



STATUTORY INSTRUMENTS.

S.I. No. 380 of 2018



CIRCUIT COURT RULES (ORDER 68) 2018

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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, 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 31 day of May 2018.

(Signed): Raymond Groarke
(Chairman of the Circuit Court Rules Committee)

Jacqueline Linnane
Fiona Duffy Coady
Keith Walsh
Mairead Ahern
Noel Rubotham

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

Dated this 25th day of September 2018.

Signed: CHARLES FLANAGAN,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 28th September, 2018.*

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CIRCUIT COURT RULES (ORDER 68) 2018

1. (1) These Rules, which may be cited as the Circuit Court Rules (Order 68) 2018, shall come into operation on the 17th day of October 2018.

(2) These Rules shall be construed together with the Circuit Court Rules 2001 to 2018.

(3) The Circuit Court Rules 2001 to 2018 as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2018.

2. The Circuit Court Rules are amended:

(i) by the substitution for the title of Order 68 of the following title:
“Order 68 Sexual Offences”

(ii) by the substitution for rule 1 of Order 68 of the following rule:

“In this Order:

the “Act” means the Sex Offenders Act 2001 (No. 18 of 2001);

“counselling record” has the same meaning as in section 19A of the Criminal Evidence Act 1992;

the “2017 Act” means the Criminal Law (Sexual Offences) Act 2017 (No. 2 of 2017).”, and

(iii) by the insertion in Order 68 immediately following rule 11 of the following rule:

12. (1) A disclosure application under section 19A(3) or section 19A(5) of the Criminal Evidence Act 1992 (as inserted by section 39 of the 2017 Act) shall be by notice of motion, which notice shall constitute the notification required by section 19A(4) or, as the case may be, section 19A(6) of the said Act, a copy of which shall:

(i) where the disclosure application is made under section 19A(3), be served on the person who has possession or control of the counselling record, the complainant, the prosecutor and any other person to whom the accused believes the counselling record relates, not later than 21 days after the arraignment of the accused on the charge to which the disclosure application relates or

(ii) where the disclosure application is made under section 19A(5), be served on the person who has possession or control of the relevant record, the complainant, the accused and any other person to whom the prosecutor believes the counselling record relates, not later than 35 days after the arraignment of the accused on the charge to which the disclosure application relates,

and which notice shall give not less than seven days' notice of the hearing date.

(2) The notice of motion shall include:

(a) particulars identifying the counselling record sought, and

(b) the reasons grounding the application, including grounds relied on to establish that the counselling record is likely to be relevant to an issue at trial.

(3) Where the disclosure application is by the prosecutor, the notice of motion shall also include a statement that the prosecutor believes that it is in the interests of justice that the counselling record should be disclosed.

(4) The Court may, where it considers it necessary or appropriate, direct or permit the delivery and filing of any affidavit or may hear oral evidence on any motion under this rule.”

EXPLANATORY NOTE

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

These rules amend the title of Order 68, substitute rule 1 and insert a new rule 12 to allow for a disclosure application under section 19A(3) or section 19A(5) of the Criminal Evidence Act 1992 (as inserted by section 39 of the Criminal Law (Sexual Offences) Act 2017), by way of a notice of motion.

BAILE ÁTHA CLIATH
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