



STATUTORY INSTRUMENTS.

S.I. No. 147 of 2021



DISTRICT COURT (AFFIDAVITS) RULES 2021

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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, make the following rules of court.

Dated this 30th day of November 2020.

Colin Daly

Chairperson

Brian Sheridan

Conal Gibbons

Riobard Pierse

Ciara McMahon

James Finn

Lisa Scott

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

Dated this 25th day of March 2021.

HELEN MCENTEE

Minister for Justice

S.I. No. 147 of 2021

DISTRICT COURT (AFFIDAVITS) RULES 2021

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, make the following rules of court:-

1 (1) These Rules, which shall come into operation on the 6th day of April 2021, may be cited as the District Court (Affidavits) Rules 2021.

(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 2021.

2. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended:

(i) by the substitution in rule 1 of Order 50 for the definition of “relevant document” of the following definitions:

““relevant document” has the same meaning as in section 2 of the Statutory Declarations Act 1938,

“videoconference” includes any connection of two or more persons at different locations by means of information and communications technology or combination of such technologies which enables persons remote from one another both to see and hear and to be seen and be heard by one another in real time.”;

(ii) by the substitution in Order 50 for rule 2 of the following rule:

“2.(1) Subject to sub-rule (2), all affidavits for use in civil proceedings in the Court (which may be in the Form 50.01, Schedule C) must be made before a Commissioner empowered to administer oaths for the High Court, or a practising solicitor (in the remainder of this sub-rule, the “officer”).

(2) Where the person making an affidavit resides outside the State, or is for the time being outside the State, the affidavit may be made before any person authorised by law to administer oaths in the place where the person making the affidavit resides or is.

(3) An affidavit sworn in the State may be sworn by the deponent-

(a) in the physical presence of the officer before whom it is to be sworn, or

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 2nd April, 2021.

- (b) where, for reasons stated briefly in the affidavit, it is not practicable for the deponent to attend in the physical presence of such officer, by videoconference with the participation of the deponent and the officer, subject to and in accordance with sub-rule (4).

(4) Where an affidavit is sworn in the manner referred to in sub-rule (3)(b), the following conditions shall be complied with -

- (a) the officer shall be provided in advance or at the videoconference with a copy (which may be in electronic form) of the affidavit, copies of any exhibits referred to in it and, in a case where rule 6(b)(iii) applies, a certified copy of the relevant document intended to be used to verify the deponent's identity;
- (b) the officer shall be satisfied that the videoconference facility enables the deponent to see and hear the officer and to be seen and heard by the officer;
- (c) in a case to which rule 6(b)(ii) applies, the officer shall ensure that the requirement in the paragraph concerned for identification of the deponent has been met before the affidavit is sworn;
- (d) the officer shall satisfy himself that the appropriate sacred text for taking the oath is available to the deponent;
- (e) during the videoconference and within sight and hearing of the officer, the deponent shall produce the original of any relevant document intended to be used to verify the deponent's identity; shall identify each page of the affidavit and any and every exhibit referred to in it, shall sign or mark any and every exhibit, and shall sign and swear the affidavit;
- (f) the sworn affidavit and any and every exhibit referred to in it shall immediately following the videoconference be sent to the officer, for attestation by the officer;
- (g) the officer shall before attesting the affidavit and signing or marking any and every exhibit referred to in it, satisfy himself that the document (and each and any exhibit) is the same as that which had been identified to him during the videoconference and, where relevant, sign and append to the affidavit the certified copy of the relevant document used to verify the deponent's identity, and
- (h) notwithstanding rule 6, the jurat of the affidavit shall indicate the date on which the affidavit was made by the deponent, the place at which the officer was when taking the affidavit and the fact that the affidavit was sworn using a videoconference.”;

(iii) by the substitution in Order 50 for rule 4 of the following rule:

“4. All affidavits for use in civil proceedings in the Court must:

- (a) state the deponent's occupation and
 - (i) the deponent's place of business, or
 - (ii) the deponent's place of residence;
- (b) state that the deponent is over 18 years of age, but if the deponent is under 18 years of age, the affidavit must state the deponent's exact age;
- (c) be confined to such facts as the deponent is able to prove of his or her own knowledge;
- (d) state the deponent's means of knowledge of the facts sworn, except on interlocutory motions, on which a statement by the deponent as to his or her belief, and the grounds of his or her belief, may be admitted.”;
 - (iv) by the insertion in Order 50, immediately following sub-rule (2) of rule 7, of the following sub-rule:

“(3) Notwithstanding paragraph (a) of sub-rule (1), where an affidavit to which this rule applies is intended to be made by videoconference in accordance with rule 2(3)(b), the affidavit concerned may be read to the deponent by videoconference during the videoconference at which the affidavit concerned is sworn.”, and
 - (v) by the insertion in Order 50, immediately following sub-rule (4) of rule 9, of the following sub-rule:

“(5) Notwithstanding paragraph (b) of sub-rule (1), where an affidavit to which this rule applies is intended to be made by videoconference in accordance with rule 2(3)(b), the affidavit concerned may be read to the deponent by videoconference during the videoconference at which the affidavit concerned is sworn.”

3. The Form 50.01 in the Schedule shall be substituted for the form bearing the like number in Schedule C of the District Court Rules 1997 (S.I. No. 93 of 1997).

Schedule

50.01

SCHEDULE C

O.50, r. 2

District Court Area of
District No.

Record number:

In the matter of section of the [insert details of the relevant enactment relied on]

*On the Application of

..... of Claimant

†Between..... Claimant

..... Respondent

AFFIDAVIT

I, of , the (claimant or state other capacity) in the above-entitled proceedings, aged 18 years and upwards MAKE OATH and say as follows:

1. (State deponent's authority). I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears, I believe the same to be true.

[Insert remaining averments as appropriate]

SWORN before me [name in capitals] *[using a videoconference] at

in the County of..... on the day of 20...,

by the said

*[who is personally known to me]

*[who is identified to me by who is personally known to me]

*[whose identity has been established to me before the taking of this affidavit by the production to me of

†passport no. issued on the day of by the authorities of , which is an authority recognised by the Irish Government

†national identity card no. issued on the day of by the authorities of which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement

†Aliens Passport no. issued on the day of by the authorities of which is an authority recognised by the Irish Government

†refugee travel document no. issued on the day of by
the Minister for Justice

† travel document (other than refugee travel document) issued
on the day of by the Minister for Justice]

.....

Deponent

.....

*Commissioner for Oaths/ *Practising Solicitor

This affidavit is filed with the District Court Clerk at on the day of
..... 20... by on behalf of the claimant/respondent.

*Delete where inapplicable.

†Where relevant, select appropriate option and delete others.

EXPLANATORY NOTE

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

These Rules amend Order 50 to provide for the option of taking an affidavit by videoconference.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2,
D02 DR67.

Teil: 076 110 6834
r-post: publications@opw.ie

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