



STATUTORY INSTRUMENTS

**S.I. No. 585 of 2008**



CIRCUIT COURT RULES (CONSUMER PROTECTION ACT 2007) 2008

**(Prn. A8/2066)**

CIRCUIT COURT RULES (CONSUMER PROTECTION ACT 2007) 2008

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 14th day of October 2008.

(Signed): Matthew Deery  
(Chairman of the Circuit Court Rules Committee)

Patrick Hunt  
Ronan Boylan  
Noel Rubotham  
Susan Ryan  
Patricia Casey

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

Dated this 22 day of December 2008

Signed: DERMOT AHERN  
MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM

*Notice of the making of this Statutory Instrument was published in  
"Iris Oifigiúil" of 6th January, 2009.*

## S.I. No. 585 of 2008

## CIRCUIT COURT RULES (CONSUMER PROTECTION ACT 2007) 2008

1. These Rules, which may be cited as the Circuit Court Rules (Consumer Protection Act 2007) 2008, shall come into operation on the 19 day of January 2009.
2. These Rules shall be construed together with the Circuit Court Rules 2001 to 2008.
3. The Circuit Court Rules are amended by the insertion immediately following Order 72A of the following:

**“Order 72B — Consumer Protection Act 2007**

1. In this Rule:

“the Act” means the Consumer Protection Act 2007 (No. 19 of 2007);

“Agency” means the National Consumer Agency established by section 7 of the Act, and includes, where any function referred to in section 5A(3B) of the Central Bank Act 1942 is exercised, or the context otherwise so admits or requires, the Central Bank and Financial Services Authority of Ireland;

“code of practice”, “commercial practice”, “consumer”, “consumer transaction”, “product” and “trader” each has the meaning assigned to it by section 2 of the Act;

“code owner” has the meaning assigned to it by section 72 of the Act, and

“prohibited act or practice” has the meaning assigned to it by section 67 of the Act.

2. (1) In accordance with section 71(8) of the Act, applications to the Court under section 71 of the Act shall be brought in the County in which it is alleged the prohibited act or practice is being committed or engaged in.

(2) Applications under section 71(2) of the Act shall be made by way of originating Motion of Notice in which the trader or person against whom relief is sought shall be named as a respondent. The originating Notice of Motion shall be grounded upon an affidavit sworn by the applicant (or, where the applicant is the Agency or another public body that is prescribed for the purposes of section 71(2) of the Act, by an appropriate and duly authorised officer of the Agency or public body), which said affidavit shall:

- (i) specify, where necessary, that the public body is prescribed for the purposes of section 71(2) of the Act, and the statutory instrument by virtue of which it has been so prescribed;
- (ii) contain the name, address and description of the trader or person alleged to be committing or engaging in a prohibited act or practice and against whom relief is sought in the application;
- (iii) identify each prohibited act or practice alleged;
- (iv) set out the nature and extent of each prohibited act or practice alleged;
- (v) identify with sufficient particularity the place or places at which the trader or person identified is alleged to be committing or engaging in a prohibited act or practice;
- (vi) identify the public interest (if any) which the applicant alleges is affected;
- (vii) identify any terms or conditions which the applicant intends to request that the Court impose under section 71(7) of the Act and the basis upon which such terms or conditions are claimed to be appropriate;
- (viii) provide evidence or an estimate of the cost of complying with the order for which application is made.

(3) Every application under section 71(2) of the Act shall, in accordance with section 71(3) of the Act, be on notice to

- (a) the trader or person against whom an order is sought, and
- (b) the Agency, if the applicant is not the Agency.

and the applicant shall serve a copy of the Notice of Motion and grounding affidavit and any exhibit thereto on those parties not later than twenty one days prior to the return date specified in the originating Notice of Motion.

(4) Any party or person served with a copy of the Notice of Motion and grounding affidavit pursuant to sub-rule (3) may file a replying affidavit prior to the return date and where this is done, that party or person shall serve a copy on the applicant and on each other person or party served.

3. (1) In accordance with section 71(8) (as applied by section 72(6)) of the Act, applications to the Court under section 72 of the Act shall be brought in the County in which it is alleged the code owner is

promoting the prohibited act or practice concerned or in which the code owner resides or carries on any business or profession.

(2) Applications by the Agency under section 72(2) of the Act shall be made by way of originating Motion of Notice grounded upon an affidavit sworn by an appropriate and duly authorised officer of the Agency which said affidavit shall:

- (i) contain the name, address and description of the code owner against whom relief is sought in the application;
- (ii) identify each prohibited act or practice which it alleged the code owner promotes;
- (iii) set out the nature and extent of the prohibited act or practice alleged to be promoted by the code of practice concerned or its code owner;
- (iv) identify with sufficient particularity the place or places at which, and the manner in which, it is alleged that the prohibited act or practice is being promoted;
- (v) identify the public interest (if any) which the applicant alleges is affected;
- (vi) provide evidence or an estimate of the cost of complying with the order applied for.

(3) Applications under section 72(2) of the Act shall, in accordance with section 72(3) of the Act, be on notice to the code owner and the applicant shall serve a copy of the Notice of Motion, grounding affidavit and any exhibits thereto on the code owner not later than twenty one days prior to the return date specified in the originating Notice of Motion.

(4) The code owner may file a replying affidavit prior to the return date and where this is done, the code owner shall serve a copy on the Agency.

4. (1) Save where the Court otherwise directs, any evidence in proceedings to which rule 2 or rule 3 relates shall be given on affidavit.

(2) On the return date of an originating Notice of Motion under rule 2 or rule 3 (or on any adjournment from such date), the Court shall give directions and make orders for the conduct of the proceedings as appear convenient for the determination of the proceedings in a manner which is just, expeditious and likely to minimise the costs of those proceedings which, where appropriate, may include:

- (a) directions as to the service of notice of the application on any other person, including mode of service and the time

allowed for such service (and the Court may, for that purpose, adjourn the hearing of the notice of motion, or further hearing of such application, to a date specified);

- (b) directions as to the filing and delivery of any further affidavits by any party or parties;
- (c) a direction that the application be determined by way of plenary hearing, where it appears to the Court that the subject matter of the application is likely to involve a substantial dispute of fact or it is otherwise necessary or desirable in the interests of justice (and the Court may for that purpose make orders and give directions in relation to the exchange of pleadings or points of claim or defence between the parties).

5. (1) Any action by a consumer for damages under section 74 of the Act shall be commenced by the issue and service of an Ordinary Civil Bill, entitled in the matter of section 74 of the Act and otherwise in the Form 2A of the Schedule of Forms with such modifications as may be appropriate.

(2) Any consent under section 74(4) of the Act shall be in the Form 1A of the Schedule of Forms but, instead of reciting that it is pursuant to section 22(1)(b) of the Courts (Supplemental Provisions) Act 1961, shall recite that it is given pursuant to section 74(4) of the Act, and shall be lodged with the County Registrar either before or at any time during the hearing.

6. (1) An application by the Agency to the Court for an order under section 81(1) of the Act shall be made to the trial judge immediately upon, or as soon as may be following, conviction. The trial judge may adjourn the application and may direct the filing of any affidavit or may, where it is necessary or desirable in the interests of justice, direct that the application be determined on oral evidence (and the Court may for that purpose make orders and give directions in relation to the exchange of pleadings or points of claim or defence between the Agency and the person convicted).

(2) Judgment shall be entered in a case to which section 81(6) applies by the aggrieved consumer filing in the Office for the County concerned a certified copy of the compensation order together with an affidavit sworn by or on behalf of the aggrieved consumer verifying the conviction and that the compensation order has not been complied with.

7. (1) Applications under section 9 of the Terms of Employment (Information) Act 1994, as applied and modified by section 87 and

Schedule 6 of the Act shall be made in the County in which the respondent employer ordinarily resides or carries on any profession, trade or business.

(2) The application shall be made by way of Originating Notice of Motion which shall indicate whether or not an appeal has been brought from the Employment Appeals Tribunal's determination. If no such appeal has been brought, the Notice shall indicate that the time for appeal has elapsed, or, if an appeal has been brought, the Notice shall indicate the date upon which Notice of Appeal was given and evidence of abandonment thereof. Such application shall be in accordance with Form 36J of the Schedule of Forms. The Originating Notice of Motion shall be dated, and bear the name, address and description of the plaintiff and shall be signed by his Solicitor, if any, or, if none, by himself.

(3) There shall be filed with the Originating Notice of Motion the original letter or notice from the Tribunal communicating its determination or a certified copy thereof.

(4) The Originating Notice of Motion shall be served on the respondent not later than fourteen days before the date of the sitting for which the application is returnable in accordance with the provisions as to service of Civil Bills.

(5) Notice of every application shall be given to the Tribunal, by the delivery of a copy of the Originating Notice of Motion at, or by sending same by prepaid registered post to, the Office of the Secretary of the Tribunal.

(6) Upon the application on notice of any party the Judge may order any other party to deliver full and better particulars of any matters stated in the application, or to deliver copies of any documents referred to therein.

(7) Save by special leave of the Court, or save as otherwise provided for by the Act, all applications under the Act shall be heard upon oral evidence.

(8) The Court may make such Order as to costs as may be appropriate, including an Order measuring the costs."

4. The Form annexed hereto shall be inserted in the Schedule of Forms annexed to the Circuit Court Rules as Form 36J.

FORM 36J

AN CHÚIRT CHUARDA  
THE CIRCUIT COURT

CIRCUIT

COUNTY OF

IN THE MATTER OF SECTION 9 OF THE TERMS OF EMPLOYMENT  
(INFORMATION) ACT 1994, AS APPLIED AND MODIFIED BY  
SECTION 87 AND SCHEDULE 6 OF THE CONSUMER PROTECTION  
ACT 2007

ORIGINATING NOTICE OF MOTION

BETWEEN

Applicant

AND

Respondent

Take notice that application will be made to the Court on the            day  
of            20            or the next opportunity thereafter for:

An order under section 9 of the Terms of Employment (Information) Act 1994, as applied and modified by section 87 and Schedule 6 of the Consumer Protection Act 2007, directing the Respondent to comply with a determination of the Employment Appeals Tribunal pursuant to section 8 of the said Act made on the day of 20            in the matter of an appeal (reference number.....) from the recommendation of a rights commissioner on the complaint of the above-named applicant against the Respondent.

\*[An order that the Respondent pay interest on the compensation at the rate referred to in Section 22 of the Courts Act 1981, for such period as may be ordered].

\*[Here insert details of any other relief sought by way of enforcement].

And further take notice that the said application will be grounded upon:

1. [Here insert the grounds upon which the Plaintiff is relying for the reliefs sought, to include all facts relevant to the alleged failure to carry out the decision or to carry out in accordance with its terms a decision or determination concerned].

2. [Here insert basis of jurisdiction].

3. [Here insert name, address and description of the Applicant].

4. [\*The said determination of the Tribunal was communicated to the Applicant on the            day of            20            and the time for appeal against said determination expired on the            day of            20            ][\*An appeal was



brought against said determination, but abandoned on the \_\_\_\_\_ day of  
20 \_\_\_\_].

5. The original determination of the Tribunal, or a copy of same, certified by  
or on behalf of the Applicant as being a true copy of the determination received  
from the Tribunal is annexed to this Notice of Motion.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ .

Signed.....  
Applicant /Solicitor for the Applicant

To:.....  
The Respondent /Solicitor for the Respondent

And  
To: The Employment Appeals Tribunal

And  
To: The County Registrar

EXPLANATORY NOTE

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

These Rules create a new Order 72B of the Circuit Court Rules to facilitate the  
operation of section 71 (Civil relief by way of prohibition orders), 72  
(Prohibition orders against code owners), 74(Right of action for damages in  
respect of a prohibited act or practice), 81(Compensation orders) and Schedule  
6 of the Consumer Protection Act 2007.

\*insert as appropriate

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: 01 - 6476843 nó 094 - 9378964)  
nó trí aon díoltóir leabhar.

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