



STATUTORY INSTRUMENTS.

S.I. No. 143 of 2015



DISTRICT COURT (CHILD CARE) RULES 2015

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The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961, and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court.

Dated this 14th day of July 2014.

Rosemary Horgan Chairperson

Mary C Devins

Conal Gibbons

Anne Watkin

Roy Pearson

Noel A Doherty

Michelle Johnston

I concur in the making of the following rules of court.

Dated this 14th day of April, 2015.

FRANCES FITZGERALD
Minister for Justice and Equality

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 24th April, 2015.*

S.I. No. 143 of 2015

DISTRICT COURT (CHILD CARE) RULES 2015

1. (1) These Rules, which may be cited as the District Court (Child Care) Rules 2015, shall come into operation on the 11th day of May, 2015.

(2) These Rules shall be construed together with the District Court Rules 1997 (S.I. No. 93 of 1997) and all other District Court Rules.

(3) The District Court Rules as amended by these Rules may be cited as the District Court Rules 1997 to 2015.

2. Order 84 of the District Court Rules 1997 (S.I. No. 93 of 1997) is amended:

(i) by the insertion in rule 1 immediately following the definition of “the Act of 2001” of the following definition:

““Agency” means the Child and Family Agency established under section 7 of the Child and Family Agency Act 2013 (No. 40 of 2013);”

(ii) by the deletion from rule 1 of the definition of “Executive”;

(iii) by the insertion immediately following sub-rule (3) of rule 2 of the following sub-rules:

“(4) Unless otherwise provided in this Order or permitted by the Court, all applications under the Act shall be preceded by the issue and service of a notice of application specifying the order or other relief sought in the application, the provisions of the Act relied on and the grounds of the application.

(5) Every notice issued under sub-rule (4) shall be grounded on an affidavit sworn on behalf of the moving party setting out and verifying the grounds of the application, which shall be lodged with the Clerk when the notice is issued, unless the Court dispenses with the requirement of an affidavit due to circumstances of urgency. In any case in which the Court hears an application under the Act on oral evidence, a note of the oral evidence given must be taken and provided to the Judge to authenticate.

(6) Unless the Act otherwise provides or the Court otherwise directs, the notice of application and a copy of the affidavit and any exhibits shall be served on the respondent, i.e. the parent having custody of the child or a person acting in *loco parentis* or, as the case may be, the Agency, at least two days prior to the date fixed for hearing the application, subject to the power of the Court to abridge time or to deem sufficient the notice actually given.”;

(iv) by the substitution for rules 5 and 6 of the following rules:

“Emergency care order

5. (1) An application by the Agency under section 13(1) of the Act for an emergency care order (including such an application made in circumstances referred to in section 12(4) or section 12(5) of the Act) shall be made at a sitting held in accordance with section 12(4) of the Act and shall be preceded by the issue and service of a notice in the Form 84.1 or 84.2 Schedule C, as the case may be, on the respondent, i.e. the parent having custody of the child or a person acting in *loco parentis*. The notice shall be grounded on an affidavit sworn on behalf of the moving party setting out and verifying the grounds of the application. The original affidavit shall be lodged with the Clerk when the notice is issued. A copy of the notice and of the grounding affidavit and any exhibits must be served on the respondent at least two days prior to the date fixed in accordance with section 12(4) of the Act for hearing the application, provided that two days’ notice to the respondent is not required where such notice is not possible in the case of an application made at a sitting referred to in section 12(4) of the Act.

(2) Where, however, the Judge is satisfied that the urgency of the matter so requires,—

- (a) an application for an emergency care order may be heard and made *ex parte*, subject to the lodgment with the Clerk of the notice of application (Form 84.1 or 84.2 Schedule C, as the case may be) duly completed;
- (b) an application for an emergency care order may be heard and an order may be made thereon elsewhere than at a public sitting of the Court;
- (c) the Judge may deem sufficient the notice of the application actually given to the respondent.

(3) An application to which sub-rule (2) applies shall be made on affidavit unless the Judge permits the application to be heard on oral evidence because of the exceptional urgency of the case.

Venue

6. (1) An application for an emergency care order under section 13(1) of the Act must be made to the Judge assigned to the district in which the child resides or is for the time being. Where, however, such Judge is not immediately available, the application may be made to any judge of the District Court.

(2) An emergency care order shall be in the Form 84.3 or 84.4 Schedule C, as the case may be, and the applicant shall

cause a copy of the order to be served on a parent having custody of the child or, as the case may be, upon a person acting in *loco parentis*, together with, as the case may be, a copy of the affidavit which grounded the application and copies of any exhibits (unless previously served on that person) or a copy of the note of oral evidence mentioned in rule 2(5).

(3) A warrant issued under section 13(3) of the Act for the purpose of executing such an Order may be in the Form 84.5 Schedule C.

(4) An appeal from an emergency care order shall not stay the operation of the order.”;

(v) by the substitution for rule 9 of the following rule:

“Interim care order

9. (1) An application by the Agency under section 17(1) of the Act for an interim care order shall, except where the Judge directs under section 17(3) of the Act, be preceded by the issue and service of a notice in the Form 84.10 Schedule C on the respondent, i.e. a parent having custody of the child or, as the case may be, a person acting in *loco parentis*. The notice shall be grounded on an affidavit sworn on behalf of the moving party setting out and verifying the grounds of the application. The original affidavit shall be lodged with the Clerk when the notice is issued. The notice and copies of the grounding affidavit and any exhibits shall be served at least two days prior to the date fixed for hearing the application. An interim care order made on such application shall be in the Form 84.11 Schedule C and the applicant shall cause the said order to be served upon the respondent and any other person directly affected by the Order.

(2) A warrant issued under section 35 of the Act (and as prescribed in rule 27) for the purpose of executing an interim care order shall be in the Form 84.43 Schedule C.

(3) An application under section 17(2) of the Act for an extension of the period of an interim care order shall, except where the Judge otherwise directs under section 17(3) of the Act, be preceded by the issue and service as prescribed in sub-rule (1) of a notice in the Form 84.12 Schedule C. The order granting the extension shall be in the Form 84.13 Schedule C and may, where appropriate, be added to or endorsed on the interim care order.”;

(vi) by the substitution for rule 14 of the following rule:

“Supervision Order Under Section 18

14. (1) An application under section 18(6) of the Act for a supervision order pending the determination of an application

for a care order shall, unless made viva voce at the hearing of the latter application, be preceded by the issue and service of a notice in the Form 84.21 Schedule C, at least two days prior to the date fixed for hearing the application. The notice shall be grounded on an affidavit sworn on behalf of the moving party setting out and verifying the grounds of the application. The original affidavit shall be lodged with the Clerk when the notice is issued. The notice and copies of the grounding affidavit and any exhibits shall be served at least two days prior to the date fixed for hearing the application.

(2) The order of the Court granting an application for a supervision order shall be in the Form 84.22 Schedule C, and the applicant shall cause the said order to be served upon the respondent.”, and

(vii) by the substitution for rule 16 of the following rule:

“Supervision Order Under Section 19

16. (1) An application by the Agency under section 19(1) of the Act for a supervision order with respect to a child shall be preceded by the issue and service of a notice in the Form 84.26 Schedule C, on the respondent or respondents, i.e. the parents of the child or, as the case may be, the parent having custody of the child or a person acting in *loco parentis*. The notice shall be grounded on an affidavit sworn on behalf of the moving party setting out and verifying the grounds of the application. The original affidavit shall be lodged with the Clerk when the notice is issued. The notice and copies of the grounding affidavit and any exhibits shall be served at least seven days prior to the date fixed for hearing the application.

(2) A supervision order made on an application under this rule shall be in the Form 84.27 Schedule C, and the applicant shall cause the said order to be served upon each respondent.”

3. The consequential amendments in Schedule 1 to the provisions of Order 84 (as amended by Articles 6 and 7 of the District Court (Children) Rules 2006 (S.I. No. 5 of 2006) have effect in accordance with that Schedule.

4. For the avoidance of doubt, any and every reference to any of the Forms numbered 84.1 to 84.67 inclusive in Schedule C, to a health board or to the Executive shall be and be deemed to be a reference to the Agency as defined in rule 1 of Order 84 (as inserted by these rules) and shall be modified accordingly.

SCHEDULE 1

Consequential amendments to Order 84

Provision of Order 84	Amendment
rule 3(2)	the substitution for that rule of the following rule: “(2) A document may be served on the Agency or any other statutory board or body or on an unincorporated society by leaving a copy of the document with any employee of the Agency, or of the board, body or society concerned at its principal office or by sending such copy by ordinary prepaid post in an envelope addressed to the Agency or to the board, body or society concerned at such principal office.”
rule 7(1)	the substitution of “the Agency” for “the Executive”
rule 10(1)	the substitution of “the Agency” for “the Executive”
rule 13	the substitution of “the Agency” for “the Executive”
rule 15(1)	the substitution of “the Agency” for “the applicant Executive”
rule 17(1)	the substitution of “the Agency” for “the respondent Executive”
rule 18	the substitution of “the Agency” for “the Executive”
rule 19(1)	the substitution for that rule of the following rule: “(1) Where, under section 20(1) of the Act, the Court adjourns proceedings and directs the Agency to undertake an investigation of a child's circumstances, if the Agency is not a party to those proceedings, the Clerk must as soon as possible notify the Agency (in the Form 84.32 Schedule C) of the Court's decision.”
rule 19(2)	the substitution of “the Agency” for “the Executive”
rule 21A(1)	the substitution of “the Agency” for “the Executive”
rule 21A(2)	the substitution of “the Agency” for “the Executive”
rule 21A(3)	the substitution of “the Agency” for “the Executive”
rule 21A(4)	the substitution of “the Agency” for “the Executive”
rule 21A(5)	the substitution of “the Agency” for “the Executive”
rule 21A(8)	the substitution of “the Agency” for “the Executive”
rule 21A(10)(b)	the substitution of “the Agency” for “the Executive”
rule 21B(1)	the substitution of “the Agency” for “the Executive”
rule 24	the substitution of “the Agency” for “the Executive”

Provision of Order 84	Amendment
rule 25(1)	the substitution of “the Agency” for “the Executive”
rule 25(2)	the substitution of “the Agency” for “the Executive”
rule 26(1)	the substitution of “the Agency” for “the Executive”
rule 27	<p>the substitution for that rule of the following rule:</p> <p>“Order to deliver up child to the Child and Family Agency — S.43(2)</p> <p>“27. An application by the Agency under section 43(2) of the Act for an order directing that a child be delivered up to the custody of the Agency shall be preceded by the issue and service of a notice in the Form 84.52 Schedule C, on the respondent. Such notice must be served at least two days prior to the date fixed for hearing the application. The order of the Court granting the application may be in the Form 84.53 Schedule C, and the Agency must cause the said order to be served on the respondent.”</p>
rule 27A(1)	the substitution of “the Agency” for “the Health Service Executive” in each place where that reference appears
rule 27A(2)	the substitution of “the Agency” for “the Health Service Executive”
rule 28	the substitution of “the Agency” for “the Executive”
rule 30(1)	the substitution of “the Agency” for “the Executive”
rule 32	<p>the substitution of “the Agency” for “the Executive”, and</p> <p>the substitution of “the Agency” for “that Executive”</p>

EXPLANATORY NOTE

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

These Rules amend Order 84 of the District Court Rules to prescribe that certain applications in child care proceedings be grounded on affidavit.

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nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€3.05



Wt. (B31068). 285. 4/15. Clondalkin. Gr 30-15.