



STATUTORY INSTRUMENTS.

S.I. No. 228 of 2024

RULES OF THE SUPERIOR COURTS (GARDA SÍOCHÁNA
(COMPENSATION) ACT 2022) 2024

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**RULES OF THE SUPERIOR COURTS (GARDA SÍOCHÁNA
(COMPENSATION) ACT 2022) 2024**

We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, and reconstituted pursuant to the provisions of the Courts of Justice Act 1953, section 15, by virtue of the powers conferred upon us by the Courts of Justice Act 1924, section 36, the Courts of Justice Act, 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), the Courts (Supplemental Provisions) Act 1961, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 20th day of July, 2023.

Donal O'Donnell (Chairperson)

David Barniville

Elizabeth Dunne

Brian R. Murray

John A. Edwards

Máire R. Whelan

Richard Humphreys

Siobhán Phelan

Grainne Larkin

Michele O'Boyle

James Finn

Mary Cummins

John Mahon

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

Dated this 9th day of May 2024.

Helen McEntee

Minister for Justice

S.I. No. 228 of 2024

RULES OF THE SUPERIOR COURTS (GARDA SÍOCHÁNA
(COMPENSATION) ACT 2022) 2024

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Garda Síochána (Compensation) Act 2022) 2024, shall come into operation on the 31st day of May 2024.

(2) These Rules shall be construed together with the Rules of the Superior Courts.

(3) The Rules of the Superior Courts as amended by these Rules may be cited as the Rules of the Superior Courts 1986 to 2024.

2. The Rules of the Superior Courts are amended:

- (i) by the substitution for Order 1A of the Order set out in Schedule 1, and
- (ii) by the insertion immediately following Form No. 5 in Appendix CC of the form set out in Schedule 2 as Form No. 6.

Schedule 1

“Order 1A

Procedure by Personal Injuries Summons

I. Preliminary

Definitions

1. In this Order unless the context or subject matter otherwise requires—the “1961 Act” means the Civil Liability Act 1961 (as amended by the Civil Liability (Amendment) Act 2017);

“the 2004 Act” means the Civil Liability and Courts Act 2004;

the “2022 Act” means the Garda Síochána (Compensation) Act 2022;

“catastrophic injury” has the meaning assigned to it by section 51H of the 1961 Act;

“dependant” includes:

(i) a dependant within the meaning of section 47 of the 1961 Act, and

(ii) in the case of a personal injuries action involving proceedings under section 23 of the 2022 Act, a claimant who had been an applicant to whom section 8(2)(b) or 8(4) of the 2022 Act refers, who brings proceedings in accordance with section 23(1) of the 2022 Act;

“Garda compensation personal injuries summons” means a summons by which a personal injuries action involving proceedings under section 23 of the 2022 Act is instituted in accordance with rule 3(2);

the “index” means the Harmonised Index of Consumer Prices as published by the Central Statistics Office or such other index as is for the time being specified by the Minister for Justice under section 51L of the 1961 Act;

“periodic payments order” has the meaning assigned to it by section 51I of the 1961 Act;

“paying party” has the meaning assigned to it by section 51H of the 1961 Act;

“personal injuries action” has the same meaning as in section 2 of the 2004 Act but includes proceedings referred to in section 23 of the 2022 Act, in accordance with section 24 of the 2022 Act, and “action” shall be interpreted accordingly;

“personal injury” includes any disease and any impairment of a person's physical or mental condition;

“personal injuries summons” means a summons by which a personal injuries action is instituted in accordance with rule 3(1);

“plaintiff” includes a deceased person, where a personal injuries action is instituted for the benefit of dependants of a deceased person;

“pleading” has the same meaning as in section 2 of the 2004 Act;

“Personal Public Service Number” means the Personal Public Service Number allocated and issued to a person under section 262 of the Social Welfare (Consolidation) Act 2005;

“stepped payment” has the meaning assigned to it by section 51I of the 1961 Act.

Application of this Order

2. (1) The provisions of this Order shall apply to personal injuries actions and to all proceedings in personal injuries actions.

(2) Save where otherwise expressly provided by this Order, in the event that any conflict shall arise between the provision of any rule of this Order and any other provision of these Rules, the provision of the rule of this Order shall, in respect of personal injuries actions, prevail.

(3) Without prejudice to the generality of sub-rule 2, Order 19, rules 1 and 3 and Order 21, rule 6 shall not apply in personal injuries actions.

II. Commencement of proceedings

Personal injuries summons and Garda compensation personal injuries summons

3. (1) A personal injuries action shall be instituted by an originating summons, for the commencement of plenary proceedings with pleadings and hearing on oral evidence, which shall be in the Form No 1 in Appendix CC, to be called a personal injuries summons.

(2) Notwithstanding sub-rule (1), a personal injuries action involving proceedings under section 23 of the 2022 Act shall be instituted by an originating summons, for the commencement of plenary proceedings with pleadings and hearing on oral evidence, which shall be in the Form No 6 in Appendix CC, to be called a Garda compensation personal injuries summons.

Application of Rules concerning plenary summonses

4. Save where otherwise expressly provided by this Order, the provisions of these Rules which apply to a plenary summons shall, with appropriate modifications, apply to a personal injuries summons and to a Garda compensation personal injuries summons.

Actions for benefit of dependants

5. (1) Where the action is being instituted for the benefit of dependants of a deceased person, the personal injuries summons or, as the case may be, the Garda compensation personal injuries summons, shall specify the date of birth and Personal Public Service Number of the deceased person.

(2) Where the action is being instituted for the benefit of dependants of a deceased person, the name, address and date of birth of each such dependant

shall be stated in the personal injuries summons or, as the case may be, the Garda compensation personal injuries summons.

(3) Where a plaintiff has not been issued with a Personal Public Service Number, this shall be stated in the personal injuries summons or, as the case may be, the Garda compensation personal injuries summons.

Failure to serve letter of claim

6. (1) Where a plaintiff who has not served the notice required by section 8(1) of the 2004 Act within the time prescribed for service of such a notice alleges that there was a reasonable cause for such failure, the personal injuries summons shall include particulars of the cause of the said failure.

(2) Where a plaintiff alleges that he was unable, at the time at which a personal injuries summons was issued, to include in the personal injuries summons any of the information required by this Order to be specified in the personal injuries summons, he shall include in the personal injuries summons a statement of the reasons why it is claimed that any such information could not be provided at the time of issue of the summons. The plaintiff shall, at the time the personal injuries summons is served or as soon as may be thereafter (whether by amendment or otherwise) provide such of the information required by this Order as was not included in the personal injuries summons.

III. Pleadings

No statement of claim

7. (1) No statement of claim shall be required in a personal injuries action.

(2) Save where otherwise expressly provided by this Order, the provisions of these Rules which apply to a statement of claim shall, where appropriate and with appropriate modifications, apply to a personal injuries summons or, as the case may be, a Garda compensation personal injuries summons.

Appearance, defence and counterclaim

8. (1) An appearance to a personal injuries summons or, as the case may be, a Garda compensation personal injuries summons, shall be in the Form No 5 in Appendix A, Part II of these Rules (with the necessary adaptations in the case of a Garda compensation personal injuries summons).

(2) A defence shall be delivered by each defendant in the Form No 2 in Appendix CC (with the necessary adaptations in the case of a Garda compensation personal injuries summons) within eight weeks of the service on such defendant of the plaintiff's personal injuries summons or Garda compensation personal injuries summons.

(3) Where any defendant makes a counterclaim, such counterclaim shall be in the Form No 3 in Appendix CC and shall be appended to the defence.

Claim that a periodic payments order is appropriate

9. (1) A personal injuries summons (or, as the case may be, Garda compensation personal injuries summons) may include a statement that the plaintiff's claim is one in respect of the whole or part of which it is appropriate that a periodic payments order be made and where such statement is made, the personal injuries summons (or, as the case may be, Garda compensation personal injuries summons) shall—

- (a) state whether a periodic payments order is sought in respect of one or more of the following:
 - (i) the future medical treatment of the plaintiff,
 - (ii) the future care of the plaintiff,
 - (iii) the provision of assistive technology or other aids and appliances associated with the medical treatment and care of the plaintiff, and
 - (iv) damages in respect of future loss of earnings,
 - (b) state whether the periodic payments order should include provision for a stepped payment,
 - (c) provide particulars of the circumstances relied on in seeking a periodic payments order, including any matters referred to in section 51I(2) and section 51J of the 1961 Act as may be relevant, and (where sought) provision for a stepped payment.
- (2) A personal injuries defence may—
- (a) accept or join issue with a statement referred to in sub-rule (1), without prejudice to the defendant's plea as to liability,
 - (b) where a statement referred to in sub-rule (1) is not included in the personal injuries summons, include a statement that the plaintiff's claim is one in respect of the whole or part of which it is appropriate that a periodic payments order be made and where such statement is made, the defence shall contain the information set out at paragraphs (a) to (c) of sub-rule (1).

(3) Where—

- (a) the personal injuries summons (or, as the case may be, the Garda compensation personal injuries summons) does not include a statement that the plaintiff's claim is one in respect of the whole or part of which it is appropriate that a periodic payments order be made and the plaintiff intends to apply for such an order, notice in writing of such intention shall be sent by the plaintiff to the defendant not later than 14 days before the date on which the action is listed for hearing,
- (b) neither the personal injuries summons (or, as the case may be, the Garda compensation personal injuries summons) nor the defence includes a statement that the plaintiff's claim is one in respect of the whole or part of which it is appropriate that a periodic payments order be made and the defendant intends to

apply for such an order, notice in writing of such intention shall be sent by the defendant to the plaintiff not later than 14 days before the date on which the action is listed for hearing.

Reply and defence to counterclaim

10. (1) A plaintiff who wishes to join issue with a defendant's defence may deliver a reply, within six weeks of the delivery of the defence.

(2) Any reply shall, if it contains any assertion or allegation of fact, be verified upon oath in accordance with rule 11.

(3) A plaintiff shall deliver a defence to any counterclaim within eight weeks of the delivery by such defendant to the plaintiff of the defendant's counterclaim.

(4) A defence to a counterclaim shall be in the Form No 2 in Appendix CC, with such modifications as may be necessary, and shall comply with the requirements of the 2004 Act applicable to a defence.

IV. Verification of facts alleged

Affidavit of verification

11. (1) An affidavit of verification of a pleading or of further information requiring under section 14(1), 14(2) or 14(3) of the 2004 Act to be verified on oath shall be in the Form No 4 in Appendix CC. If the affidavit is not separate to the pleading or other document concerned, it may be endorsed upon such pleading or other document.

(2) A copy of the affidavit of verification shall be delivered to the party to whom the pleading or other document is to be delivered. Where the affidavit is endorsed upon the pleading or other document, the copy of the affidavit shall be delivered within the time prescribed by these Rules for delivery of such pleading or other document. Otherwise, the affidavit shall be delivered within the time prescribed by section 14 of the 2004 Act for lodgment of the affidavit in court.

(3) An affidavit of verification shall be lodged in court as required by section 14(4) of the 2004 Act by filing the same in the Central Office.

(4) Where the copy of the affidavit of verification is delivered subsequent to delivery of the pleading or other document, the time prescribed by these Rules for delivery of any pleading or other document in reply shall run from the date of delivery of such copy.

V. Interlocutory applications

Applications by motion on notice

12. (1) The following applications in a personal injuries action shall be made by motion to the Court on notice to the opposing party or parties, grounded upon an affidavit sworn by or on behalf of the moving party:

- (i) An application by a defendant under section 10(3) of the 2004 Act for a stay or dismissal of the action by reason of a plaintiff's failure to comply with section 10 of the 2004 Act;
- (ii) An application by a defendant under section 11(3) of the 2004 Act for a stay or dismissal of the action by reason of a plaintiff's failure to provide further information requested under section 11(1) or section 11(2) of the 2004 Act;
- (iii) An application by a plaintiff under section 12(3) of the 2004 Act for a stay of the action or for judgment by reason of a defendant's failure to comply with section 12 of the 2004 Act;
- (iv) An application for an order for the delivery by the opposing party of further and better particulars of any pleading delivered by such party;
- (v) An application by a party wishing to have evidence in the action given by affidavit, under section 19 of the 2004 Act.

An order sought in an application referred to in paragraphs (i), (ii), (iii) or (iv) of this sub-rule shall not be made unless:

- (a) the moving party shall have first written to the relevant opposing party requesting that such party agree to the moving party's request;
- (b) a period of 28 days for compliance with the moving party's request has been allowed; and
- (c) the party requested has failed, refused or neglected to comply with such request.

(2) No application for judgment or for other relief in default of pleading shall be granted in a personal injuries action unless the moving party has satisfied the Court that he has verified his previous pleadings in that action on oath.

VI. Mediation

Mediation

13. (1) A request by a party for a direction of the Court under section 15 of the 2004 Act that a mediation conference be held shall be made by motion to the Court on notice to the opposing party or parties, grounded upon an affidavit sworn by or on behalf of the moving party.

(2) Where the Court directs that a mediation conference be held, it may adjourn the proceedings for such time as it considers appropriate to enable the mediation conference to be held.

(3) Where the Court directs that a mediation conference be held, it may extend the time for compliance by the parties or any of them with any provision of these Rules or any order of the court in the proceedings.

(4) The report under section 16 of the 2004 Act of the person appointed under section 15(4) of the 2004 Act to be the chairperson of a mediation conference shall be by way of affidavit which shall verify:

- (a) his or her appointment as mediator;
- (b) whether the mediation conference was or was not held;
- (c) if not held, the reasons why the mediation conference did not take place;
- (d) if held,
 - (i) the time and place at which the mediation conference was held;
 - (ii) the parties in attendance;
 - (iii) whether or not a settlement has been reached in the action and
 - (iv) the terms of any settlement signed by the parties.

(5) The Court may give a direction under section 15 of the 2004 Act of its own motion on any occasion on which the personal injuries action is before the Court.

VII. Formal offers

Notices under section 17 of the 2004 Act

14. Copies of the plaintiff's notice of an offer of terms of settlement required by section 17(1) of the 2004 Act and of the defendant's notice required by section 17(2) of the 2004 Act shall be lodged in court by being filed (together with an affidavit as to the service of the same on the opposing party) in the Central Office as soon as may be after the expiry of the prescribed period referred to in section 17(3) of the 2004 Act. Such notice shall be in the Form No 5 in Appendix CC.

VIII. Pre-trial hearing

Pre-trial hearings under section 18 of the 2004 Act

15. (1) A person presiding over a pre-trial hearing directed by the Court under section 18 of the 2004 Act may at such hearing give such directions and make such orders as may be necessary for the purposes of determining what matters relating to the action are in dispute.

(2) Any direction given or order made at a pre-trial hearing by a person, other than a Judge, presiding over such hearing, may be appealed to the Court by a party affected.

IX. Periodic payments orders

Consideration of periodic payments order

16. (1) Where:

- (a) the Court has determined to award damages for personal injuries to a plaintiff who has suffered a catastrophic injury and
- (b) the plaintiff or the defendant applies for a periodic payments order under section 51I(1) of the 1961 Act, where there is no agreement that such an order should be made, or
- (c) the parties apply for a periodic payments order under section 51I(3) of the 1961 Act in accordance with terms which have been agreed by the parties,

the Court may, and if it thinks fit prior to determining the amount of such damages,

- (i) where satisfied that it may do so without the need for a separate hearing and, except in a case to which paragraph (c) of sub-rule (1) applies, having heard the parties on whether or not a periodic payments order should be made, or
- (ii) following a hearing referred to in sub-rule (2),

make a periodic payments order.

(2) The Court may fix a date for a separate hearing on whether or not a periodic payments order should be made, and, if so, what form such periodic payments order should take and may for that purpose make orders or give directions:

- (a) for the delivery, exchange or filing of further reports or the giving of evidence at any hearing fixed to address one or more of the following matters-
 - (i) any one or more of the matters mentioned in section 51I(1) or 51I(2) of the 1961 Act,
 - (ii) any changes anticipated in the plaintiff's circumstances to which section 51I(4) of the 1961 Act applies,
 - (iii) where a stepped payment is sought, any one or more of the matters referred to in section 51I(6)(h) of the 1961 Act, and
 - (iv) the requirements of section 51J of the 1961 Act;
- (b) for the delivery, exchange or filing by any party of a draft periodic payments order.

(3) The parties at a hearing under sub-rules (1) or (2) shall also be heard as to the form which a periodic payments order, if made, should, in accordance with section 51I of the 1961 Act, take.

(4) An application under section 51I(3) shall be made by motion on notice unless the Court otherwise directs.

Applications by notice of motion following the making of a periodic payments order

17. (1) In any case in which the Court has made a periodic payments order, the following applications to the Court may be made by notice of motion in the personal injuries action or proceedings in which the periodic payments order was made:

- (a) an application under section 51K(1) of the 1961 Act by a paying party to alter the method of payment specified in a periodic payments order; in such a case, the application shall be on notice to the plaintiff or, where the plaintiff has with the approval of the Court assigned his or her right to payments under a periodic payments order pursuant to section 51M(1) of the 1961 Act, the person to whom the right is assigned, and grounded upon an affidavit sworn by or on behalf of the moving party exhibiting a letter of consent to the altered method of payment and setting out:
 - (i) how continuity of the payments under the periodic payments order will be secured notwithstanding the alteration to the method of payment and
 - (ii) how the alteration to the method of payment concerned is capable of adjustment in accordance with the index;
- (b) an application under section 51M(1) of the 1961 Act to the Court that made the order by a plaintiff for approval to assign, commute or charge a right to receive payments under a periodic payments order; in such a case the application shall be grounded upon an affidavit which shall provide evidence as to the matters specified in section 51M(4) of the 1961 Act, and the Court may direct service of the motion and a copy of the grounding affidavit on any person who it considers ought to be on notice;
- (c) any other application concerning the operation of the periodic payments order, in which case the application shall be on notice to the paying party or, as the case may be, the plaintiff or, where the plaintiff has with the approval of the Court assigned his or her right to payments under a periodic payments order pursuant to section 51M(1) of the 1961 Act, the person to whom the right is assigned, and grounded upon an affidavit sworn by or on behalf of the moving party.

(2) The notification to the Court for the purposes of section 51I(7) of the 1961 Act shall be made by the plaintiff or, where the plaintiff is legally represented in the proceedings, the plaintiff's solicitor lodging with the proper officer of the Central Office by any method permitted by Order 117A a letter containing such notification addressed to the proper officer of the Central Office headed with the title and record number of the proceedings and signed by the plaintiff or (as the case may be) the plaintiff's solicitor, and at the same time delivering or sending by pre-paid registered post a copy of that letter to the paying party.

(3) A copy of a periodic payments order as amended in accordance with section 51I(8) of the 1961 Act shall be sent to the plaintiff and the paying party by electronic mail or ordinary post, or by such other means as the proper officer considers sufficient.”

Schedule 2

No. 6

GARDA COMPENSATION PERSONAL INJURIES SUMMONS

O. 1A, r. 3(2)

THE HIGH COURT

20.... No.....

Between

A.B.,

..... Plaintiff,

and

C.D.,

..... Defendant.

To the defendant, the Commissioner of the Garda Síochána of in the County of

This Garda compensation personal injuries summons requires you to enter an appearance in person or by solicitor in the Central Office, Four Courts, Dublin in the above action within eight days after the summons has been served on you (exclusive of the day of such service).

And TAKE NOTICE that if you do not enter an appearance the plaintiff may proceed in this action, and judgment may be given in your absence.

BY ORDER,

Chief Justice of Ireland, the ... day of two thousand

N.B. - This summons is to be served within twelve calendar months from the date hereof, unless the time for service has been extended by the Court.

The defendant may appear to this summons by entering an appearance either personally or by solicitor at the Central Office, Four Courts, Dublin.

INDORSEMENT OF CLAIM.

The plaintiff's claim is for the reliefs set out herein for:

*injuries inflicted on the plaintiff (being a member or former member of an Garda Síochána) as a result of a malicious incident (within the meaning of section 2 of the Garda Síochána (Compensation) Act 2022)

*the death of [*name of member*] (being a member or former member of an Garda Síochána) as a result of a malicious incident (within the meaning of section 2 of the Garda Síochána (Compensation) Act 2022)

[The indorsement of claim on a Garda Compensation personal injuries summons shall

- (a) set out, in numbered paragraphs, full and detailed particulars of-

- (i) the nature of the claim and of each allegation, assertion or plea comprising that claim;
 - (ii) the facts constituting the malicious incident to which the claim relates and the circumstances relating to the malicious incident, including the involvement of the plaintiff (or the Garda concerned) therein;
 - (iii) the injuries to the plaintiff (or the deceased Garda concerned) alleged to have been inflicted as a result of the malicious incident;
 - (iv) in the case of a claim referred to in section 23(6) of the 2022 Act, the facts and circumstances which it is alleged establish that the claimant or person for whose benefit the claimant is bringing the proceedings is a person to whom compensation may be granted under the 2022 Act and that the claimant or that person was wholly or partly dependent on the deceased person, and
- (b) contain a schedule of full particulars of all items of special damage in respect of which the claim is made.

The following is a suggested format in which the indorsement might be presented:

1. Description of the parties, including the defendant's name and occupation [i.e. Commissioner of An Garda Síochána];
2. The nature of the claim;
3. Details of the malicious incident to which the claim relates, including the involvement of the plaintiff (or the deceased Garda concerned) therein;
4. The injuries to the plaintiff (or the deceased Garda concerned) inflicted as a result of the malicious incident;
5. In a claim referred to in section 23(6) of the 2022 Act, full particulars of the applicability of section 8(2)(b) of the 2022 Act to the claimant or person for whose benefit the claimant is bringing the proceedings and how the claimant or that person was wholly or partly dependent on the deceased Garda concerned;
6. The reliefs sought;
7. (Where appropriate) the particulars required by Order 4, rule 3A.

SCHEDULE

Particulars of Items of Special Damage

(Full particulars should be set out. Add additional sheets if necessary)

(Particulars of a general allegation should be set out in the indorsement under the paragraph containing such allegation and headed "Particulars of ...etc." Where same are lengthy, they may alternatively be scheduled to the indorsement or set out in additional sheets appended to the Garda Compensation Personal Injuries Summons at time of issue and service.)]

(Signed) _____

This Garda Compensation Personal Injuries summons was issued by the plaintiff

OR

This Garda Compensation Personal Injuries summons was issued by....., solicitor for the plaintiff, whose registered place of business is..... *and who consents to the service of documents in the proceedings by electronic mail to

The plaintiff's personal details are as follows:

1. The address at which the Plaintiff ordinarily resides is:..... (state address accurately). The plaintiff's address for service, if different from the plaintiffs address mentioned above, should also be stated here:

If the plaintiff consents to the service of documents in the proceedings by electronic mail, state the electronic mail address to which such documents may be sent:

2. Plaintiff's occupation:
3. Plaintiff's date of birth: Day:.... Month Year
4. Plaintiff's Personal Public Service Number:.....

(If the Plaintiff has not been issued with a Personal Public Service Number, this must be stated)

INDORSEMENT OF SERVICE

This Garda Compensation Personal Injuries summons was served by me at on the defendant on day theday of , 20...

Indorsed the day of 20 ...

(Signed).....

(Address)

EXPLANATORY NOTE

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

These rules amend the Rules of the Superior Courts by the substitution of Order 1A and insertion of a new Form 6 to Appendix CC to facilitate the operation of the Garda Síochána (Compensation) Act 2022.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
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