



STATUTORY INSTRUMENTS.

**S.I. No. 235 of 2018**



DISTRICT COURT (ROAD TRAFFIC ACT 2016) RULES 2018

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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, section 24 of the Interpretation Act 2005, and of all other powers enabling them in this behalf, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court.

Dated this 18 day of December 2017.

Rosemary Horgan Chairperson

Brian Sheridan

Conal Gibbons

Shane McCarthy

Riobard Pierse

Noel A Doherty

Michelle Johnston

I concur in the making of the foregoing rules

Dated this 3rd day of July 2018

CHARLES FLANAGAN

Minister for Justice and Equality

*Notice of the making of this Statutory Instrument was published in  
"Iris Oifigiúil" of 6th July, 2018.*

S.I. No. 235 of 2018

DISTRICT COURT (ROAD TRAFFIC ACT 2016) RULES 2018

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:-

1. These rules may be cited as the District Court (Road Traffic Act 2016) Rules 2018.
2. These rules shall come into operation on the 3rd day of August 2018 and shall be read together with all other District Court Rules for the time being in force.
3. The District Court Rules 1997 (S.I. No. 93 of 1997) are hereby amended by the substitution for Order 97 thereof of the Order set out in Schedule 1.
4. [The Forms numbered 97.19 and 97.20 in Schedule 2 shall be added to the forms in Schedule C of the District Court Rules 1997 (S.I. No. 93 of 1997) immediately following Form 97.18.]

## SCHEDULE 1

### “Order 97

#### Road traffic

##### Definitions

1. In this Order—

the “1961 Act” means the Road Traffic Act 1961 (No. 24 of 1961) (as amended);

the “1968 Act” means the Road Traffic Act 1968 (No. 25 of 1968);

the “2016 Act” means the Road Traffic Act 2016 (No. 21 of 2016);

the “Agreement” has the same meaning as in section 40(12)(a) of the 2016 Act.

##### Venue for appeals — under section 18(8)(c)(ii)

2. (1) An appeal pursuant to section 18(8)(c)(ii) of the 1961 Act against the refusal of the issuing authority to issue a test certificate may be made at any sitting of the Court for the court area in which the vehicle is ordinarily kept.

(2) An appeal

— under section 33(3A)(b)

(i) pursuant to section 33(3A)(b) of the 1961 Act (inserted by section 21 of the 1968 Act) against the refusal of the issuing authority to carry out a test,

— under section 33(5)(a)

(ii) pursuant to section 33(5)(a) of the 1961 Act against the deferring of a decision by the issuing authority to issue a certificate of competency,

— under sec. 33(6)(a)

(iii) pursuant to section 33(6)(a) of the 1961 Act against the decision of the issuing authority under section 33(4) of the 1961 Act, or

— under section 34(5)(a)

(iv) pursuant to section 34(5)(a) of the 1961 Act against the decision of the issuing authority under section 34(4) of the 1961 Act or the deferring of such a decision.

may be made at any sitting of the Court for the court area in which the appellant ordinarily resides.

##### Form of, service and lodgment of notice of appeal

3. (1) Every such appeal shall be preceded by the issue and service of a notice in the Form 97.1, 97.2, or 97.3 Schedule C, as appropriate, signed by the appellant or solicitor for the appellant.

(2) Such notice shall be served, in accordance with the provisions of Order 41 of these Rules, upon the issuing authority, i.e. the Department of the Environment, and upon any other person directly affected by the appeal at least 14 days before the date of hearing of the appeal.

(3) The original of the notice, together with a statutory declaration(s) as to service thereof, shall be lodged with the Clerk at least two days before the said date of hearing.

(4) The order of the Court on hearing such appeal may be in one of the Forms 97.4 97.5, 97.6, 97.7, 97.8, 97.9, 97.10, 97.11, Schedule C, as appropriate.

#### Applications under sec. 28

4. (1) An application pursuant to section 28(1) or 28(2) of the 1961 Act by an officer of the Garda Síochána for a special disqualification order in respect of any person may be made at any sitting of the Court for the court area in which such person ordinarily resides.

(2) Such application shall be preceded by the issue and service of a notice in the Form 97.12 or 97.13, Schedule C, as appropriate, signed by such officer.

(3) Such notice shall be served upon the person to whom the application relates at least 10 days before the date of hearing of the application.

(4) The original of the notice, together with a statutory declaration as to service thereof, shall be lodged with the Clerk at least four days before the said date of hearing.

(5) The order of the Court on hearing the application may be in the Form 97.14 or 97.15, Schedule C, as appropriate.

#### Application for removal of disqualification

5. (1) An application pursuant to section 29(2) of the 1961 Act (as substituted by section 7 of the Road Traffic Act 2006) for the removal of a disqualification may be made at any sitting of the court for the court area in which the disqualification order was made.

(2) Such application shall be preceded by the issue and service of a notice in the Form 97.16, Schedule C, signed by the applicant or solicitor for the applicant.

(3) Such notice shall be served upon the Superintendent of the Garda Síochána for the district in which the applicant ordinarily resides at least 14 days before the date of hearing of the application.

(4) The original of such notice, together with a statutory declaration as to service thereof, shall be lodged with the Clerk at least four days before the said date of hearing.

(5) The order of the Court on hearing the application shall be in the Form 97.17 or 97.18, Schedule C, as appropriate.

Search warrant under sec. 106 (6)

6. An application pursuant to section 106(6)(a) of the 1961 Act by a member of the Garda Síochána for the issue of a warrant under that section shall be by information on oath and in writing in the Form 97.21 Schedule C, and, where the Judge of the District Court or the Peace Commissioner grants the application, the warrant may be in the Form 97.22 Schedule C.

Application for disqualification under the Agreement on the Mutual Recognition of Driving Disqualifications between Ireland and the United Kingdom of Great Britain and Northern Ireland:

— venue

7. (1) An application by a licensing authority under section 40(2) of the 2016 Act for an order declaring the person to whom the notification which is the subject of the application relates to be disqualified for holding a licence for the period referred to in section 40(1) of the 2016 Act for the purposes of giving effect to the decision imposing disqualification from driving made in the United Kingdom in accordance with the Agreement (in this rule, a “**mutual recognition application**”) may be made at any sitting of the Court for the court area:

- (i) where the person the subject of the mutual recognition application concerned (in this rule, the “**respondent**”) ordinarily resides or carries on any profession, business or occupation, or
- (ii) in which the address which appears on the Irish driving licence or learner permit held by the respondent is located.

— Form of mutual recognition application

(2) A mutual recognition application shall be preceded by the issue and service of a notice of application [in the Form 97.19, Schedule C] signed on behalf of the moving party or by the solicitor for the moving party.

—Documents to be appended to mutual recognition application

(3) There shall be appended to the original notice of application:

- (i) The original of any certificate concerning the case of the respondent signed by an officer of the licensing authority concerned authorised in that behalf by the chief executive of the licensing authority concerned given for the purposes of section 40(3)(a) of the 2016 Act and any document identified in and attached to such certificate;
- (ii) Where no certificate is given for the purposes of section 40(3)(a) of the 2016 Act, copies of:
  - (a) the notification in writing concerning the case of the respondent received by the licensing authority in accordance with Article 3 of the Agreement and section 40(1) of the 2016 Act;
  - (b) the information and documents specified in paragraph 1 of Article 6 of the Agreement concerning the case of the respondent, and

- (c) where appropriate, pursuant to the Agreement, the evidence referred to in paragraph 2 of that Article and the supplementary information referred to in paragraph 3 thereof concerning the case of the respondent.

— Service

- (4) A copy of the original notice of application, and copies of all documents appended to it, shall be served, in accordance with the provisions of Order 41, upon the respondent at least 14 days before the date of hearing of the appeal.

— Lodgment

- (5) The original notice of application, together with all documents appended to it, and a statutory declaration as to service thereof, shall be lodged with the Clerk at least four days before the said date of hearing.

— Form of order

- (6) The order of the Court granting the application may be in the Form 97.20, Schedule C.”

SCHEDULE 2

No. 97.19

O.97, r. 7(2)

ROAD TRAFFIC ACT 2016

Section 40

Notice of Application for an order declaring the respondent to be disqualified for holding a licence for the period referred to in section 40(1) of the Road Traffic Act 2016 for the purposes of giving effect to the decision imposing disqualification from driving made in the United Kingdom in accordance with the Agreement on the Mutual Recognition of Driving Disqualifications between the State and the United Kingdom done at Dublin on the 30 October 2015 (the "Agreement")

District Court Area of

District No.

.....of....., licensing authority,....Applicant

.....of .....Respondent

TAKE NOTICE that the above-named Applicant, will apply to the District Court sitting at..... in court \*(area and) district aforesaid on the .....day of .....20.... at .....m. for an Order declaring you, the above-named Respondent, the holder of a driving licence and residing at..... in court \*(area and) district aforesaid, to be disqualified for holding a driving licence on the grounds that

- (1) After the entry into force of the above-mentioned Agreement, you the above-named Respondent, committed a specified offence, namely ....., in the United Kingdom
- (2) You, the above-named Respondent \*are a person whose normal residence on the date of the said offence is the State \*are a person who is the holder of an Irish \*[driving licence]\*[learner permit]
- (3) A decision imposing a disqualification from driving on you for the period of ..... has been made in the United Kingdom
- (4) A competent authority of the United Kingdom, namely ..... has notified the Applicant in writing in accordance with Article 3 of the above-mentioned Agreement of the said disqualification and has transmitted to the Applicant licensing authority—
  - (a) the information and documents specified in paragraph 1 of Article 6 of the Agreement, \*and



\*(b) where appropriate, pursuant to the Agreement, the evidence referred to in paragraph 2 of that Article and the supplementary information referred to in paragraph 3 thereof

Copies of which are served with this notice \*together with a copy of a certificate signed by .....an officer of the Applicant licensing authority authorised in that behalf by the chief executive of the said Applicant licensing authority and stating that the document(s) identified by and attached to the said certificate—

(i) is the notification referred to in Article 3 of the Agreement of the driving disqualification concerned or a document referred to, or containing the information referred to, in Article 6 of the Agreement, and

(ii) was received by the licensing authority from a competent authority of the United Kingdom in accordance with Article 6 of the Agreement

And this application is made to the appropriate judge (within the meaning of section 40(12) of the above-mentioned Act of 2016) for the purposes of giving effect to the decision imposing disqualification from driving made in the United Kingdom in accordance with the Agreement.

Dated this .....day of .....20.....

Signed.....

Applicant/Solicitor for Applicant

To

of

the above-named Respondent

\*Delete where inapplicable

O.97, r. 7(6)

ROAD TRAFFIC ACT 2016

Section 40

Order declaring the respondent to be disqualified for holding a licence for the period referred to in section 40(1) of the Road Traffic Act 2016 for the purposes of giving effect to the decision imposing disqualification from driving made in the United Kingdom in accordance with the Agreement on the Mutual Recognition of Driving Disqualifications between the State and the United Kingdom done at Dublin on the 30 October 2015 (the “Agreement”)

District Court Area of

District No.

.....of....., licensing authority,.....Applicant

.....of .....Respondent

WHEREAS on application made this day by the above-named Applicant, for the purposes of giving effect to the decision imposing disqualification from driving made in the United Kingdom in accordance with the above-mentioned Agreement, to the District Court sitting at..... in court \*(area and) district aforesaid for an Order declaring the above-named Respondent, the holder of a driving licence and residing at..... in court \*(area and) district aforesaid, to be disqualified for holding a driving licence,

THE COURT BEING SATISFIED THAT

- (1) Notice of the application was duly served
- (2) After the entry into force of the above-mentioned Agreement, the above-named Respondent, committed a specified offence, namely ....., in the United Kingdom
- (3) The above-named Respondent \*is a person whose normal residence on the date of the said offence is the State \*is a person who is the holder of an Irish \*[driving licence]\*[learner permit]
- (4) A decision imposing a disqualification from driving on the above-named Respondent for the period of ..... has been made in the United Kingdom
- (5) A competent authority of the United Kingdom, namely ..... has notified the Applicant in writing in accordance with Article 3 of the above-mentioned Agreement of the said disqualification and has transmitted to the Applicant licensing authority—
  - (a) the information and documents specified in paragraph 1 of Article 6 of the Agreement, \*and

\*(b) where appropriate, pursuant to the Agreement, the evidence referred to in paragraph 2 of that Article and the supplementary information referred to in paragraph 3 thereof

IT IS ORDERED that the said Respondent be disqualified for holding a driving licence for the period of ..... commencing on the .....day of .....20....., being a period which does not (a) exceed the maximum period of disqualification for holding a licence which could be ordered by a court following conviction in the State for an offence consisting of the conduct to which the specified offence concerned relates; (b) exceed the period of disqualification imposed in the United Kingdom, or (c) extend in time beyond the date of the expiration of the disqualification in the United Kingdom.

Dated this .....day of .....20.....

Signed.....

Judge of the District Court.

\*Delete where inapplicable

EXPLANATORY NOTE

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

These rules amend Order 97 to facilitate the operation of section 40 of the Road Traffic Act 2016 and the Agreement on the Mutual Recognition of Driving Disqualifications between Ireland and the United Kingdom.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
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