



STATUTORY INSTRUMENTS

S.I. No. 358 of 2008



CIRCUIT COURT RULES (CASE PROGRESSION IN FAMILY LAW
PROCEEDINGS) 2008

(Prn. A8/1412)

S.I. No. 358 of 2008

CIRCUIT COURT RULES (CASE PROGRESSION IN FAMILY LAW
PROCEEDINGS) 2008

We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act 1936, and section 12 of the Courts of Justice Act 1947, 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) and 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, Equality and Law Reform, make the annexed Rules of Court.

Dated this 24 day of June 2008.

(Signed): Matthew Deery
(Chairman of the Circuit Court Rules Committee)

Alison Lindsay
Tony Hunt
Gerard J. Doherty
Joe Deane
Noel Rubotham
Susan Ryan (Secretary)

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

Dated this 12 day of September 2008.

Signed: DERMOT AHERN.

MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 12th September, 2008.*

S.I. No. 358 of 2008

CIRCUIT COURT RULES (CASE PROGRESSION IN FAMILY LAW PROCEEDINGS) 2008

1. (a) These Rules, which may be cited as the Circuit Court Rules (Case Progression in Family Law Proceedings) 2008, shall come into operation on the 1 day of October 2008.
 - (b) These Rules shall apply to proceedings under rule 4 of Order 59 of the Circuit Court Rules commenced after the date mentioned in paragraph (a) and proceedings under that rule pending on that date shall be continued and completed as if these Rules had not been made.
2. These Rules shall be construed together with the Circuit Court Rules 2001 to 2008.
3. Order 59 is amended by
 - (i) the substitution for paragraph (a) of sub-rule (10) of rule 4 of the following:

“(a) In any case in which a Respondent has made default in entering an Appearance or filing a Defence, as the case may be, the Applicant may, subject to the provisions of the following sub-rules of this Rule, at any time after such default, on notice to be served on the Respondent and, where relief pursuant to section 12 and/or 13 of the 1995 Act and section 17 of the 1996 Act is sought, on the trustees of the pension scheme concerned, not less than fourteen days before the hearing, apply to the Court for judgment in default of Appearance or Defence. Such application, save in the case of motions returnable in the Dublin Circuit, shall be returnable initially before the County Registrar in accordance with sub-rule (38)(5).”
 - (ii) the substitution for sub-rule (11) of rule 4 of the following:

“(11) Subject to sub-rule (10)(h) and (i) and sub-rule (38)(14)(g), when a Defence has been duly entered and served, the Applicant may serve a notice of trial or a notice to fix a date for trial, as appropriate, in accordance with Forms 15A and 15B of the Schedule of Forms.”
 - (iii) the substitution for paragraphs (a) and (b) of sub-rule (17) of rule 4 of the following:

“(a) in all cases where a Defence and/or Counterclaim has been filed (save for a Defence pursuant to Order 59 Rule 4(10)(g)) each party shall, unless the other party

dispenses in writing with the requirement of vouching, vouch his Affidavit of Means, in the manner specified in Form 37L, within 28 days of the date of filing of the Respondent's Affidavit of Means or 21 days before the date fixed for a case progression hearing, whichever be the earlier;

- (b) in all cases where a Defence has not been filed and a case progression hearing has been listed, each party shall vouch his Affidavit of Means within such time as the County Registrar shall direct;
- (c) in the event of a party failing to file, serve, or properly vouch the items referred to in, their Affidavits of Means as required by these Rules—
 - (i) the Court, on application by notice of motion, and, in accordance with section 34(1) and the Second Schedule of the Courts and Court Officers Act 1995, the County Registrar, on application by notice of motion or in the course of case progression, may make an Order enlarging the time within which the party in default must file or serve an Affidavit of Means and/or vouch (in such manner or on such terms as the Court, or the County Registrar as the case may be, directs) the items referred to in any Affidavit of Means or may make an Order for Discovery, or
 - (ii) the Court may make such other Orders as the Court deems appropriate and necessary (including an Order that such party shall not be entitled to pursue or defend as appropriate a claim for any ancillary reliefs under the Acts save as permitted by the Court upon such terms as the Court may determine are appropriate and/or adjourning the proceedings for a specified period of time to enable compliance) and furthermore and/or in the alternative relief pursuant to section 38(8) of the 1995 Act or section 38(7) of the 1996 Act may be sought in accordance with sub-rule (23).”
- (iv) the insertion, immediately following sub-rule (37) of rule 4 thereof, of the following sub-rule:

“Case Progression

(38) (1) This sub-rule shall apply to proceedings in which relief is being sought under any of the Acts referred to in this Rule.

(2) In this rule, “case progression” means the preparation of proceedings for trial in accordance with the procedure under this sub-rule.

(3) The purpose of case progression is to ensure that proceedings are prepared for trial in a manner which is just, expeditious and likely to minimise the costs of the proceedings and that the time and other resources of the court are employed optimally.

(4) (a) The County Registrar shall cause the proceedings to be listed before him for a case progression hearing on a date which is not later than 70 days after filing by the Respondent of his Defence, his Affidavit of Means and, where required by this Rule, his Affidavit of Welfare. The County Registrar shall issue a Summons, in Form 37L of the Schedule of Forms, to each of the parties to attend such hearing, to which shall be attached the case progression questionnaire referred to in paragraph (23). In fixing the date on which the proceedings are listed before him for case progression, the County Registrar shall allow the parties sufficient time to vouch the items referred to in their respective Affidavits of Means within the time prescribed by sub-rule (17) and to complete the case progression questionnaire within the time prescribed by paragraph (23).

(b) Where a pension adjustment order is sought by either party, the Notice to the Trustees shall be served, the Affidavit of Service in respect of same shall be filed and a copy of such Notice and Affidavit shall be served on the other party prior to the case progression hearing.

(5) Save in the case of motions for judgment in default of Appearance or Defence returnable in the Dublin Circuit, any motion for judgment in default of Appearance or Defence in proceedings not already subject to case progression under this sub-rule, any matter remitted or transferred from the High Court and any motion for re-entry of proceedings shall be returnable initially before the County Registrar.

(6) On the initial return date for a motion for judgment in default of Appearance or Defence returned before the County Registrar in accordance with paragraph (5), the County Registrar shall—

- (a) in any case where he is satisfied, having made such inquiries as he may consider necessary, that the motion is not contested or that the parties are agreed in respect of all of the reliefs being sought, transfer the motion to the appropriate Court Motions List for such date as the County Registrar shall appoint;
- (b) in any case where he is satisfied, having made such inquiries as he may consider necessary, that the motion is contested, appoint a date for a case progression hearing before him in the proceedings, and where he considers it appropriate, issue a Summons in Form 37L to any party to attend such hearing.

(7) Where the County Registrar has appointed a date for a case progression hearing under sub-paragraph (b) of paragraph (6), the County Registrar may make such order as he shall deem fit enlarging the time for the entry of an Appearance, or the delivery and filing of a Defence, or the service and filing of an Affidavit of Means or Affidavit of Welfare, or for the doing of any other act or taking of any other step in the proceedings.

(8) On—

- (a) receipt of proceedings remitted or transferred from the High Court, or
- (b) re-entry of proceedings by a party,

the County Registrar shall appoint a date for a case progression hearing before him in the proceedings, and where he considers it appropriate, shall issue a Summons in Form 37L to any party to attend such hearing.

(9) In the Dublin Circuit, where a motion for judgment in default of Appearance or Defence is contested in proceedings not already subject to case progression under this sub-rule, the motion shall, save where the Court otherwise directs, be remitted to the County Registrar for case progression, in which event the County Registrar shall proceed in like manner as provided for in paragraph (8).

(10) The Court may direct that proceedings which are before it (including proceedings on foot of an appeal from an order of the District Court and proceedings sent forward from the District Court) shall be subject to case progression, in which event

the County Registrar shall proceed in like manner as provided for in paragraph (8).

(11) Any applicant, and any respondent who has filed an Appearance, may apply to the County Registrar for case progression, in which event the County Registrar shall proceed in like manner as provided for in paragraph (8).

(12) Where a case progression hearing has been listed before the County Registrar the County Registrar may give directions as to the vouching of the items referred to in the parties' respective Affidavits of Means where there is a dispute between the parties in relation to the vouching of any particular item or the adequacy of the said vouching. The County Registrar may fix a date by which such directions are to be complied with.

(13) (a) Each County Registrar shall maintain a record, which may be in electronic form, of all proceedings at case progression hearings before him.

(b) Such record shall, for the proceedings concerned, include particulars of—

(i) the date of issue of the summons to attend the hearing;

(ii) the date of each hearing and any adjournment thereof;

(iii) where the hearing is adjourned, the reason for the adjournment;

(iv) the name of the County Registrar conducting the hearing;

(v) the names of counsel, solicitors and any parties attending;

(vi) the orders made or directions given at the hearing or any adjournment thereof.

(c) A copy of the record shall be placed on the Court file and a further copy of same shall be made available to a party to the proceedings at his request.

(14) At the case progression hearing the County Registrar—

(a) shall establish what steps remain to be taken to prepare the case for trial, fix a timetable for the completion of preparation of the case for trial, and for

that purpose adopt any timetable proposed by the parties if satisfied that it is reasonable;

- (b) may make orders or give directions with respect to pleadings, the exchange of between the parties of statements of issues, the identifying of issues in dispute between the parties, particulars, discovery, interrogatories, inspection of documents, inspection of real or personal property, commissions and examination of witnesses, or otherwise, which may be necessary or expedient;
- (c) may list the proceedings before the Court for the purpose of an application pursuant to Section 47 of the 1995 Act or, after consultation with the appropriate County Registrar, cause the proceedings to be listed at the next sitting of the Court at any venue within the Circuit for that purpose;
- (d) may, save in respect of any issue affecting a dependent child, receive and record on behalf of the Court undertakings to the Court from a party to the proceedings having effect pending the trial of the proceedings or until further order made by the Court;
- (e) may adjourn the case progression hearing to enable any order made or any direction given to be complied with or any other act to be done or step to be taken in the proceedings;
- (f) may make inquiries of the parties so as to ascertain the likely length of the trial and the arrangements, if any, for witnesses, information and communications technology (including video conferencing) and any other arrangements which require to be made for the trial;
- (g) may fix the time and mode of trial, and may fix a date for trial and may also give directions as to the service of a notice of trial or a notice to fix a date for trial;
- (h) may make any orders and give any directions in respect of arrangements for the trial as he considers necessary;
- (i) may direct any expert witnesses to consult with each other within such time as the County Registrar shall specify for the purposes of—
 - (a) identifying the issues in respect of which they intend to give evidence,

(b) where possible, reaching agreement on the evidence that they intend to give in respect of those issues, and

(c) considering any matter which the County Registrar or the Judge may direct them to consider,

and require that such witnesses record in a memorandum to be jointly submitted by them to the County Registrar and delivered by them to the parties, particulars of the outcome of their consultations, within such time as the County Registrar shall specify:

provided that any such outcome shall not be in any way binding on the parties;

(15) Any order made or direction given at a case progression hearing shall be issued within twenty one days of that hearing.

(16) The County Registrar may adjourn a case progression hearing from time to time and from place to place as may be appropriate, for the purposes of allowing any steps directed by the County Registrar or matters agreed to be done to be carried out, or so as to resume a case progression hearing after a matter has been referred to the Court by way of a Motion, or pursuant to sub-rule (38)(17)(a) for any other reason, to enable the County Registrar to ensure that the proceedings are prepared for trial in the manner referred to in paragraph (3).

(17) (a) Where the County Registrar concludes that there has been undue delay or default in complying with any order made or direction given by the Court or by him, or with any requirement of these Rules, he may list the matter for hearing at the next sitting of the Court or, after consultation with the appropriate County Registrar, cause the matter to be listed at the next sitting of the Court at any venue within the Circuit.

(b) Where the County Registrar so concludes, he shall furnish a Report to the Court setting out the delay or default concerned. Such report shall be in Form 37M of the Schedule of Forms.

(18) The solicitors appearing for each of the parties or, where a party is not represented by a solicitor, the party himself, shall attend the case progression hearing and any adjournment thereof. Where the County Registrar considers it necessary or

desirable, he may direct that a party attend the hearing notwithstanding the fact that the party may be represented by a solicitor.

(19) Each representative of a party attending the case progression hearing shall ensure that he is sufficiently familiar with the proceedings and has authority from the party he represents to deal with any matters that are likely to be dealt with.

(20) Where a party is represented by counsel such counsel may attend the case progression hearing, but the fees of counsel for either party for attending the case progression hearing will be allowed in the taxation and measurement of costs only where the County Registrar so certifies.

(21) (a) The County Registrar may award costs incurred in connection with the case progression hearing as between party and party.

(b) The County Registrar may tax and measure any such costs, and may, where the Court so directs, tax and measure any solicitor and client costs incurred in connection with a case progression hearing.

(22) Where it appears to the County Registrar that a case progression hearing cannot conveniently proceed, or it appears to the Court that a case progression hearing could not conveniently proceed by reason of the failure of a party to be prepared for such hearing or, by reason of the default of any party in complying with any order or direction of the County Registrar, the County Registrar or, as the case may be, the Court, may award costs against such party, or may disallow the costs of such party, as the case may be.

(23) Each party shall lodge with the County Registrar and serve on the other party not later than seven days before the date fixed for the case progression hearing a case progression questionnaire, duly completed, in Form 37N of the Schedule of Forms. Where the County Registrar directs, a party shall revise or update a case progression questionnaire within such time as is directed by the County Registrar.

(24) The Circuit Court Judge or the County Registrar may, on any occasion when proceedings are listed before him (including for mention or in any callover) direct the updating and vouching of Affidavits of Means, and/or expert reports, where necessary, to such date as is directed.”

4. The Forms 2N, 2O, 37A, 37B, 37C, 37D, 37G, 37H, 37I and 37J are hereby amended-

- (a) by the insertion, in the title of each such form, of “Teaghlaigh” after “An Chúirt” and the insertion of “Family” after “The Circuit”;
- (b) by the substitution of “Applicant” for “Plaintiff” in each form where the word “Plaintiff” appears;
- (c) by the substitution of “Respondent” for “Defendant” in each form where the word “Defendant” appears.

5. The Forms following numbered respectively 37L, 37M and 37N shall be inserted in the Schedule of Forms annexed to the Circuit Court Rules immediately following Form 37K.

FORM 37 L

AN CHÚIRT TEAGHLAIGH CHUARDA
THE CIRCUIT FAMILY COURT

CIRCUIT

COUNTY OF
20.. No....

Between A.B., Applicant
and C.D., Respondent

SUMMONS TO ATTEND CASE PROGRESSION HEARING

Take Notice that these proceedings will appear in the County Registrar’s List on the ... day of 20..... at for the purposes of a case progression hearing, at which

*[You and your solicitor are required to attend]
* [You are required to attend].

** [TAKE NOTICE that, unless the other party dispenses in writing with the requirement of vouching, you are required to vouch all items in your Affidavit of Means within 28 days of the date of filing of the Respondent’s Affidavit of Means or 21 days before the date mentioned above for the case progression hearing, whichever be the earlier.]

AND FURTHER TAKE NOTICE, that if you seek a pension adjustment order in your proceedings, you shall in advance of the above date for the case progression hearing (i) serve on the Trustees of the relevant Pension Scheme concerned and file a Notice, (ii) file an Affidavit of Service in respect of the service of the said Notice and (iii) serve on the other party a copy of such Notice and Affidavit of Service (see Order 59, Rule 4(38)(4)(c) of the Circuit Court Rules).

AND FURTHER TAKE NOTICE that each party shall complete and file in the Circuit Court Office a Case Progression Questionnaire, a copy of which is attached, at least seven days in advance of the date fixed for the case progression hearing.

All items in the Affidavit of Means of the parties shall be properly vouched to the other party. Such vouching shall, where relevant, include, but is not limited to, the following:

- (i) Statements including credit cards statements from each and every bank or other financial institution at which an account has been maintained or funds otherwise held by, to the order or for the benefit of the party concerned, whether in that party’s name or otherwise, for a period of one year prior to the date of the Respondent’s Affidavit of Means;

- (ii) Detailed particulars of the assets and liabilities of each party (including benefits accruing and liabilities arising under any contingency) in existence at the commencement of, or acquired or incurred during the period of one year prior to the date of the Respondent's Affidavit of Means;
- (iii) Copies of any guarantees/indemnities given by or existing in favour of either party;
- (iv) Copies of all tax returns returned by the party concerned for the last complete tax year ending in the period of one year prior to the date of the Respondent's Affidavit of Means and for any subsequent complete tax year, and of assessments to tax made upon the party concerned for that tax year or those tax years, together with supporting documentation and balancing statements;
- (v) P60s for the party concerned for the last complete tax year ending in the period of one year prior to the date of the Respondent's Affidavit of Means and for any subsequent complete tax year together with pay slips for any subsequent period showing the pattern of income during that subsequent period and up to the date of vouching and any deductions at source therefrom;
- (vi) Sets of full annual accounts for the last complete year of trading ending in the period of one year prior to the date of the Respondent's Affidavit of Means (audited where required by law together with, where such accounts are required by law to be audited but audited accounts have not been produced for that period, the most recent audited accounts) of any company, partnership, profession or business in which any party has a shareholding or interest, save for a company which is publicly quoted in a recognised exchange, or as otherwise directed by the County Registrar;
- (vii) Detailed particulars of any grants, subsidies, payments from any public fund or agency, or similar benefits for a one year period;
- (viii) Detailed particulars of any pension and insurance/assurance policies or their equivalent;
- (ix) Detailed particulars of any settlement, trust or other instrument of equivalent effect of which the party concerned is settlor, beneficiary or a potential beneficiary;
- (x) Detailed particulars of any benefits received under any of the instruments mentioned at (ix);
- (xi) Vouching shall be for a one year period unless otherwise directed by the Court or by the County Registrar, or agreed between the parties.

Any application in relation to the vouching done or to be done by either party may be made to the County Registrar at the case progression hearing.

Dated
(Signed) _____
County Registrar

To:.....(Applicant/Solicitor for the Applicant)

And to:..... (Respondent/Solicitor for the Respondent)

* Insert as appropriate

** Insert where a Defence has been filed: see Order 59, Rule 4(17)(a) of the Circuit Court Rules.

FORM 37 M

AN CHÚIRT TEAGHLAIGH CHUARDA
THE CIRCUIT FAMILY COURT

CIRCUIT

COUNTY OF
20... No....

Between A.B., Applicant
 and C.D., Respondent

REPORT OF COUNTY REGISTRAR PURSUANT TO ORDER 59,
RULE 4(38)(11) IN RESPECT OF DELAY OR DEFAULT

[Set out in detail delay or default including all relevant dates]

I hereby report to the Honourable Court accordingly

Signed
County Registrar

FORM 37 N

AN CHÚIRT TEAGHLAIGH CHUARDA
THE CIRCUIT FAMILY COURT

CIRCUIT

COUNTY OF
20... No....

Between A.B., Applicant
and C.D., Respondent

CASE PROGRESSION QUESTIONNAIRE
(FAMILY LAW PROCEEDINGS)

**THE COMPLETED QUESTIONNAIRE MUST BE SERVED ON THE
OTHER PARTY AND FILED AT LEAST SEVEN DAYS BEFORE THE
DATE FIXED FOR THE CASE PROGRESSION HEARING**

Information to be supplied	Applicant's reply	Respondent's reply
1. Is the [divorce][judicial separation]*, apart from other issues, being contested—		
2. Are the parties agreed as to the arrangements which should be made for custody of the dependent child/children— If so, what are the arrangements— If not, what are the respective positions of the parties—		
3. Are the parties agreed as to the arrangements which should be made for access to the dependent child/children— If so what are the arrangements- If not, what are the respective positions of the parties—		
4. Are further pleadings necessary—		
5. Have both parties filed their Affidavits of Means-		
6. Have both parties vouched their Affidavits of Means—		
7. Are the parties satisfied with the disclosure and vouching in the Affidavits of Means filed— If not, what are the alleged deficiencies- In particular, what vouchers are outstanding—		

Information to be supplied	Applicant's reply	Respondent's reply
<p>8. Do the parties envisage or intend to apply that disclosure/vouching for a greater period than 12 months will be required—</p> <p>If so, what disclosure is required, and over what period—</p>		
<p>9. Have both parties filed their Affidavits of Welfare (where applicable)—</p>		
<p>10. Have the parties</p> <p>(a) exchanged statements of the issues—</p> <p>(b) identified the issues in dispute between them—</p>		
<p>11. Has <i>inter partes</i> discovery been made—</p> <p>If not, will an order be required—</p>		
<p>12. Do the parties envisage that third party discovery will be required—</p> <p>If so, against whom—</p>		
<p>13. Are pension adjustment orders being sought—</p> <p>Note: If so, a Notice to the Trustees of the relevant Pension Scheme must be served, copies of such Notice and an Affidavit of Service thereof on the trustees served on the other party, and the Affidavit of Service filed before the case progression hearing.</p>		
<p>14. Have particulars of property and income been furnished in accordance with [s. 38(7) of the Family Law Act 1995][Section 38(6) of the Family Law (Divorce) Act 1996]*—</p>		
<p>15. (1) Are expert witnesses being retained by the parties to give evidence in the case— (In particular, each party should indicate whether they intend to retain an accountant to give evidence in relation to the income, assets or liabilities of one or both parties.)</p>		
<p>16. Have the parties obtained, or considered retaining, any joint expert in respect of any of the matters referred to at 14—</p>		
<p>17. Identify (a) the expert, (b) the expert's professional standing, (c) the financial, medical, valuation or other subject matter in respect of which such expert witness will be giving evidence and (d) if the expert is jointly retained.</p>		
<p>18. What period is required for each expert to have completed his/her investigations and to have reported thereon—</p>		

Information to be supplied	Applicant's reply	Respondent's reply
19. Is it agreed that the reports of each expert witness intended to be called will be exchanged between the parties—		
20. Can expert witnesses discuss the issues and identify matters in dispute—		
21. Will any social report(s) be sought under s. 47 of the Family Law Act 1995— If so, what period is required for such report(s) to be completed—		
22. Is the trial of any preliminary issue necessary and, if so, indicate the nature of such issue, the estimated duration of any such hearing, and the likely effect on the outcome of the substantive proceedings.		
23. Are there any other matters which should be brought to the attention of the Court—		

* Delete if not applicable

Signed
 Applicant /Solicitor for the Applicant
 Respondent/ Solicitor for the Respondent

EXPLANATORY NOTE

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

These rules amend the Circuit Court Rules to facilitate the supervision by the county registrar of the preparation for trial of the categories of family law proceedings in the Circuit Court to which Order 59 rule 4 of those rules applies.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
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