil Bill or other originating document, and proved by statutory declaration in the form set out at Form 1C of the Schedule of Forms.

Schedule 2

Column 1	Column 2
Order 24, rule 3	By the substitution for that rule of “3. Service of a witness summons shall be in accordance with Order 11, unless the Judge or County Registrar shall order otherwise. If it appears that the person served was not given reasonable time to enable him to appear in pursuance of the summons, or that his reasonable expenses have not been paid or offered to him, the Judge may set aside or disregard such service.”
Order 52, rule 3	By the substitution for that rule of “3. Every Motion issued under this Order and every notice under Section 10 of the Act shall be served upon the County Manager or City Manager of the Local Authority to be served.”
Order 52, rule 10	By the substitution for that rule of “10. Every application under Section 19(4) of the Act shall be instituted by originating Motion on notice in accordance with Form 33B in the Schedule of Forms, or such modification thereof as may be appropriate.”
Order 56, rule 1(4)	By the substitution for that sub-rule of “(4) In every action the Notice of Motion shall be served no later than 14 days prior to the return date.”
Order 56, rule 2(5)	By the substitution for that sub-rule of “(5) All Planning Civil Bills shall be served upon the Planning Authority, addressed to the County Manager or City Manager, as may be appropriate.”
Order 56, rule 4(4)	By the substitution for that sub-rule of “(4) All applications shall be served no later than 10 days prior to the return date set out in the Motion.”
Order 57, rule 1(4)	By the substitution for that sub-rule of “(4). All applications shall be served no later than 10 days prior to the return date set out in the Motion. Service upon the Solicitor who is on record before the Tribunal as acting for the person named as the defendant in the application before the Court of an application or other document shall be deemed to be good service upon the party for whom such Solicitor acts. The Motion shall be listed for mention only on the return date set out therein at which time a date for hearing shall be fixed by the Court.”
Order 57, rule 3(4)	By the substitution for that sub-rule of “(4) All applications shall be served no later than 10 days prior to the return date set out in the Motion. Service upon the Solicitor who is on record before the Tribunal as acting for the person named as the defendant in the application before the Court of an application or other document shall be deemed to be good service upon the party for whom such Solicitor acts. The Motion shall be listed for mention only on the return date set out therein at which time a date for hearing shall be fixed by the Court.”

Column 1	Column 2
Order 57, rule 4(4)	By the substitution for that sub-rule of “(4) Copies of the Notice of Motion, any grounding Affidavit and any exhibits thereto shall be served on the employer or employers in question and delivered to the Labour Court no later than 10 days prior to the return date specified in the Notice of Motion.”
Order 57, rule 5(5)	By the substitution for that sub-rule of “(5). Copies of the Notice of Motion, any grounding Affidavit and any exhibits thereto shall be served on the employer or employers in question and delivered to the Tribunal and the Commissioner as appropriate no later than 10 days prior to the return date specified in the Notice of Motion.”
Order 57, rule 6(3)(f)	By the substitution for that paragraph of “(f) Applications pursuant to this sub-rule, shall be served no later than 10 days prior to the return date set out in the Motion.”
Order 57, rule 6(6)(b)	By the deletion of that paragraph.
Order 57, rule 6(7)(b)	By the substitution for that paragraph of “(b) Applications pursuant to this sub-rule shall be served no later than 10 days prior to the return date set out in the Motion. Service upon the Solicitor who is on record before the Labour Court or the Director of the Equality Tribunal as acting for the person named as the defendant in the application before the Court of an application or other document shall be deemed to be good service upon the party for whom such Solicitor acts. The Motion shall be listed for mention only on the return date set out therein at which a date for hearing shall be fixed by the Court.”
Order 57, rule 7(4)	By the substitution for that sub-rule of “(4). Copies of the Notice of Motion, any grounding Affidavit and any exhibits thereto shall be served on the employer or employers in question and delivered to the Labour Court no later than 10 days prior to the return date specified in the Notice of Motion.”
Order 57, rule 8(5)	By the substitution for that sub-rule of “(5). Copies of the Notice of Motion, any grounding Affidavit and any exhibits thereto shall be served on the employer or employers in question and delivered to the Tribunal and the Commissioner as appropriate no later than 10 days prior to the return date specified in the Notice of Motion.”
Order 57, rule 9(4)	By the substitution for that sub-rule of “(4). Copies of the Notice of Motion, any grounding Affidavit and any exhibits thereto shall be served on the employer or employers in question and delivered to the Labour Court no later than 10 days prior to the return date specified in the Notice of Motion.”
Order 57, rule 10(4)	By the substitution for that sub-rule of “(4). Copies of the Notice of Motion, any grounding Affidavit and any exhibits thereto shall be served on the employer or employers in question and delivered to the Labour Court no later than 10 days prior to the return date specified in the Notice of Motion.”

Column 1	Column 2
Order 57, rule 11(4)	By the substitution for that sub-rule of “(4). Copies of the Notice of Motion, any grounding Affidavit and any exhibits thereto shall be served on the employer or employers in question and delivered to the Labour Court no later than 10 days prior to the return date specified in the Notice of Motion.”
Order 59, rule 2(6)	By the substitution for that sub-rule of “(6) Where it is difficult or impossible to serve any respondent or other person directed to be notified within the jurisdiction, the Court or the County Registrar may make an Order for substituted service or for service outside the jurisdiction of the Family Law Civil Bill or notice thereof or for both substituted service and service outside the jurisdiction.”
Order 59, rule 2(10)	By the substitution for that sub-rule of “(10) Every application made pursuant to section 35(v) (for a direction that papers be sent to the Attorney General) or section 35 (vii) (ordering that a person be added as a party to the proceedings) of the Status of Children Act 1987, and every application for judgment pursuant to sub-rule (7) shall, without prejudice to the power of the Court to act of its own motion, be made by Motion on notice to such parties as are affected thereby, which notice shall be served at least four clear days before the hearing of such Motion. Service of the notice of motion may, by exception to the provisions of Order 11, rule 5, be effected by ordinary post and shall be deemed to have been effected on the second day following the day of posting.”
Order 59, rule 3(2)	By the substitution for that sub-rule of “(2) The notice of motion shall be served on every person from whom it is proposed that a blood sample be taken at least four clear days before the date fixed for the hearing thereof. Service of the notice of motion may, by exception to the provisions of Order 11, rule 5, be effected by ordinary post and shall be deemed to have been effected on the second day after the day of posting.”
Order 59, rule 4(6)	By the substitution for that sub-rule of “(6) On the issuing of a Family Law Civil Bill a copy thereof shall be filed, together with the appropriate certificate (pursuant to section 5 of the 1989 Act or section 6 of the 1996 Act), an Affidavit of Means in the intended action sworn by the Applicant in compliance with sub-rules (17) and (18) and, in all circumstances where there are dependent children, an Affidavit of Welfare in the intended action in compliance with sub-rule (19), and the County Registrar shall thereupon enter same.”
Order 59, rule 4(7)(a)	By the substitution for that paragraph of “(7)(a) All Family Law Civil Bills shall be served together with the appropriate certificate in the form set out in Form 37D of the Schedule of Forms (pursuant to section 5 of the 1989 Act or section 6 of the 1996 Act), an Affidavit of Means in compliance with sub-rules (17) and (18) in the form set out in Form 37A of the Schedule of Forms or such modification thereof as may be appropriate and in all cases where there are dependent children, an Affidavit of

Column 1	Column 2
	Welfare in compliance with sub-rule (19) in the form set out in Form 37B of the Schedule of Forms. Where relief pursuant to section 12 and/or section 13 of the 1995 Act or section 17 of the 1996 Act is sought, notice thereof in accordance with Form 37C of the Schedule of Forms shall also be served on the trustees of the pension scheme in question in accordance with Order 11, rule 17, and an Affidavit of such Service sworn and filed within fourteen days of service of the Civil Bill. All other pleadings in proceedings begun in accordance with this rule may be served in accordance with Order 11, rule 17 and shall be deemed to have been served on the second day after the day of posting.”
Order 59, rule 4(9)(a)	By the substitution for that paragraph of “(9)(a) A Respondent shall at the same time as entering an Appearance, or within 10 clear days from the date of service of the Appearance, or such further time as may be agreed between the parties or allowed by the Court, file and serve a Defence, together with an Affidavit of Means in compliance with sub-rules (17) and (18) and, in all cases where there are dependent children, an Affidavit of Welfare in compliance with sub-rule (19) on the Applicant, or the Applicant’s Solicitor, if any, and on the County Registrar in the forms set out in Forms 37A and 37B of the Schedule of Forms or such modification thereof as may be appropriate. Where relief pursuant to section 12 and/or section 13 of the 1995 Act or section 17 of the 1996 Act is sought by way of Counterclaim, notice thereof in accordance with Form 37C of the Schedule of Forms shall also be served on the trustees of the pension scheme in question and an Affidavit of such Service sworn and filed within 7 days of service of the Defence and Counterclaim.”
Order 59, rule 4(31)	By the substitution for that sub-rule of “(31) Where relief pursuant to section 8B of the 1976 Act is sought, the motion shall, in addition to being served on the respondent, be served upon the trustees of the pension scheme. There must be at least ten clear days between the service of the notice and the day named therein for the hearing of the motion.”
Order 59, rule 5(8)	By the substitution for that sub-rule of “(8) Every Domestic Violence Civil Bill under sub-rule (3) and every Notice of Motion under sub-rule (4) shall be served at least four clear days before the date scheduled for the hearing thereof. An Affidavit of Service of every such Domestic Violence Civil Bill and every such Notice of Motion shall be handed in at the hearing of the application or Motion.”
Order 68, rule 9	By the substitution for that rule of “9. All applications shall be served either in accordance with the provisions of as to service of Civil Bills in Order 11 and in accordance with section 7 of the Courts Act 1964 or, in respect of applications under section 16 of the Act, when so directed by the Court for the purpose of ensuring the expeditious hearing of applications, by

Column 1	Column 2
	facsimile or electronic mail or by delivering same to such person or persons or such address as the Court may direct or in such other manner as the Court shall direct.”

Schedule 3

FORM 1B

ENDORSEMENT OF SERVICE (REGISTERED POST)

In pursuance of section 7(3) of the Courts Act 1964 the within was served by me on the Defendant, by posting a true copy thereof at am/pm on the day of 20.... at Post Office in a registered prepaid envelope addressed to the said Defendant, the said at *

Endorsed this day of 20.....

Signed

STATUTORY DECLARATION OF SERVICE BY REGISTERED POST

I, of, aged eighteen years and upwards, do solemnly and sincerely declare:

1. That I did serve the within dated the day of 20.... on the within named Defendant by posting a true copy thereof at am/pm on the day of 20.... at Post Office in a registered prepaid envelope addressed to the Defendant, the said at * (being the last known residence/place of business of the Defendant).

2. That the said envelope has not been returned undelivered to the sender.

And I make this solemn declaration conscientiously believing same to be true and by virtue of the Statutory Declarations Act 1938 and the Courts Act 1964 empowering this Declaration to be used as proof of service of the said †..... civil bill †..... (identify other originating document).

Signed

Declared before me..... (name in capitals) a

†notary public

†commissioner for oaths

†peace commissioner

†person authorised by (insert authorising statutory provision)
to take and receive statutory declarations

by the said

†who is personally known to me,

†who is identified to me by who is personally known to me

†whose identity has been established to me before the taking of this
Declaration by the production to me of

††passport no. issued on the day of..... by the
authorities of, which is an authority recognised by the Irish
Government,

††national identity card no. issued on the day
of..... by the authorities of which is an EU Member
State, the Swiss Confederation or a Contracting Party to the EEA
Agreement,

††Aliens Passport no. issued on the day of by
the authorities of which is an authority recognised by the Irish
Government,

††refugee travel document no. issued on theday
of..... by the Minister for Justice, Equality and Law Reform,

†† travel document (other than refugee travel document)
issued on the day of..... by the Minister for Justice, Equality and
Law Reform,

at this day of 20

Signed

†notary public

†commissioner for oaths

†peace commissioner

†person authorised by (insert authorising statutory provision)
to take and receive statutory declarations

*Postal address in full

† Delete words or clauses which are not applicable.

††Where relevant, provide details of the document by which identity has been
established, and delete the remaining alternatives.

Note: In accordance with section 7(6) of the Courts Act 1964, this declaration is to be made not earlier than 10 days after the day on which the envelope is posted.

FORM 1C

ENDORSEMENT OF SERVICE (PERSONAL SERVICE)

In pursuance of section 7(3) of the Courts Act 1964 the within was served by me on the Defendant, at am/pm on the day of 20.... by handing a copy thereof to *(if a person was served on behalf of the defendant, state the name of the person served and that person's relationship to the defendant)* at *.....

Endorsed this day of 20

Signed

STATUTORY DECLARATION OF PERSONAL SERVICE

I, of, aged eighteen years and upwards, do solemnly and sincerely declare:

1. That I did serve the within dated the day of 20.... on the within named Defendant at by handing a copy thereof to *(if a person was served on behalf of the defendant, state the name of the person served, that person's relationship to the defendant and that s/he was aged sixteen or over).*

2. At the time of such service I was acquainted with the appearance of the said defendant (or the said) *(or state basis for belief that the correct person has been served in accordance with O.11)*

And I make this solemn declaration conscientiously believing same to be true and by virtue of the Statutory Declarations Act 1938 and the Courts Act 1964 empowering this Declaration to be used as proof of service of the said

Signed

Declared before me..... *(name in capitals)* a

†notary public

†commissioner for oaths

†peace commissioner

†person authorised by *(insert authorising statutory provision)* to take and receive statutory declarations

by the said

†who is personally known to me,

†who is identified to me by who is personally known to me

†whose identity has been established to me before the taking of this Declaration by the production to me of

††passport no. issued on the day of by the authorities of, which is an authority recognised by the Irish Government,

††national identity card no. issued on the day of by the authorities of which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement,

††Aliens Passport no. issued on the day of by the authorities of which is an authority recognised by the Irish Government,

††refugee travel document no. issued on the day of by the Minister for Justice, Equality and Law Reform,

†† travel document (other than refugee travel document) issued on the day of..... by the Minister for Justice, Equality and Law Reform,

at this day of 20

Signed

†notary public

†commissioner for oaths

†peace commissioner

†person authorised by (*insert authorising statutory provision*) to take and receive statutory declarations

*Postal address in full

† Delete words or clauses which are not applicable.

††Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

EXPLANATORY NOTE

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

These Rules amend Order 11 of the Circuit Court Rules in relation to the issuing of civil bills and service of documents and make a number of further amendments in relation to service of documents under various rules of the Circuit Court.

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)
nó trí aon díoltóir leabhar.

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