



STATUTORY INSTRUMENTS.

S.I. No. 262 of 2021

DISTRICT COURT (ORDER 38) RULES 2021

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DISTRICT COURT (ORDER 38) 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.

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 29th day of April 2021.

HEATHER HUMPHREYS

Minister for Justice

S.I. No. 262 of 2021

DISTRICT COURT (ORDER 38) 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 and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice, make the following rules of court:-

1. (1) These rules may be cited as the District Court (Order 38) Rules 2021.

(2) These rules shall come into operation on the 2nd day of June 2021 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 2021.

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

(i) by the substitution for Order 38 of the Order set out in Schedule 1, and

(ii) by the insertion immediately after Order 96C thereof of the Order set out in Schedule 2.

3. (1) The forms numbered 38.15 to 38.21 inclusive in Schedule 3 shall be substituted for the forms bearing the like numbers respectively in Schedule B to the District Court Rules 1997 (S.I. No. 93 of 1997).

(2) The Forms in Schedule 4 shall be added to Schedule C of the District Court Rules 1997 (S.I. No. 93 of 1997) immediately following Form 96C.3.

Schedule 1

“ORDER 38

MISCELLANEOUS MATTERS

Power of Court in cases of variance, defects, omissions, no offence disclosed or no appearance

Variance between evidence and complaint

1.(1) Subject to the provisions of paragraph (3), in cases of summary jurisdiction no variance between the complaint and the evidence adduced in support thereof, as to the time at which the offence or cause of complaint is stated to have been committed or to have arisen, shall be deemed material, provided that such information or complaint was in fact made within the time limited by law for making the same; nor shall any variance between the complaint and the evidence adduced in support thereof, as to the place in which the offence or cause of complaint is stated to have been committed or to have arisen, be deemed material, provided that the said offence or cause of complaint was committed or arose within the jurisdiction of the Judge by whom the case is being heard, or that, the accused resides or in the case of an offence was arrested within such jurisdiction. In any such case the Court may amend the summons, warrant or other document by which the proceedings were originated and proceed to hear and determine the matter.

Defects

(2) Subject to the provisions of paragraph (3), no objection shall be taken or allowed on the ground of a defect in substance or in form or an omission in the summons, warrant or other document by which the proceedings were originated, or of any variance between any such document and the evidence adduced on the part of the prosecutor at the hearing of the case in summary proceedings or in proceedings in the Court relating to an indictable offence, but the Court may amend any such summons, warrant or other document, or proceed in the matter as though no such defect, omission or variance had existed.

Court’s discretion

(3) Provided, however, that if in the opinion of the Court the variance, defect or omission is one which has misled or prejudiced the accused or which might affect the merits of the case, it may refuse to make any such amendment and may dismiss the complaint either without prejudice to its being again made, or on the merits, as the Court thinks fit; or if it makes such amendment, it may upon such terms as it thinks fit adjourn the proceedings to any future day at the same time or at any other place.

No offence disclosed / No appearance

(4) *Where the Court is of opinion that the complaint before it discloses no offence at law, or if neither the prosecutor nor accused appears, it may if it thinks fit strike out the complaint with or without awarding costs.*

Order to inspect and copy entries in Banker's Books

Application for - venue

2. (1) *An application by a party to proceedings before the Court for an order under section 7 of the Bankers' Books Evidence Act 1879 (42 & 43 Vict. Ch. 11) authorising that party to inspect and take copies of entries in a banker's books for any of the purposes of such proceedings may be made at any sitting of the Court for the Court district wherein the proceedings have been brought.*

- notice of

(2) *Such application shall be preceded by the issue of a notice in the Form 38.1, Schedule B, which shall be lodged with the Clerk prior to the making of the application.*

Order of court

(3) *The order of the Court granting the application shall be in the Form 38.2, Schedule B, which shall, unless the Court otherwise directs, be served upon the relevant bank three clear days before the order is to be obeyed. Service may be effected by delivering a copy of the order to the office of the bank wherein the relevant records are kept.*

Section 7A application- venue

(4) *An application to the Court by a member of the Garda Síochána not below the rank of Superintendent under the provisions of section 7A of the Bankers' Books Evidence Act 1879 (42 & 43 Vict. Ch.11) as inserted by section 131 Central Bank Act 1989, and as amended by section 14 of the Disclosure of Certain Information for Taxation and Other Purposes Act 1996, may be made at any sitting of the Court for the Court district wherein the offence in question is alleged to have been committed and may be heard otherwise than in public.*

- Notice of

(5) *Such application shall be preceded by the issue of a notice in the Form 38.10, Schedule B, which shall be lodged with the Clerk prior to the making of the application.*

- *Order*

(6) *The order of the Court granting the application shall be in the Form 38.11, Schedule B, which shall, unless the Court otherwise directs, be served upon the relevant bank three clear days before the order is to be obeyed. Service may be effected by delivering a copy of the order to the office of the bank wherein the relevant records are kept.*

Procedure under Taxes Consolidation Act 1997

Section 908A application- venue

(7) *An application by an authorised officer of the Revenue Commissioners under the provisions of section 908A of the Taxes Consolidation Act 1997, as inserted by section 207 of the Finance Act 1999, and as amended by section 68 of the Finance Act 2000 and by section 132 of the Finance Act 2002 shall be by information on oath and in writing, in the Form 38.12, Schedule B, to the Judge for the Court district wherein the offence in question is alleged is being, has been or is about to be committed or where the financial institution in respect of which the order is sought is located, and may be heard otherwise than in public.*

- *Order*

(8) *The order of the Court granting the application shall be in the Form 38.13, Schedule B, which shall, unless the Court otherwise directs, be served upon the relevant financial institution three clear days before the order is to be obeyed. Service may be effected by delivering a copy of the order to the office of the financial institution wherein the relevant books or records are kept.*

Notice to Coroner of result of proceedings

Notice under 1962 Act

3. *At the conclusion of criminal proceedings in the Court in relation to the death of a person the Clerk shall, pursuant to section 25(3) of the Coroners Act 1962 (No. 9 of 1962), inform (in the Form 38.3, Schedule B) the coroner holding an inquest in relation to the death of the result of the proceedings.*

Detention of Cash under section 38 of the Criminal Justice Act 1994 (as amended)

Interpretation – rules 5 to 8

4. *In rules 5 to 8 inclusive following, “the 1994 Act” means the Criminal Justice Act 1994, as amended by section 20 of the Proceeds of Crime (Amendment) Act 2005.*

Application for order authorising detention of cash

5. (1) An application to the Court by a member of the Garda Síochána or an officer of Customs and Excise under section 38(2) of the 1994 Act for an order authorising the detention beyond 48 hours of cash seized by virtue of section 38 of the 1994 Act shall be made by the information on oath and in writing of the applicant, in the Form 38.4, Schedule B. Such application shall be made to a Judge of the Court assigned to the Court district wherein the cash was seized. Where the Judge is satisfied that the urgency of the case so requires, such application may be heard and determined on the evidence viva voce and on oath of the applicant. In such case, a written note of the evidence given shall be prepared by the applicant and signed by the Judge.

Form and service of order

(2) An order of the Court made on such application authorising the detention beyond forty-eight hours of cash seized by virtue of section 38 shall be in the Form 38.5, Schedule B. The applicant shall cause a copy of the said order to be served upon the person from whom the cash was seized and upon any person by or on whose behalf the cash was being imported or exported.

Application for order authorising further detention of cash

6. (1) An application to the Court by a member of the Garda Síochána or an officer of Customs and Excise under section 38(3) of the 1994 Act for an order authorising the further detention in accordance with section 38(3) of the 1994 Act of cash seized by virtue of section 38 of the 1994 Act shall be made to a Judge of the Court assigned to the Court district in which the cash was seized. Such application shall be preceded by the issue, and service upon the person from whom the cash was seized and upon any other person directly affected by the order previously made under section 38(2) of the 1994 Act in respect of the cash, of copy of a notice of application, in the Form 38.6, Schedule B.

Notice of application

(2) Notice of such application shall be served at least seven days before the date fixed for the hearing of the application. Such notice may be served in the manner provided by Order 10. The original notice of application together with a statutory declaration as to the service of copy of such notice shall be lodged with the Clerk at least 48 hours before the date of the hearing.

Form and service of order

(3) An order of the Court granting the application shall be in the Form 38.7, Schedule B. The applicant shall cause a copy of any such order to be served upon the person from whom the cash was seized and upon any person by or on whose behalf the cash was being imported or exported.

Application for order releasing cash

7. (1) An application to the Court under section 38(5) of the 1994 Act for an order releasing cash seized by virtue of section 38 of the 1994 Act shall be made to a Judge of the Court assigned to the Court district in which the cash was seized. Such application shall be preceded by the issue, and service upon the member(s) of the Garda Síochána or officer(s) of Customs and Excise who applied for any order previously made under section 38(2) or section 38(3) of the 1994 Act in respect of the cash, of copy of a notice of application, in the Form 38.8, Schedule B.

Notice of application

(2) Notice of such application shall be served at least seven days before the date fixed for the hearing of the application. Such notice may be served in the manner provided by Order 10. The original notice of application shall be lodged with the Clerk at least 48 hours before the date of hearing.

Form of order

(3) The order of the Court on the application shall be in the Form 38.9, Schedule B.

Venue

8. (1) Applications to the Court under the 1994 Act may be brought, heard and determined before a Judge of the Court assigned to the Court district wherein the cash was seized at any sitting of the Court within such Judge's district.

Order directing service

(2) Where it seems appropriate to the Court to so direct, in any application under section 38(3) or section 38(5) of the 1994 Act, the Court may direct that any person who had not been given notice of the application be joined in, or put on notice of, the application

Certificates and applications under Sex Offenders Act 2001 (as amended)

Certificate

9. (1) A certificate for the purposes of section 14 of the Sex Offenders Act 2001 shall be in the Form 38.14, Schedule B and shall be signed by a District Court clerk.

Order imposing post-release supervision

(2) An order imposing post-release supervision pursuant to section 29 of the Sex Offenders Act 2001 may be in the Form 38.15 Schedule B and a copy of such Order shall be transmitted to the Governor of the Prison to which the accused is committed.

Application under section 30A

(3) An application to the Court pursuant to section 30A of the Sex Offenders Act 2001 (inserted by section 51 of the Criminal Law (Sexual Offences) Act 2017) for an order amending any condition attached to, or for the inclusion of any new condition in, any order of the Court providing for post-release supervision may be made at any sitting of the Court for the court area in which the order providing for post-release supervision was made. Notice of the application shall be served on the sex offender concerned at least seven days before the date of hearing. A copy of the notice of application together with a statutory declaration as to service thereof shall be lodged with the Clerk at least 48 hours before the date of hearing.

Indorsement of new terms

(4) Where the Court amends a condition or includes any new condition attached to, or includes any new condition in, the order providing for post-release supervision, the terms of any such change may be indorsed upon the original or a copy of the order and re-signed by the Judge.

Procedure under International Protection Act 2015

Interpretation – rules 11 to 15

10. In Rules 11 to 15 inclusive following, “the 2015 Act” means the International Protection Act 2015 (No. 66 of 2015).

Commitment to detention

11. Where a person who has been detained pursuant to section 20(1) or section 20(9) of the 2015 Act is brought before a Judge of the Court assigned to the Court district in which the person is being detained and is committed by the Court to a place of detention as provided for in section 20(3)(a), section 20(10), or as the case may be, section 20(12) of the 2015 Act, the order of detention shall be in the Form 38.16, 38.16A, or as the case may be, 38.16B, Schedule B.

Conditional release

12. Where a person who has been detained pursuant to section 20(1) or section 20(9) of the 2015 Act is brought before a Judge of the Court assigned to the Court district in which the person is being detained and is released pursuant

to the provisions of section 20(3)(b) or section 20(11), as the case may be, of the 2015 Act, the order of release shall be in the Form 38.17, Schedule B.

Variation of conditional release

- application
- service
- order

13. Where a person has been released from detention on conditions in accordance with section 20(3)(b) of the 2015 Act, an application in the Form 38.18, Schedule B, may be made pursuant to section 20(5) or section 20(10) of the 2015 Act, to a Judge of the Court assigned to the Court district in which the person's dwelling place is situated, by the person, an immigration officer, or a member of the Garda Siochána to vary, revoke or add a condition to the person's release. Such application shall be served in the manner provided by section 5 of the 2015 Act and shall be served at least four clear days before the date for hearing the application. The original of the application shall be lodged with the Clerk at least 48 hours before the date of hearing. The order of the Court on the application shall be in the Form 38.19, Schedule B.

Order of release

14. Where a person who has been detained pursuant to the provisions of section 20 of the 2015 Act is brought, under the provisions of section 20(4) or section 20(10) of the 2015 Act before a Judge of the Court assigned to the Court district where the person is being detained and the Court orders the release of that person, the order of release shall be in the Form 38.20, Schedule B.

Order where the person indicates a desire to leave the State

15. Where a person detained pursuant to the provisions of section 20 of the 2015 Act is brought before a Judge of the Court assigned to the Court district where the person has been detained, the order of the Judge under the provisions of section 20(13)(b) of the 2015 Act shall be in the Form 38.21, Schedule B.

Orders under Part 3 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010

Interpretation – rules 16 to 18

16. In this rule and rules 17 and 18, "the 2010 Act" means the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010).

Applications under section 17

17. An application by a member of the Garda Síochána for an order under section 17(2) of the 2010 Act ordering a person not to carry out a specified service or transaction shall be made ex parte and otherwise than in public to a Judge of the Court assigned to the Court district in which the order is proposed to be served. Such application shall be by the information on oath and in writing of the applicant, in the Form 38.22, Schedule B. Where the application is for a second or subsequent order in relation to a particular service or transaction, there shall be produced with the information a copy of any previous order of the Court in relation to that service or transaction. An order of the Court under section 17(2) of the Act shall be in the Form 38.23, Schedule B.

Applications under section 19 or 20

18. (1) An application to a Judge of the Court under section 19 of the 2010 Act to revoke an order or direction made under section 17 of the 2010 Act, or an application under section 20 of the 2010 Act for an order in relation to any of the property concerned in an order or direction made under section 17 of the 2010 Act shall be made to a Judge of the Court assigned to the Court district in which the order or direction was made. Such application shall be preceded by the issue of a notice of application, in the Form 38.24, Schedule B, and service of a copy of that notice, in the manner provided by Order 10, upon the member of the Garda Síochána on whose application the order under section 17 of the 2010 Act was made.

Notice of applications under section 19 or 20

(2) Unless the Court permits otherwise, notice of such application shall be served at least four days before the date fixed for the hearing of the application, and the original notice of application together with a statutory declaration as to the service of copy of the notice shall be lodged with the Clerk at least 48 hours before the date of the hearing.

Service of applications under section 19 or 20

(3) Where it seems appropriate to the Court to so direct, in any application under section 19 or section 20 of the 2010 Act, the Court may direct that any person affected by the direction or order who was not given notice of the application be joined in, or put on notice of, the application.

Order under section 19 or 20

(4) An order of the Court under section 20 of the 2010 Act shall be in the Form 38.25, Schedule B.

Service under section 110

(5) Notwithstanding Order 10, the Court may authorise or direct service of any notice of application for an order under section 19 or section 20 of the 2010 Act, or order made under section 17, section 19 or section 20 of the 2010 Act by any means referred to in section 110 of the 2010 Act.”

Schedule 2

“ORDER 96D”

Harassment Orders under the Criminal Law (Sexual Offences) Act 2017

In this Order:

“the Act” means the Criminal Law (Sexual Offences) Act 2017 (No. 2 of 2017);

“applicant” has the same meaning as in section 46(2) of the Act;

“harassment order” has the same meaning as in section 46(1) of the Act;

“respondent” has the same meaning as in section 46(1)(a) of the Act.

2. (1) Where an application for a harassment order pursuant to section 46(1)(a) of the Act is intended to be made following the conviction by the Court of a person for a sexual offence, the intention to make such application may be notified orally to the Court by or on behalf of the applicant at the hearing at which the person is convicted, and the application may be made at the sentencing hearing or at such other sitting of the Court as the Court directs.

(2) Notice of an application for a harassment order in accordance with sub-rule (1) shall be in the Form 96D.1, Schedule C. A copy of the notice of application shall be served upon the respondent not later than seven days before the date fixed for the hearing of the application. The original notice of application shall be lodged with the Clerk not later than two days before the date fixed for the hearing of the application.

3. (1) Where an application for a harassment order pursuant to section 46(1)(b) of the Act is made, notice of the application shall be in the Form 96D.1, Schedule C. A copy of the notice of application shall be served upon the respondent not later than seven days before the date fixed for the hearing of the application. The original notice of application shall be lodged with the Clerk not later than two days before the date fixed for the hearing of the application, together with a certified copy of the order of the court which convicted the person of a sexual offence.

4. A harassment order shall be in the Form 96D.2, Schedule C. The applicant shall cause a copy of any such order to be served on the respondent.

5. An application pursuant to section 46(8) of the Act for an order discharging or varying a harassment order may be made at any sitting of the Court for the court area in which the order was made. Such an application shall be preceded by the issue of a notice of application in the Form 96D.3, Schedule C. A copy of the notice of application (to which shall be attached true copies of the notice of application for a harassment order and of the harassment order)

shall be served upon the applicant for the harassment order, where such application is brought by the respondent, or upon the respondent, where such application is brought by the applicant for the harassment order, not later than seven days before the date fixed for the hearing of the application, and the original notice of application and attachments shall be lodged with the Clerk not later than two days before the date fixed for the hearing of the application.

6. *Where the Court varies the terms of the harassment order, the terms of any such variation may be indorsed upon the original or a copy of the harassment order and re-signed by the Judge.*

7. *Proceedings for a harassment order shall be heard otherwise than in public in accordance with Order 12 rule 4.*

8. *Where notice of an appeal against a harassment order made by the Court is duly given, the operation of the order shall, if the Court or the Circuit Court so determines (but not otherwise), be stayed in accordance with the provisions of section 47 of the Act.”*

Schedule 3

Schedule B
O.38,r. 9(2)

No 38.15

SEX OFFENDERS ACT 2001, SECTION 29

ORDER FOR IMPRISONMENT AND POST-RELEASE SUPERVISION

District Court Area of _____ District No. _____

E.F., of Prosecutor

A.B., Accused

Before the District Court at within the District Court area aforesaid

A.B., of hereinafter called the accused, is this day convicted *(the accused having been informed of his/her right to be tried by jury and having consented to be dealt with summarily)

That he/she, on the ... day of 20., at

Within the aforesaid did (here state the offence).

And the accused having been convicted of the said offence and sentenced to a period of *imprisonment *detention

IT IS FURTHER ORDERED that during the period of commencing upon the date of his/her release from *imprisonment *detention the accused shall remain under the supervision of, a probation and welfare officer and the said accused is required to attend all appointments with the said officer whose supervision he/she is under and is required to comply with the lawful instructions of that said officer, while this Order shall remain in force.

And having regard to section 28 and section 30 of the above-mentioned Act, it is further ordered that following his/her release from *imprisonment /*detention and while this Order shall remain in force

*The said accused be prohibited from

*The said accused undergo the following*counselling *treatment provided by.....

And this Order shall remain in force from the ... day of, 20... to the day of, 20....

Dated this ... day of 20.....

Signed

Judge of the District Court

*warrant of execution as to imprisonment *detention in the usual form

Schedule B
O.38, r.11

No 38.16

INTERNATIONAL PROTECTION ACT 2015

section 20(3)(a)

ORDER OF COMMITTAL TO A PLACE OF DETENTION

District Court Area of

District No.

WHEREAS.....of.....
has been detained in the place of detention at
within the said district pursuant to the provisions of section 20(1) of the above mentioned Act, and is before me pursuant to the provisions of section 20(2) of the said Act;

AND WHEREAS I am satisfied that the said person
 *poses a threat to public security or public order in the State,
 *has committed a serious non-political crime outside the State,
 *has not made reasonable efforts to establish *his/*her identity,
 *intends to leave the State and without lawful authority enter another state,
 *has acted or intends to act in a manner that would undermine
 *the system for granting persons international protection in the State
 *an arrangement relating to the Common Travel Area
 *without reasonable excuse
 *has destroyed *his/*her identity or travel documents
 *is or has been in possession of a forged, altered or substituted identity document,

IT IS HEREBY ORDERED that the saidbe committed to the place of detention atuntil theday of20..., being a period not exceeding 21 days from the time of the said person's detention.

Dated thisday of20.....

Signed:_____

Judge of the District Court

To.....

of.....

THIS IS TO COMMAND YOU TO WHOM THIS WARRANT IS ADDRESSED TO
DETAIN..... ATPRISON AND TO PRODUCE HIM/HER AT
.....COURTHOUSE ON THEDAY OF20....

Dated thisday of20.....

Signed: _____

Judge of the District Court

*Delete words inapplicable

Schedule B
O.38, r.11

No 38.16A

INTERNATIONAL PROTECTION ACT 2015

section 20(10)

ORDER OF COMMITTAL TO A PLACE OF DETENTION

District Court Area of	District No.
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WHEREAS.....of.....

was detained in the place of detention at
within the said district pursuant to the provisions of section 20(1) of the above mentioned Act, and was before the Court on the ... day of20... pursuant to the provisions of section 20(2) of the said Act;

AND WHEREAS the said person was released in accordance with section 20(3)(b) of the said Act, subject to conditions, including that [*specify conditions*]

AND WHEREAS the said person was arrested by member of the Garda Síochána and detained in a place of detention, the said person having, in the said member's opinion, failed to comply with a condition imposed by the Court under section 20(3)(b) of the said Act.

AND WHEREAS the said person was before the Court on the ... day of20... pursuant to the provisions of section 20(10) of the said Act;

AND WHEREAS I am satisfied that the said person has failed to comply with a condition referred to in section 20(3)(b) of the said Act, namely [*specify condition(s) breached*]

IT IS HEREBY ORDERED that the saidbe committed to the place of detention atuntil theday of20..., being a period not exceeding 21 days from the time of the said person's detention.

Dated thisday of20.....

Signed: _____

Judge of the District Court

To.....
of.....

THIS IS TO COMMAND YOU TO WHOM THIS WARRANT IS ADDRESSED TO
DETAIN.....ATPRISON AND TO PRODUCE HIM/HER AT
.....COURTHOUSE ON THEDAY OF20....

Dated thisday of20.....

Signed: _____

Judge of the District Court

*Delete words inapplicable

Schedule B
O.38, r.11

No 38.16B
INTERNATIONAL PROTECTION ACT 2015
section 20(12)

ORDER OF COMMITTAL TO A PLACE OF DETENTION

District Court Area of District No.

*WHEREAS.....of.....
was on theday of20... detained in the place of detention atwithin the said district pursuant to the provisions of *section 20(3) *section 20(10) of the above mentioned Act, and is before me pursuant to the provisions of section 20(10) of the said Act;

AND WHEREAS I am satisfied that the said person

- *poses a threat to public security or public order in the State,
- *has committed a serious non-political crime outside the State,
- *has not made reasonable efforts to establish *his/*her identity,
- *intends to leave the State and without lawful authority enter another state,
- *has acted or intends to act in a manner that would undermine
 - *the system for granting persons international protection in the State
 - *an arrangement relating to the Common Travel Area
- *without reasonable excuse
 - *has destroyed *his/*her identity or travel documents
 - *is or has been in possession of a forged, altered or substituted identity document,

IT IS HEREBY ORDERED that the saidbe committed to the place of detention atuntil theday of20..., being a period not exceeding 21 days from the date of the previous order of the Court.

Dated thisday of20.....

Signed:_____

Judge of the District Court

To.....
of.....

THIS IS TO COMMAND YOU TO WHOM THIS WARRANT IS ADDRESSED TO
DETAIN.....ATPRISON AND TO PRODUCE HIM/HER AT
.....COURTHOUSE ON THEDAY OF20....

Dated thisday of20.....

Signed: _____

Judge of the District Court

*Delete words inapplicable

No 38.17

INTERNATIONAL PROTECTION ACT 2015

*section 20(3)(b)

*section 20(10)

ORDER OF CONDITIONAL RELEASE

District Court Area of

District No.

WHEREAS.....of.....
 has been detained in the place of detention at
 within the said district pursuant to the provisions of *section 20(1) *section 20(9) the above mentioned Act, and is before me pursuant to the provisions of *section 20(2) *section 20(10) of the said Act;

AND WHEREAS I am satisfied that the person

- *poses a threat to national security or public order in the State,
- *has committed a serious non-political crime outside the State,
- *has not made reasonable efforts to establish *his/*her identity,
- *intends to leave the State and without lawful authority enter another state,
- *has acted or intends to act in a manner that would undermine
 - *the system for granting persons international protection in the State
 - *an arrangement relating to the Common Travel Area
- *without reasonable excuse
 - *has destroyed *his/*her identity or travel documents
 - *is or has been in possession of a forged, altered or substituted identity document,

IT IS HEREBY ORDERED that the said.....be released subject to the following condition(s):-

*that *he/*she resides or remains *in District No.....of the District Court or *in in the State

*that *he/*she reports to the Garda Siochána station at at the following times.....

*that *he/*she surrenders any passport or travel document that *he/*she holds

*that (*here insert any other conditions imposed*).....

Dated thisday of20.....

Signed: _____

Judge of the District Court

To.....

of.....

*Delete words inapplicable

Schedule B
O.38, r.13

No 38.18

INTERNATIONAL PROTECTION ACT 2015

*section 20(5)

*section 20(10)

APPLICATION TO *VARY *REVOKE *ADD A CONDITION OF RELEASE

District Court Area of District No.

WHEREAS.....of.....
was detained in the place of detention at
in District Court District No.....of the District Court pursuant to the provisions of *section 20(1) *section 20(9) of the above mentioned Act,

AND WHEREAS it was ordered by the District Court Judge assigned to the district where said place of detention is situated on day of.....20....., that the person above-named be released from the said place of detention subject to the following condition(s):-

*that *he/*she resides or remains *in District No.....of the District Court or *in in the State

*that *he/*she reports to the Garda Siochána station at at the following times.....

*that *he/*she surrenders any passport or travel document that *he/*she holds

*that (here insert any other conditions imposed)
.....

TAKE NOTICE that
.....of.....

*the person above-named

*an immigration officer

*a member of the Garda Siochána

will apply to a Judge of the District Court assigned to the District Court District in which the person above named resides pursuant to *section 20(5) *section 20(10) of the said Act, at a sitting of the District Court at (in the District Court District in which the person above named resides) on the day of20.....at.....a.m./p.m., for an order *varying *revoking *adding a condition as follows:-

Dated thisday of20.....

*(Solicitor for) Applicant

To.....

*Delete words inapplicable

Schedule B
O.38, r.13

No 38.19

INTERNATIONAL PROTECTION ACT 2015

*section 20(5)

*section 20(10)

ORDER *VARYING *REVOKING *ADDING A CONDITION OF RELEASE

District Court Area of

District No.

WHEREAS.....of.....
was detained in the place of detention at
in District No.....of the District Court pursuant to the provisions of *section 20(1) *section 20(9) of the above mentioned Act,

AND WHEREAS it was ordered by the District Court Judge assigned to the district where the said place of detention is situated on day of.....20....., that the person above-named be released from the said place of detention subject to the following condition(s):-

*that *he/*she resides or remains *in District No.....of the District Court or *in in the State

*that *he/*she reports to the Garda Síochána station at at the following times.....

*that *he/*she surrenders any passport or travel document that *he/*she holds

*that (*here insert any other conditions imposed*).....

AND WHEREAS an application was made by of

.....

*the person above-named

*an immigration officer

* a member of the Garda Síochána

to a Judge of the District Court assigned to the District in which the above named person resides, at a sitting of the District Court at(in the District Court District in which the person above resides) for an order *varying *revoking *adding a condition as follows:-

IT IS HEREBY ORDERED as follows:-

Dated thisday of20.....

Signed: _____

Judge of the District Court

To.....

of.....

*Delete words inapplicable

Schedule B
O.38, r.14

No 38.20

INTERNATIONAL PROTECTION ACT 2015

*section 20(4)

*section 20(11)

ORDER OF RELEASE

District Court Area of

District No.

WHEREAS.....of.....
was detained in the place of detention at
within the said district pursuant to the provisions of *section 20(1) *section 20(9) of the above mentioned Act;

*AND WHEREAS I am satisfied that none of the paragraphs of section 20(1) of said Act applies in relation to the said person;

*AND WHEREAS I am satisfied that the person brought before me pursuant to the provisions of section 20(10) of the above mentioned Act has complied with the condition(s) concerned referred to in section 20(3)(b) of the said Act;

IT IS HEREBY ORDERED that the person detained be released.

Thisday of20.....

Signed: _____

Judge of the District Court

To.....
of.....

*Delete words inapplicable

No 38.21

INTERNATIONAL PROTECTION ACT 2015

ORDER UNDER SECTION 20(13)(b)

District Court Area of

District No.

WHEREAS.....of.....
was detained in the place of detention at,
within the said district pursuant to the provisions of section 20 of the above mentioned Act, and is before me, a Judge of the District Court assigned to the said District

AND BEING SATISFIED that the saiddoes not wish to proceed with *his/*her application for international protection and wishes to leave the State, and that the said person has obtained, or has been given the opportunity of obtaining or being provided with, professional legal advice on the consequences of his or her decision not to proceed with his or her application for international protection;

IT IS HEREBY ORDERED that the Minister for Justice arrange for the removal of the saidfrom the State

*IT IS FURTHER ORDERED THAT [insert such ancillary or consequential provisions as the Judge may determine in accordance with section 20(13)(b) of the Act]

Dated thisday of20.....

Signed: _____

Judge of the District Court

To.....
of.....

*Delete words inapplicable

Schedule 4

Schedule C
O. 96D, rr. 2, 3

No. 96D.1

CRIMINAL LAW (SEXUAL OFFENCES) ACT 2017, Section 46

NOTICE OF APPLICATION FOR HARASSMENT ORDER

District Court Area of	District No.
.....	Applicant
.....	Respondent

WHEREAS the above-named respondent ofwas on theday of20... convicted by *this Court/*the.....Court sitting at.....of a sexual offence, namely,

TAKE NOTICE that the above-named applicant,of..... *(in court area (and district) aforesaid) being

*a member of the Garda Síochána not below the rank of Inspector stationed at.....

*a probation officer

*the victim of the offence of which the respondent was convicted

will apply to the District Court sitting at.....on theday of.....20....ata.m./p.m. under section 46 of the Criminal Law (Sexual Offences) Act 2017 for a harassment order in respect of the respondent

[..... *prohibiting you the respondent from communicating by any means with the victim, and

*prohibiting you the respondent from approaching within such distance as the court shall specify of the place of residence or employment of the victim or any other place frequented by the victim as the court deems appropriate,

and subject to such terms and conditions as the Court may specify.]

[The grounds for this application are that—

the respondent has, without reasonable excuse, behaved in such a way as to give rise to a well-founded fear that the victim may be subjected to—

*harassment by the respondent

*unwanted contact from the respondent,

such as would cause the victim fear, distress or alarm or amount to intimidation and it is in the interests of justice to do so]

Dated this..... day of.....20.....

Signed.....

.....

*(Solicitor for)
Applicant

To District Court Clerk
District Court Office at

To the Respondent of

*delete if inapplicable

Schedule C
O. 96D, r. 4

No. 96D.2

CRIMINAL LAW (SEXUAL OFFENCES) ACT 2017, Section 46
HARASSMENT ORDER

District Court Area of	District No.
.....		Applicant
.....		Respondent

WHEREAS UPON APPLICATION made to the Court today *in the presence of the respondent

by the above-named applicant, being

*a member of the Garda Síochána not below the rank of Inspector stationed at.....

*a probation officer

*the victim of the offence of which the respondent was convicted

under section 46 of the Criminal Law (Sexual Offences) Act 2017 for a harassment order in respect of the above-named respondent,, of*in the court (area and) district aforesaid

THE COURT

BEING SATISFIED THAT notice of the application was duly served

BEING SATISFIED THAT the respondent has, without reasonable excuse, behaved in such a way as to give rise to a well-founded fear that the victim may be subjected to—

*harassment by the respondent

*unwanted contact from the respondent,

such as would cause the victim fear, distress or alarm or amount to intimidation and that it is in the interests of justice to do so

HEREBY ORDERS pursuant to section 46 of the Criminal Law (Sexual Offences) Act 2017 that the respondent be prohibited from

*communicating by any means with the said victim

*approaching within distance of *the place of residence of the victim at *in court (area and) district aforesaid *the place of employment of the victim at..... *, being a place frequented by the victim

*IT IS A *TERM *CONDITION OF THIS ORDER
that.....

[here insert any terms or conditions imposed in accordance with *Section 46(5) of the Criminal Law (Sexual Offences) Act 2017]

*This Order shall cease to have effect on—

*the date of the respondent's release from prison

*theday of20..., being a date earlier than the date of the respondent's release from prison

*the expiration of the period of (being a period not exceeding 12 months) from the date of the respondent's release from prison

Dated this..... day of..... 20..... .

Signed

Judge of the District Court

WARNING: A person who, without reasonable excuse, does not comply with a harassment order to which the person is subject commits an offence and on conviction for such an offence is liable (a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months or both, or (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

To: The Respondent at.....

*delete if inapplicable

Schedule C
O. 96D, r. 5

No. 96D.3

CRIMINAL LAW (SEXUAL OFFENCES) ACT 2007, Section 46(8)

**NOTICE OF APPLICATION FOR VARIATION OF HARASSMENT
ORDER**

District Court Area of	District No.
.....	Applicant
.....	Respondent

WHEREAS the District Court sitting at.....on theday of.....20..... made a harassment order under section 46 of the Criminal Law (Sexual Offences) Act 2017 in respect of the above-named respondent, of, and copies of the said harassment order and the notice of application for same are attached hereto.

TAKE NOTICE that

*the above-named applicant

*the above-named respondent

will apply at the sitting of the District Court to be held at on the day of20... ata.m./p.m. for an order varying the said harassment order, on the following grounds:

Dated thisday of.....20...

Signed.....

.....
Moving party/Solicitor for
moving party

To District Court Clerk

At.....

*To the Respondent

At.....

*To the Applicant

At.....

*delete if inapplicable

EXPLANATORY NOTE

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

These Rules update and consolidate amendments to Order 38 and certain associated forms and insert a new Order 96D. These amendments are to facilitate the operation of the Sex Offenders Act 2001 as amended by the Criminal Law (Sexual Offences) Act 2017 and section 20 of the International Protection Act 2015.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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