



STATUTORY INSTRUMENTS

S.I. No. 529 of 2008

RULES OF THE SUPERIOR COURTS (RESIDENTIAL INSTITUTIONS
REDRESS ACT 2002) 2008

(Prn. A8/1968)

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RULES OF THE SUPERIOR COURTS (RESIDENTIAL INSTITUTIONS
REDRESS ACT 2002) 2008

We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, by virtue of the powers conferred upon us by the Courts of Justice Act 1924, section 36, and the Courts of Justice Act 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), and the Courts (Supplemental Provisions) Act 1961, section 14, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 30 day of October, 2008.

RICHARD JOHNSON

PATRICK GROARKE

JOSEPH FINNEGAN

PATRICK O'CONNOR

ELIZABETH DUNNE

NOEL RUBOTHAM

PAUL Mc GARRY

MAEVE KANE

MARY CUMMINS

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

Dated this 8 day of December, 2008.

DERMOT AHERN

Minister for Justice, Equality and Law Reform

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 12th December, 2008.*

S.I. No. 529 of 2008

RULES OF THE SUPERIOR COURTS (RESIDENTIAL INSTITUTIONS
REDRESS ACT 2002) 2008

1. The Rules of the Superior Courts are hereby amended by the insertion, immediately following Order 134, of the following:

“Order 134A

Residential Institutions Redress Act 2002

1. In this Order:

“the Act” means the Residential Institutions Redress Act 2002;

“award” shall be construed in accordance with section 1 of the Act;

“beneficiary” means a person entitled to an award under the Act in respect of whom the Board has given a direction under section 13(8)(a) or section 13(8)(b) of the Act;

“the Board” means the Residential Institutions Redress Board established by section 3 of the Act;

“the Registrar” means one of the officers referred to in sub-paragraph (1) of paragraph 6 of the Eighth Schedule to the Courts (Supplemental Provisions) Act 1961, for the time being designated in writing by the officer for the time being managing the Central Office, with the approval of the President of the High Court, to act as Registrar for the purposes of this Order; and

“the Review Committee” means the Residential Institutions Redress Review Committee established by section 14 of the Act.

2. Applications to the Court under section 13(14) of the Act and section 13(15) of the Act and requests by the Registrar for directions under this Order shall be heard by such Judge or Judges as the President of the High Court shall from time to time assign.

3. An application to the Court by the Board under section 13(14) of the Act in respect of a beneficiary or beneficiaries shall be commenced by the issuing of an originating notice of motion in the Form No 1, Appendix GG, grounded on an affidavit sworn by a person authorised on behalf of the Board. Where such an application is made in respect of more than one beneficiary, the originating notice of motion shall include a schedule identifying each of the beneficiaries to whom the application relates.

4. The grounding affidavit shall contain sufficient information to enable the Court to decide whether or not to exercise its discretion under section 13(14) of the Act to order that the amount of an award (or part thereof) to

which a beneficiary is entitled be paid into the Court in the manner and for the purposes set out in the Act.

5. Without prejudice to the generality of rule 4, the grounding affidavit shall contain (or, where an application is made in respect of more than one beneficiary, there shall be exhibited to the grounding affidavit and verified in the affidavit a report in respect of each beneficiary concerned which shall contain) the following information:

- (i) the beneficiary's name, date of birth, current address and the name and address of his or her legal representative, if any;
- (ii) the amount of the award made (including details of any expenses), any payments already made to the beneficiary and the amount of any award remaining;
- (iii) in the case of an award to which section 13(8)(b) of the Act applies, the evidence (including in particular medical evidence) based upon which the Board and (where relevant) the Review Committee determined that the beneficiary was incapable of managing any moneys received under an award, and where such evidence includes any written report, correspondence or other documentation, a copy of the same shall be exhibited;
- (iv) the Board's direction under section 13(8) of the Act or the Review Committee's direction under section 15(12) of the Act;
- (v) particulars of any bank account in the name of the beneficiary into which it is proposed that the award, or any part thereof, be paid for the benefit of the beneficiary; and
- (vi) particulars of the next of kin of the beneficiary, where known to the Board.

6. An application under section 13(14) of the Act shall, in a case or cases to which paragraph (b) of that sub-section applies, be made on notice to the beneficiary or to each beneficiary to whom the application relates. Where an application relates to one beneficiary, the Board shall serve on the beneficiary a copy of the originating notice of motion, together with a copy of the grounding affidavit and any exhibits. Where an application relates to more than one beneficiary, the Board shall serve on each beneficiary a copy of the originating notice of motion, excluding the schedule thereto, together with a copy of the grounding affidavit, the report which relates to that beneficiary and any exhibit which relates to that beneficiary, but no other report or exhibit. In each case, the beneficiary shall be provided with a form of response to the application in the Form No 2, Appendix GG. The Board shall serve the documents referred to upon each beneficiary concerned not later than twenty-one days prior to the return date specified in the originating notice of motion.

7. Any beneficiary affected may reply to the Board's application by completing and sending to the Court not later than seven days prior to the return date the form of response specified in rule 6, and may deliver evidence in response by affidavit or otherwise as the Court may allow. Where the beneficiary in his response does not agree with all or part of the Board's application, the Registrar shall provide a copy of the form of response to the Board prior to the return date.

8. The Court may direct the delivery of further evidence on the application as it considers necessary.

9. Where the Court orders under section 13(14) of the Act that the amount of an award or any part thereof be paid into the Court —,

- (a) the order shall have annexed a lodgment schedule, or lodgment and payment schedule in the form required by Order 77, and
- (b) the Board shall notify the beneficiary or beneficiaries concerned of the making of the order.

10. Where the Court has determined under section 13(14) of the Act that the amount of an award or any part thereof be paid into court, an application by the beneficiary concerned under section 13(15) of the Act to vary the terms upon which the funds are held in, or dealt with by, the Court, or for any payment out from the amount of such award, may be made to the Court, by or on behalf of the beneficiary, immediately following such determination and may be heard by the Court at that time. Thereafter, any application under section 13(15) of the Act may be initiated by letter to the Registrar or in such other manner as the Court may allow.

11. On any application made to the Registrar in accordance with rule 10, the Registrar may require the beneficiary concerned to produce any voucher, invoice or other document or information in support of that application. The Registrar may seek the Court's directions on such application and may for that purpose cause the matter to be listed before the Court on notice to the beneficiary concerned.

12. In the case of an award to which section 13(8)(b) of the Act applies, where the Court has ordered under section 13(14) of the Act that the amount of an award to a beneficiary, or any part thereof, be paid into court, the Court may, of its own motion or on the application *ex parte* of the beneficiary concerned, if satisfied that there is no evidence before the Court as to the mental capacity of the beneficiary sufficient to justify the commencement of any proceedings to make the beneficiary a ward of court, order payment to the beneficiary of the whole or any part of the award (or any funds representing such award or any remaining part of it) which has been paid into court in accordance with section 13(14) of the Act.

13. Where the Court has ordered under section 13(14) of the Act that the amount of an award to a beneficiary, or any part thereof, be paid into court, the Registrar shall send a notification in the Form No 3, Appendix GG to

the beneficiary concerned, requesting him or her to provide the Registrar with details of his or her next of kin and to notify the Registrar of any enduring power of attorney, will, codicil or revocation of a will which he has made, or makes in the future.

14. (1) Where it appears to the Court, on an application made under section 13(14) of the Act, that it is appropriate that a beneficiary be the subject of proceedings to make the beneficiary a ward of court, the Court may, in addition to making an order determining the application, direct the Board or the Registrar to notify the Registrar of Wards of Court of the circumstances of the beneficiary, and to furnish such information to the Registrar of Wards of Court as the Court may direct.

(2) Where a beneficiary is made a ward of court, the Court may direct that any funds lodged in court in accordance with an order made under section 13(14) of the Act be transferred to the credit of the wardship matter.

15. Any money lodged in the Court in accordance with an order made under section 13(14) of the Act to which a deceased beneficiary was, at the time of his or her death, entitled, shall:

- (i) on an application to the Accountant by the personal representative of the deceased beneficiary's estate, grounded on an affidavit of such personal representative and on production of the grant of probate or letters of administration (as appropriate), be paid out to the personal representative, or
- (ii) where the beneficiary has died intestate with assets not exceeding €10,000 in value, on an application made to the Accountant by a person who would, as next of kin of the deceased beneficiary, be entitled to obtain a grant of administration to the estate of the deceased, grounded on an affidavit of such person, which affidavit shall include an undertaking by such person to the Court to distribute the estate in accordance with law, be paid out to such person.

16. Where the identity of the personal representative or next of kin of a deceased beneficiary who was, at the time of his or her death, entitled to money lodged in the Court in accordance with an order made under section 13(14) of the Act is not known, the Accountant or Registrar may advertise publicly to ascertain the identity of such person, and any expense incurred in so doing shall be deducted from the money held in the Court for the benefit of the deceased beneficiary.”

2. The Rules of the Superior Courts are hereby amended by the insertion of the forms in Schedule 1 as Appendix GG.

3. These rules shall come into operation on the 29 day of December 2008.
4. These rules shall be construed together with the Rules of the Superior Courts 1986 to 2008 and may be cited as the Rules of the Superior Courts (Residential Institutions Redress Act 2002) 2008.

SCHEDULE 1

Appendix GG

O. 134A, r. 3

No. 1

THE HIGH COURT

IN THE MATTER OF SECTION 13(14) OF THE RESIDENTIAL
INSTITUTIONS REDRESS ACT 2002

AND IN THE MATTER OF AN APPLICATION BY THE
RESIDENTIAL INSTITUTIONS REDRESS BOARD

ORIGINATING NOTICE OF MOTION

The purpose of this document is to inform you that the Residential Institutions Redress Board will apply to the High Court, at the Four Courts, Dublin 7 on the day of 200 at for an Order that the amount of the award (or the remaining amount of the award) to each person whose name is set out in the schedule be paid into the High Court and dealt with by the High Court for the benefit of the person to whom the amount relates in accordance with the direction of the Board (or the Review Committee) on the grounds that

*each such person listed in Part A of the Schedule has agreed under section 13(8)(a) of the Residential Institutions Redress Act 2002 (“the Act”) to the making of the award in instalments and you are listed in Part A.

*each such person listed in Part B of the Schedule is incapable of managing any moneys received under an award and you are listed in Part B.

The Board’s application will be grounded on the affidavit (i.e. a sworn statement) of a person authorised on behalf of the Board, a copy of which is sent with this notice.

As a person affected, it is recommended that you take legal advice on these documents. You may reply to this application by completing the form attached to this notice and sending the completed form to the address shown at least seven days before the date mentioned above. You may also deliver evidence in response by affidavit or, if the Court permits, in another manner, and you may attend in person or by your legal representative on the hearing of the application.

Dated

Signed: on behalf of the Board/Solicitors for the Board

SCHEDULE

No. 2

To:
Registrar
The High Court
Four Courts
Dublin 7

IN THE MATTER OF SECTION 13(14) OF THE RESIDENTIAL
INSTITUTIONS REDRESS ACT 2002

AND IN THE MATTER OF AN APPLICATION BY THE
RESIDENTIAL INSTITUTIONS REDRESS BOARD

Name of beneficiary:

Date of application to High Court by the Residential Institutions Redress
Board:

*I have no objection to the Board's application.

*I do not agree with the Board's application because I do not agree that I
am incapable of managing any moneys received under an award and I wish
the award to be paid to me in full.

*I agree with the Board's application to have my award taken into court,
but I do not agree with the Board's or Review Committee's direction as to
how my award should be dealt with by the Court for my benefit and instead
I would ask that my award be dealt with as follows:

Set out here any further information which you think should be brought to
the Court's attention:

Date:

Signed:

* delete as appropriate

No. 3

Strictly private and confidential
To: [name and address of beneficiary]

IN THE MATTER OF SECTION 13(14) OF THE RESIDENTIAL
INSTITUTIONS REDRESS ACT 2002

AND IN THE MATTER OF AN APPLICATION BY THE
RESIDENTIAL INSTITUTIONS REDRESS BOARD

Dear [Mr/Mrs/Ms *Name of beneficiary*]:

The High Court has made an order that the amount of an award (or part of an award) made by the Board to you under the Act be paid into the Court

*to be paid to you in instalments in the following manner

*to be dealt with by the Court for your benefit in the following manner

As the Court is holding your money, it is important that you provide me with the following information.

*Your bank account (if any):

The name(s) and address(s) of your next of kin:

Have you made any enduring power of attorney, will or codicil, and if so, who has custody of it—

If any of these details changes, you should notify me immediately.

If at any time you would like to ask the Court to change the arrangements affecting how your award is dealt with or paid to you (for example, if your circumstances change), you should write to me explaining why you would like to ask the Court to change the arrangements.

Registrar
The High Court
Four Courts
Dublin 7

* delete as appropriate

EXPLANATORY NOTE

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

These Rules prescribe the procedure to be followed in respect of applications under subsections 14 and 15 of section 13 of the Residential Institutions Redress Act 2002 (added to section 13 by section 34(e)(iv) of the Commission to Inquire into Child Abuse (Amendment) Act 2005), and ancillary matters.

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 - 6476834/37 nó 1890 213434; Fax: 01 - 6476843 nó 094 - 9378964)
nó trí aon díoltóir leabhar.

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