



STATUTORY INSTRUMENTS.

**S.I. No. 431 of 2020**

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DISTRICT COURT (RESIDENTIAL TENANCIES) RULES 2020

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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 and Equality, make the following rules of court.

Dated this 7th day of February 2020.

Colin Daly \_\_\_\_\_

Chairperson

Conal Gibbons \_\_\_\_\_

Anne Watkin \_\_\_\_\_

Riobard Pierse \_\_\_\_\_

Edel Haughton \_\_\_\_\_

James Finn \_\_\_\_\_

Michelle Johnston \_\_\_\_\_

I concur in the making of the foregoing rules

Dated this 8<sup>th</sup> day of October 2020

HELEN McENTEE

Minister for Justice and Equality

S.I. No. 431 of 2020

DISTRICT COURT (RESIDENTIAL TENANCIES) RULES 2020

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 and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court:

1. (1) These rules may be cited as the District Court (Residential Tenancies) Rules 2020.  
(2) These rules shall come into operation on the 22<sup>nd</sup> day of October 2020 and shall be read together with all other District Court Rules for the time being in force.  
(3) The District Court Rules as amended by these Rules may be cited as the District Court Rules 1997 to 2020.
2. The District Court Rules 1997 (S.I. No. 93 of 1997) are hereby amended by the substitution for Order 93C thereof of the Order set out in the Schedule.

Schedule

"Order 93C

Residential Tenancies Acts 2004 to 2020

Definitions

1. In this Order—

the "Act of 2004" means the Residential Tenancies Act 2004, as amended;

"authorised officer" means a person appointed under section 164A of the Act of 2004 to be an authorised officer;

the "Board" means the Residential Tenancies Board as established by section 150 of the Act of 2004;

a "determination order" shall be interpreted having regard to the provisions of section 121 of the Act of 2004.

Determination orders

2. (1) All applications by the Board or by a party mentioned in a determination order under section 124 of the Act of 2004 for enforcement of a determination order must be made by way of notice of application.

(2) Applications under this rule must be brought in the court area in which the tenancy or dwelling concerned is or was situated.

(3) The notice of application must be in Form No. 40C.01, Schedule C, modified as appropriate to the case, and must include particulars of the relief sought appropriate to the case.

(4) The notice of application must be entitled in the matter of section 124 of the Residential Tenancies Act 2004, as amended and must contain the name and address of the applicant as claimant and the name and address of the respondent.

(5) The notice of application must set out the grounds on which the applicant relies for the reliefs sought and must have annexed thereto the original determination order or a certified copy of same, certified by the applicant as being a true copy of the determination order. The return date of the notice of application must be not less than 21 days after the date on which the notice of application is issued.

(6) The notice of application must be supported by a grounding affidavit setting out and verifying the facts relied on in the application. Copies of the affidavit and any exhibits must be served with the notice of application on the respondent.

(7) The respondent must be served not later than 21 days before the return date where service is by registered post or not less than seven days before the

return date where service is effected personally or in accordance with sub-rule (9).

(8) The original notice of application and a statutory declaration as to the service of the notice of application on the respondent must be lodged with the Clerk not later than four days before the return date.

(9) Where the relief sought in an application includes the enforcement of a determination for recovery of vacant possession of a dwelling, the proceedings may be served by delivering copies of the notice of application, grounding affidavit and any exhibits, addressed to the respondent at the dwelling to which the determination relates or, where such service cannot be effected, by leaving copies of those documents at the dwelling or by attaching those documents to the door or some other conspicuous part of the dwelling. In all other cases, the notice of application must be served personally or by prepaid registered post.

(10) If the respondent intends to oppose the application and the applicant is not the Board, the respondent must give notice of such intention to oppose and the grounds of opposition to the Board and to the applicant no later than four days prior to the return date specified in the notice of application. Such notice must be served on the Board by leaving a true copy of same at the registered offices of the Board or by pre-paid registered post to the registered offices of the Board.

(11) Save by special leave of the Court, all applications under section 124 of the Act of 2004 must be heard on affidavit evidence or as may be determined by the Court.

(12) On the return date of the notice of application the Court may, if it does not hear and determine the application, proceed in accordance with Order 40C, rule 7.

#### Applications by authorised officers under section 148S

3. (1) An application by an authorised officer under section 148S(7) of the Act of 2004 for an order under section 148S(8) of the Act of 2004 must be made by way of notice of application.

(2) Applications under this rule must be brought in the court area in which the person in respect of whom the application is made resides or carries on any profession, trade or business.

(3) The notice of application must be in Form No. 40C.01, Schedule C, modified as appropriate to the case, and must:

- (i) show on its face how or by whom the consent of the Board to the making of the application was given;
- (ii) where the requirement to which the application relates was made in writing, have appended (to the original notice of application and to any copy of the notice of application served on the respondent) a true copy of the written requirement, and include particulars of service of the requirement on the respondent or delivery of the requirement to the respondent;

(iii) where the requirement to which the application relates was not made in writing, include particulars of the requirement and of how it was communicated to the respondent.

(4) The notice of application must be entitled in the matter of section 148S of the Residential Tenancies Act 2004, as amended and must contain the name and address of the applicant as claimant and the name and address of the respondent.

(5) The return date of the notice of application must be not less than 21 days after the date on which the notice of application is issued.

(6) The respondent must be served not later than 21 days before the return date where service is by registered post or not less than seven days before the return date where service is effected personally.

(7) The original notice of application and a statutory declaration as to the service of the notice of application on the respondent must be lodged with the Clerk not later than four days before the return date.

#### Applications by authorised officers or the Board under Schedule 3

4. (1) An application:

- (i) by an authorised officer for an order under paragraph 5 of Part I of Schedule 3 to the Act of 2004 for an order under that paragraph, or
- (ii) by the Board for an order under paragraph 5 of Part 2 of Schedule 3 to the Act of 2004 for an order under that paragraph, must be made by way of notice of application.

(2) Applications under this rule must be brought in the court area in which the person required to attend the oral hearing ordinarily resides or carries on any profession, business or occupation.

(3) The notice of application must be in Form No. 40C.01, Schedule C, modified as appropriate to the case, and must have appended (to the original notice of application and to any copy of the notice of application served on the respondent) a true copy of the notice in writing issued to the respondent under paragraph 2 of Part 1 or, as the case may be, Part 2, of Schedule 3 to the Act of 2004, and include particulars of service of the notice on the respondent.

(4) The notice of application must be entitled in the matter of Part 1 or, as the case may be, Part 2, of Schedule 3 to the Residential Tenancies Act 2004, as amended and must contain the name and address of the authorised officer or, as the case may be, the Board as claimant and the name and address of the respondent.

(5) The respondent must be served not later than 21 days before the return date where service is by registered post or not less than seven days before the return date where service is effected personally.

(6) The original notice of application and a statutory declaration as to the service of the notice of application on the respondent must be lodged with the Clerk not later than four days before the return date.

## EXPLANATORY NOTE

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

These rules amend Order 93C to provide for applications to the District Court, by authorising officers or the Residential Tenancies Board, in respect of landlords or other persons who refuse to co-operate with investigations or oral hearings, for orders to comply pursuant to Part 7A and Schedule 3 of the Residential Tenancies Act 2004 as amended by sections 28 and 35 respectively of the Residential Tenancies (Amendment) Act 2019

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