



STATUTORY INSTRUMENTS.

S.I. No. 526 of 2023

CIRCUIT COURT RULES (AFFIDAVITS) 2023

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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, make the annexed Rules of Court.

Dated this 26th day of July 2023.

Patricia Ryan Chairperson

John F. Aylmer

Tomás Keys

Tracy Ennis Faherty

Siún Hurley

Martin Lawlor

Rita Considine

Brídín Concannon

James Finn

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

Dated this 1st day of November 2023.

Helen McEntee

MINISTER FOR JUSTICE

S.I. No. 526 of 2023

CIRCUIT COURT RULES (AFFIDAVITS) 2023

1. (1) These Rules, which may be cited as the Circuit Court Rules (Affidavits) 2023, shall come into operation on the 3rd day of November 2023.

(2) These Rules shall be construed together with the Circuit Court Rules 2001 to 2023.

(3) The Circuit Court Rules 2001 to 2023 as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2023.

2. The Circuit Court Rules 2001 to 2023 are hereby amended:

(i) by the substitution for rule 1 of Order 25 of the following rule:

“1. (1) All affidavits sworn in Ireland shall be made before the County Registrar, or a Commissioner to administer oaths for the High Court, or a practising solicitor (in the remainder of this rule, the “officer”).

(2) Where the person making an affidavit is outside Ireland, the affidavit shall be made before any person duly authorised to administer oaths in the country where such person ordinarily resides or is.

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

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

(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 5(1)(b) 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 5(1)(b) 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 5(1)(a), 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.
- (5) In this rule and in rule 5, "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.
- (6) In this rule and in rule 5, "relevant document" has the same meaning as in section 2 of the Statutory Declarations Act 1938.";

(ii) by the substitution for rule 3 of Order 25 of the following rule:

“3. (1) Every affidavit shall state the description, trade, profession or employment of the deponent and:

- (i) the deponent’s place of business, trade, profession or employment, or
- (ii) the true place of abode of the deponent.

(2) If the deponent is over eighteen years of age he shall so state, and if under eighteen years of age, shall state his exact age.

(3) All affidavits shall be confined to such facts as the deponent is able to prove of his own knowledge, and shall state his means of knowledge thereof, except on interlocutory motions, on which statements by the deponent as to his belief, with the grounds thereof, may be admitted.”, and

(iii) by the substitution for rule 5 of Order 25 of the following rule:

“5. (1) Every person taking an affidavit, a declaration, or the acknowledgment of any deed or recognizance—

(a) shall express the date upon which and the place where he takes such affidavit, declaration or acknowledgment; otherwise the same shall not be held authentic nor be admitted to be filed without the leave of the Judge;

(b) shall certify in the jurat that:

(i) he himself personally knows the deponent, or

(ii) he himself personally knows some person named in the jurat who certifies his knowledge of the deponent, or

(iii) the identity of the deponent has been established by him by reference to a relevant document containing a photograph of the deponent before the affidavit was taken, and in a case to which sub-paragraph (iii) applies shall give particulars of the relevant document concerned;

(c) shall certify therein, when such affidavit, declaration, acknowledgment or recognizance is sworn or made by any person who appears to be illiterate or blind, that such affidavit, declaration, acknowledgment or recognizance

was read in his presence to the deponent, that the deponent appeared to understand it, and that the deponent made his signature or mark in his presence. No such affidavit, declaration, acknowledgment or recognizance shall be used in evidence in the absence of this certificate unless the Judge is otherwise satisfied that the same was read over to, and appeared to be understood by the deponent.

- (2) Notwithstanding rule 5(1)(c), where an affidavit to which that paragraph applies is intended to be made by videoconference in accordance with rule 1(4), the affidavit concerned may be read to the deponent by videoconference during the videoconference at which the affidavit concerned is sworn.”

EXPLANATORY NOTE

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

The Rules amend Order 25 of the Circuit Court Rules to provide for remote swearing of affidavits and the use of a business address by a deponent where appropriate.

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