



STATUTORY INSTRUMENTS.

S.I. No. 57 of 2021

RULES OF THE SUPERIOR COURTS (CERVICALCHECK TRIBUNAL)
2021

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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, the CervicalCheck Tribunal Act 2019, section 37 and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 23rd day of September 2020.

Frank Clarke (Chairperson)

George Birmingham

Mary Irvine

Elizabeth Dunne

John A. Edwards

Brian R. Murray

Deirdre Murphy

Richard Humphreys

Gráinne Larkin

Stuart Gilhooly

Liam Kennedy

James Finn

Mary Cummins

John Mahon

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

Dated this 9th day of February, 2021.

HELEN MCENTEE

Minister for Justice

S.I. No. 57 of 2021

RULES OF THE SUPERIOR COURTS (CERVICALCHECK TRIBUNAL)
2021

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (CervicalCheck Tribunal) 2021, shall come into operation on the 18th day of February 2021.

(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 2021.

2. The Rules of the Superior Courts are amended by the insertion immediately following Order 105B of the Order set out in the Schedule.

Schedule

“Order 105C

CervicalCheck Tribunal

I. Definitions

1. In this Order:

the “2019 Act” means the CervicalCheck Tribunal Act 2019;

“claimant” means a person who has made a claim to the Tribunal in accordance with section 11 of the 2019 Act;

“respondent” means a respondent to a claim before the Tribunal;

“Tribunal” has the same meaning as in section 5 of the 2019 Act;

other words and expressions contained in this Order shall, where the context so admits, have the same meaning as in the 2019 Act.

II. Applications to the Court under the 2019 Act

2. (1) An application to the Court by the Tribunal under section 22(4) of the 2019 Act for an order requiring a person to comply with a direction of the Tribunal shall be brought by way of originating notice of motion, in which the person to whom the direction relates shall be named as respondent (in this rule, the “person affected”), grounded on an affidavit of a person duly authorised on behalf of the Tribunal, which shall set out the circumstances in which the direction was given and exhibit a copy of the direction, if in writing.

(2) Copies of the notice of motion, grounding affidavit and any exhibits shall be served on the person affected not later than four days before the return date.

(3) The person affected shall be at liberty to file a replying affidavit.

3. (1) An application to the Court by the Tribunal under section 24 of the 2019 Act for directions relating to the performance of the functions of the Tribunal or for the approval of the Court of an act proposed to be done by the Tribunal for the purposes of such performance shall be brought by way of

originating notice of motion, grounded on an affidavit of a person duly authorised on behalf of the Tribunal, which shall set out the directions or, as the case may be, approval, sought by the Tribunal and the reasons for the application.

(2) The Tribunal may, where it considers it appropriate or desirable to do so, name one or more parties to a claim or claims before the Tribunal as respondents to an application under section 24 of the 2019 Act. Where it does so, copies of the notice of motion, grounding affidavit and any exhibits shall be served on each such party not later than four days before the return date, but without limitation of the power of the Court to direct service on any other person.

(3) Each party to a Tribunal claim served as a respondent to an application under this rule shall be at liberty to file a replying affidavit.

4. (1) An application to the Court by the Tribunal under section 28 of the 2019 Act for confirmation of a determination of the Tribunal shall be brought by way of originating notice of motion, in which each of the parties to the claim before the Tribunal (in this rule, the “Tribunal parties”) shall be named as respondents, grounded on an affidavit of a person duly authorised on behalf of the Tribunal, which shall:

- (i) verify the making of the determination and exhibit the determination (if in writing);
- (ii) verify that the conditions for the making of such an application set out in section 28(1)(a) and section 28(1)(b) of the 2019 Act are satisfied, and
- (iii) exhibit copies certified by or on behalf of the Tribunal of the notice of acceptance and waiver in respect of the determination referred to in section 28(2) of the 2019 Act.

(2) Copies of the notice of motion, grounding affidavit and any exhibits shall be served on each of the Tribunal parties not later than four days before the return date.

(3) Any of the Tribunal parties who objects to confirmation of the determination shall be at liberty to file a replying affidavit setting out briefly the reasons for such objection.

(4) Where the Court is determining an application under section 28 of the 2019 Act, it may cause any proceedings pending in the Court in respect of a claim, the subject matter of which, in whole or in part, relates to the Tribunal claim which is the subject of the application concerned, to be listed before it for the purposes of considering the making of an order mentioned in section 28(4) of the 2019 Act.

5. On the return date of an originating notice of motion under rule 2, 3 or 4 (or on any adjournment from such date), the Court shall give directions and make orders for the conduct of the proceedings on the application as appear convenient for the determination of the proceedings in a manner which is just, expeditious

and likely to minimise the costs of those proceedings which, where appropriate, may include:

- (i) any direction which may be given or order which may be made under Order 84B, rule 8, or
- (ii) a direction for the production of any record of proceedings before the Tribunal relevant to the determination of the application.

III. Appeals to the Court under the 2019 Act

6. (1) An appeal to the Court under section 27 of the 2019 Act shall be brought by way of originating notice of motion (in this rule referred to as the “notice of appeal”), which need not be grounded on any affidavit, to which shall be appended:

- (i) a copy certified by a person duly authorised in that behalf by the Tribunal of any determination (where in writing) of the Tribunal from which the appeal is brought;
- (ii) a copy certified by a person duly authorised in that behalf by the Tribunal of any determination of the Tribunal under section 27(2)(a) of the 2019 Act extending the time for appeal, and
- (iii) a copy of any notice of appeal lodged with or given to the Tribunal.

(2) Where the appeal includes a request referred to in section 27(6) of the 2019 Act, such request shall be included in the notice of appeal.

(3) The notice of appeal shall specify succinctly the grounds of appeal.

(4) The notice of appeal shall be assigned the earliest practicable return date.

(5) The notice of appeal shall be served on each other party to the claim before the Tribunal affected by the appeal.

7. On the return date of a notice of appeal under rule 6 (or on any adjournment from such date), the Court shall give directions and make orders for the conduct of the proceedings on the appeal as appear convenient for the hearing and determination of the appeal in a timely and efficient manner.

8. Unless such solicitor otherwise so confirms in writing, service of a notice of appeal or other notice or document in the appeal on the solicitor who has appeared for a party in the proceedings before the Tribunal shall be good and sufficient service.”

EXPLANATORY NOTE

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

The Rules provide for applications and appeals to Court under the CervicalCheck Tribunal Act 2019.

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